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# noseweek

ISSUE 242 DECEMBER 2019



## Pravin's gift right or wrong?

See all the evidence  
on pages 11-16 then  
**you be the judge**

## Yet another suspect Tshwane deal

## Old Mutual retracts Gold Fund merger

## What's up with Amplats pension funds?

## Nedbank pockets R1.5bn retirement fund surplus





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# noseweek

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# Letters

Letters to the editor should be sent by email to [editor@noseweek.co.za](mailto:editor@noseweek.co.za)

## Mandela too must have known about Arms Deal shenanigans

IN YOUR LEAD ARTICLE “WE TOLD YOU 16 years ago” (*nose241*), you mention the involvement of Jacob Zuma and Thabo Mbeki in the Arms Deal concluded in 1999.

One must not forget that negotiations for the Arms Deal started long before the deal was signed by Thabo Mbeki in 1999, but rather during the tenure of his predecessor, Nelson Mandela, which means that Mandela, too, ought to have known about the shenanigans which surrounded the deal.

And if he did nothing about it, then he was as guilty as any of the others involved in the negotiations. If he did not know anything about the shenanigans, then that’s just poor leadership, not to mention gross incompetence!

**Nick McConnell**  
Howick

*You know the rule: be cautious of speaking ill of the dead. For a start, they are not there to defend themselves. It is, however, clear that, early on, Jacob Zuma became aware that some around him had benefitted handsomely, so promptly set about ensuring that he was not left out. – Ed.*

## Old Mutual’s looking like an SOE

THE OLD MUTUAL CHAIRMAN IS ARROGANT and thinks he knows all, so what we see happening now: “Rainmaker gets his bonus, but the R4bn mystery deepens” (*nose241*), should not be a shock to anyone. A once-proud company is beginning to look (and behave) like a State-Owned Enterprise.

*Noseweek’s* report on those killer Toyota Quantum ambulances is as disturbing.

I implore you to follow up on the Minister of Transport’s action in this matter.

**Andre Crause**  
Southbroom

■ I READ YOUR STORY ABOUT THE unhappy goings-on at Old Mutual with growing interest. When I got to the bit about AngloAmerican Platinum’s unexplained long delay in transferring the capital of its pension funds to OM, I realised why: it all has a familiar ring.

Read my letter to the Financial Sector Conduct Authority with regard to the Nedbank Group’s stratagem to extract a massive “surplus” for itself from its employees’ pension funds [See next page. – Ed], then cast your eye over Amplat’s Annual Financials from 2006 to date and you will get my drift. The members of

Amplats’ pension funds should waste no time in demanding access to all the relevant information.

**Aubrey Bezuidenhout**  
Cape Town

*Noseweek cast a quick eye over those Amplats Annual Financial Statements and the first thing we noticed is that every year since 2007 the notes record: “The Amplats Officials Pension Fund, Amplats Employees Pension Fund and the MRR Pension Fund are in the process of being wound up [so far, for 13 years, and counting]. The administration of pensioners has already been outsourced.” Noseweek would be interested to hear from them. In the meantime, watch this space. – Ed.*

## Unclaimed pension funds

AS QUOTED IN *DAILY MAVERICK* ON 7 November 2019, there is about R42 billion in unclaimed Pension Funds in South Africa.

It would appear that most of the members or their survivors cannot be traced – or possibly not much effort goes into tracing them.

In the meantime the Fund Managers are scoring big time with annual fees.

Surely there is a way for the fees to be shared with the needy members of our population – the homeless, the

**Stent**



\*HAZENILE AND UNOBTAINIUM ARE THE TWO “MIRACLE MINERALS” PROMOTED BY GWEDE MANTASHE AT AN INVESTOR CONFERENCE IN AUSTRALIA. THEY IN FACT DO NOT EXIST



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# A necessary precedent

**M**ANY READERS WILL NO DOUBT be surprised, maybe even distressed, that our cover story puts Minister of Public Enterprises Pravin Gordhan, a key member of President Cyril Ramaphosa's "save us from Zuma" circle, on the spot. He is undoubtedly competent, shows rare sophistication and intelligence and, like so many others, I have great appreciation for the public role he is now playing in our politics.

But, here I must immediately remind you that, throughout his career, Nelson Mandela repeatedly told his admiring supporters: "I am not a saint."

Maybe that's all Gordhan need do: admit he is not a saint; that he made a bad judgement call, influenced by his sense of loyalty to a long-standing friend, comrade and colleague when he approved his former deputy at SARS, Ivan Pillay's early retirement with full benefits (acquired at the taxpayers' expense) and his immediate re-employment in his pre-retirement job with the same salary.

All might be forgiven. Just don't persist in claiming it was normal practice.

On the evidence, Ivan Pillay's "early

retirement" was a sham retirement. As he was in receipt of a salary exceeding R2m a year at the time, it was not even driven by dire financial need. (Unless he has an expensive habit we don't know about.) Explanations and justifications were contrived to fit the bill.

If it were to be accepted as a valid precedent, hordes of public servants will qualify for early retirement at huge expense to the fiscus. Unless, of course, this one case is to be distinguished from all others by the applicant's closeness to the responsible minister – that is the real criterion, the real precedent being set. But then we may as well be back with Zuma.

Mr Gordhan, admit the error of judgement, apologise – and get Ivan Pillay to Pay Back The Money. Right now, that is the precedent that needs to be established. History will credit you with leading the way.

I would hope that is what minister Gordhan and comrade Pillay will do, because I, too, think he is a talent the government cannot afford to lose. Heaven knows, in current government circles, talent and skill are in short supply. ■

## Look what we've done!

**S**O OFTEN READERS BEMOAN THE FACT THAT *Noseweek's* exposés get so little follow-up, almost as if they expect us to operate the police force, man the courts and govern the country. What we actually do best is simply to name and shame those who abuse their power in business, politics and the professions. So that they know that you know.

Which is not to say we don't enjoy the moment when we do manage to provoke the miscreants and/or law-enforcement agencies into positive action.

Our story in last month's issue that revealed how Old Mutual was "holding a gun to the heads" of its gold fund investors, did the trick.

Alerted to the story by reader Neville Stevens-Burt, we were able to report that, in effect, OM was manipulating their Gold Fund investors into sharing their handsome profits with OM's poor-performing funds, where disenchanted investors are dropping out in droves.

As we predicted, at 08.42 on Monday 28 October, just days after *Noseweek* was published, Meryl Pick, "Investment Professional" at Old Mutual Equities sent a circular to clients stating: "The ballot results are in favour of closure of the Gold Fund [i.e. *The vast majority of investors had not bothered to vote*]. The Financial Sector Conduct Authority (FSCA) has the final say and we expect to hear their decision today."

What Pick did not reveal is that only 15% of all investors voted. And 87% of those who bothered to vote, voted to retain the Gold Fund. But, as *Noseweek* had anticipated, the 85% of OM's investors who did not bother to vote appeared easily to have won the day for OM: in terms of the rules, non-votes equal yes votes.

That same day, *Noseweek* reader David Melvill of Financial Hub wrote to the FSCA: "This appears more like fraud on the OM Gold Fund investors dressed up

as product line simplification.

“Product providers should be required to treat their customers fairly. [...] No [*Gold Fund*] participant would vote for its closure – otherwise they would long ago have moved their funds. Presumably the votes to close the fund came from [*investors in other funds*] OM controls. These votes should be excluded as there is a conflict of interest.”

Attached to his letter was a copy of the *Noseweek* article.

Old Mutual pressed on. On 29 October they confidently wrote to various financial advisors, saying: “We wish to inform you our Auditors have confirmed that investors have voted in favour of the amalgamation of the above 2 Old Mutual Unit Trust Funds into the Old Mutual Equity Fund. We believe that the formal FSCA approval is imminent and the funds will amalgamate on

31 October 2019.”

But at 12:07pm on 30 October, there was a sudden change in the weather: Kedibone Dikokwe, Divisional executive: Conduct of Business Supervision at the FSCA reported to brokers: “I had a discussion with OM regarding this amalgamation and OM is reconsidering its decision to amalgamate the portfolios. They will communicate their decision to the clients.”

Thirty minutes later, Melville could write jubilantly to supporters: “I have just had a phone call from Shana Ebdon, my OM Unit Trusts consultant. She told me Old Mutual has decided NOT to proceed with the Amalgamation of the Gold Fund. Yeah!”

Next day, Elize Botha, MD of Old Mutual Unit Trusts, conceded that, while the percentage of investors who voted was typically small, “the number of people who voted against

the proposal was higher than we’ve seen in the past.

“Technically, the decision to close the fund was carried. However [...] we always try to put clients at the epicentre of our thinking and with that in mind we decided to ask the FSCA to revoke our request to merge,” she said. “We wanted to take clients’ opinions into consideration, looking at the number who voted against.”

Hmm. And spurred on by that call from the FSCA?

● The Old Mutual Gold Fund is reported to have gained 111% over the past 12 months, making it comfortably the top-performing unit trust in South Africa for this period; the next-highest return being 31%.

Most of Old Mutual’s other funds are producing returns in low single digits, barely covering management fees.

## How has Nedbank just managed to quietly pocket R1.5 billion from its employees’ pension funds?

ON 23 OCTOBER *NOSEWEEK* READER Aubrey Bezuidenhout wrote a very important letter to Mr Abel Sithole, Commissioner of the Financial Sector Conduct Authority (FSCA), raising his concerns about newly available information that suggests that the Nedbank banking group has, unannounced, recently appropriated a R1.5 billion “surplus” from its employees’ pension funds.

Mr Bezuidenhout is a former member of the Nedgroup Pension Fund and the Nedgroup Defined Contribution Pension Fund.

He got to know about the huge appropriation by the banking group from a friendly interview with the Chairman of the Nedgroup Pension Fund, Chris Pearce, that appeared in September in the group’s in-house newsletter, *On Pension*.

Pearce had been a

trustee of the pension fund for 21 years. In his long reply to the question “Looking back, what were the challenges which faced the fund?”, these two significant paragraphs caught our reader’s attention:

Pearce: “One of the early challenges faced by the fund was the Surplus Apportionment exercise that was required by the then

FSB in terms of the new pension fund regulations. Thanks to the very good work done in the late 1990s... the surplus apportionment was regarded as completed and registered in 2004.”

And: “More recently another significant event was the transfer out of the Fund of a portion of the

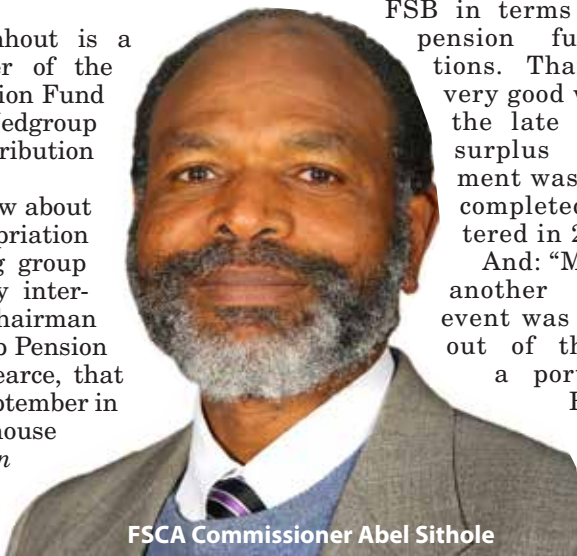
Employer Surplus Account. The transfer of R1.5 billion was

made, but fortunately a significant balance of this account remains in the Fund.”

Prompted by this astounding bit of information, Bezuidenhout now wants to know from the FSCA: “In terms of which section/s and subsection/s of the Pension Funds Act did the trustees implement the transfer?”

He went on: “The surplus apportionment scheme of the Nedgroup Pension Fund disclosed a Nil Surplus Apportionment on 1 November 2005. Please explain in detail in terms of the surplus apportionment legislation in the Pension Funds Act, how the Nedgroup Pension Fund, from a base of Nil, accumulated a massive employer surplus in order to transfer R1.5 billion to the employer with “a significant balance of this account remains in the Fund” per the article in *On Pension*. This wording implies is that the Employee Surplus Account is zero.

“It would appear to me that for the first time since the finalisation of the surplus apportionment exercises (in 2004), the Nedbank Group disclose in their audited annual



FSCA Commissioner Abel Sithole

financial statements for 2018 (in the notes on page 124) a Contribution Asset of R774,000,000.”

Nearly 20 years ago, back when Nedbank employees were persuaded to convert from defined benefit funds to defined contribution pension funds, the Trustees of the defined benefit funds, Nedbank Ltd (formerly Nedcor Bank Ltd) and ALL their advisers promoted the defined contribution funds on the basis that ALL the yields (realised and unrealised) would accrue and be allocated to the members of the two defined contribution funds. In his letter, Bezuidenhout observes: “It would appear that it was a planned misrepresentation of the facts and the future Nedbank plans, i.e. fraud.”

In the surplus apportionment disclosures on the FSCA website, both the Nedgroup Defined Contribution Provident Fund and the Nedgroup Defined Contribution Pension Fund are shown in surplus. It would now appear that the Nedbank Group

Ltd has accounted for all or some of the surplus.

“Please explain (down to accounting entry level) in terms of the surplus apportionment provisions in the Pension Funds Act, how Nedbank Ltd or the Nedbank Group Ltd suddenly accumulated in their Employer Surplus Account the equivalent of supporting assets to the value of R774,000,000 as at 31 December 2018.

“I argue that the sudden disclosure by the Nedbank Group Ltd in their 2018 notes to their audited AFS is related to a ‘Process of Transfer’. International Financial Reporting Standard, IAS 19 only prescribes how to report something that has already happened according to different laws”.

“Therefore please disclose to us what is happening – or has already happened – to the Nedgroup Defined Contribution Provident Fund. For example, are the Trustees converting the fund to a new underwritten fund and is/was

it the intention of the Trustees to close/liquidate the existing fund in order to transfer the surplus to the employer?”

“Please keep in mind that the Principal Officer of the fund is an employee of Nedbank Ltd and is therefore subject to a conflict of interest.

“Finally, I have noticed that the Nedcor Provident Fund is not listed under Surplus and Nil Schemes on your website. Please advise what happened to the Nedcor Provident Fund? Did the trustees also transfer the members to another retirement fund and thereafter did the trustees transfer the balance in the Employer Surplus Account (if applicable) to Nedbank Ltd?”

“I respectfully remind you [...] it was never the intention of Section 22 of the Financial Services Board Act or Paia, or any other secrecy clauses in our legislation, to cover up malfeasance,” wrote Bezuidenhout.

And so say all of us! ■ – The Editor

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# Hartebeesthoek hustle

## Over-valued land raises eyebrows over Tshwane's questionable property sales

**T**SHWANE METRO MUNICIPALITY acquired a piece of bare farmland for R48 million after their internal valuator had already found it was only worth about R10m. This is the fourth such transaction that *Noseweek* has uncovered. All were bought at hugely inflated prices shortly before the ANC lost the municipality to the DA in 2016.

*Noseweek* has already reported how middlemen made almost R180m overnight in back-to-back transactions, without spending a cent of their own money (*nose*238,239&241). The stories were published over a period of three months, yet Tshwane Metro – neither the ANC nor DA-led administrations – reacted in any way until the civil rights movement Afriforum opened a criminal case against the municipality at the beginning of October this year. The mayor, Stevens Mokgalapa, then hastily appointed a firm to conduct a forensic investigation – a probe that will probably take many months before its findings are made known.

Our most recent discovery involves the council's purchase of the remainder of section 38 and section

124 of the farm Hartebeesthoek 303, located about 25km north of Pretoria city centre. The title deed shows that on 8 October 2015 the two portions, each covering 6.424 hectares and still zoned as agricultural land, were registered in the name of Tshwane Metro. The purchase price: R48m.

The process of buying this land at that outrageous price began in early 2015 when Metse Mabeba, a director at Tshwane's housing and human settlements department, asked colleagues who value properties at the municipality, to appraise the two adjacent portions of the farm Hartebeesthoek. At that stage negotiations to acquire this land were already underway between the owner, Phanda Projects (Pty) Ltd, and Tshwane Metro.

Mankuroane Matseba, a professional valuer employed by the municipality, valued the land at R800,000 per hectare and, according to his figures, the portions were worth R5.2m and R5.355m respectively, totalling just over R10.5m for the two.

It seems however that the metro's housing and human settlements director Metse Mabeba and her boss, Nava Pillay who was acting executive

director of the department at the time, had already received an external valuation of R48m from Phanda Projects, dated 22 February 2015.

Pillay, who has also featured in previous such deals, then compiled a report to motivate the purchase of the two portions of Hartebeesthoek and strongly recommended that Tshwane buy the land for the external valuation of R48m. The report was placed before the mayoral committee on 15 April 2015 with both the internal and external valuations attached. But no member of the committee apparently noticed or bothered to question the huge difference in the valuations.

Pillay's report also stated that a township, Chantelle Extension 39, had already been approved for development and that 60 units per hectare, or 702 units in total, would be built on the two Hartebeesthoek plots to alleviate the acute housing shortage in the area.

It is a mystery how Pillay could have agreed to and recommended the external valuation because even a layman with basic school arithmetic would have noticed the huge discrepancies, inconsistencies and mathematical impossibilities in Phanda Projects' valuation. For example, it stated that the land had already been rezoned, yet today, almost five years later, the land is still shown as agricultural land on Tshwane's Geographical Information System (GIS).

The valuer also refers to the price paid per hectare for similar land in the area, but then calculates the value of the Hartebeesthoek land portions per unit, as though they had already been rezoned. He goes on to ascribe a value of R400,000 per unit but then multiplies this amount by the number of hectares (which he had valued at R800,000), making no sense of the hugely inflated total value arrived at.

It clearly shows that neither Pillay nor the members of the mayoral committee, bothered to verify the valuer's calculations.



Mayor of Tshwane Stevens Mokgalapa



Acting Municipal Manager Nava Pillay

The Phanda Projects valuation was calculated on the premise that 60 units would be erected on each of the sections; in other words 120 units on the two pieces of land. This figure is far removed from the 702 units in Pillay's report and suggests that he had not bothered to read the valuation report or was not competent to interpret it.

Or was the mayoral committee deliberately misled? Perhaps even willingly misled to meet a corrupt political agenda?

A professional property valuator, Benjamin Makgakga, signed off the R48m valuation, on the letterhead of a company called Demicol (Pty) Ltd. Asked about the confusing valuation Makgakga initially expressed surprise, then quickly remembered that a student, Sibusiso Mokgokong, had in fact compiled it and that he (Makgakga) only signed it off because he was registered as a valuator – apparently oblivious to the fact that as a registered valuator he was obliged to check the student's valuation and calculations before signing it off.

A Legal City search reveals that, "student" Mokgokong was Demicol's sole director in 2015 and conducted the company's business from a residential unit on the Equestria Estate east of Pretoria. Demicol was registered in 2014 and has been in deregistration since 2018. Mokgokong apparently did not complete his studies because his name does not appear in any registration category on the website of the SA Council for the Property Valuers Profession.

*Noseweek* traced Mokgokong by phone and his explanation for the confusing Hartebeesthoek valuation was that it was "only done for insurance purposes". He described the confusion between price per hectare and unit price as "a typo" and maintained that the value of the land was indeed R48m. He also claimed he was unaware that the land had been sold to Tshwane for R48m as a result of his valuation.

Mokgokong also said that the "owner" of the land confirmed that it had been rezoned and that there were plans in place to build 60 units on each section. However, he had never seen the plans or evidence of the rezoning.

Both Makgakga and Mokgokong denied any wrongdoing, adding that "a valuation is always just an opinion"

and that the onus is on the intended buyer to do due diligence. Makgakga said that a third valuation was usually requested when the first two differed by more than 10%. Tshwane's officials or their political heads on the mayoral committee clearly did not do this.

The "client" for whom Demicol undertook the valuation was Thabang Moropa, a businessman who is none other than the son of Phanda Projects' director, millionaire businessman Baekeng Moropa, who is also known as Japie Moropa.

When Maropa senior was contacted soon after the conversations with the

## Was the mayoral committee willingly misled to meet a political agenda?

valuers, he was already aware that they had been put on the spot. Moropa referred us to a former member of his team – who told *Noseweek* he had no knowledge of the 2015 negotiations between Phanda Projects and Tshwane Metro.

Phanda Projects is claimed to have had all the necessary paperwork in place to establish a township and develop the Hartebeesthoek land parcel in 2015 but then suddenly decided to sell it to Tshwane Metro. However, months later, Tshwane's then

head of housing, Amolemo Mothoagae, asked the mayoral committee to grant her power of attorney to develop the land. The number of units in Mothoagae's submission was cited as 1,026, a huge jump from the 120 in the external valuation and 318 more than the number Pillay mentioned eight months earlier in his motivation to the mayoral committee.

Mothoagae also provided feedback on the status of the project and indicated that millions of rands were still needed to meet the requirements for township establishment, the very same authorisations that had allegedly been in place before the sale was concluded and on which the price of R48m was based. The head of finance's comment was that more than R68m was available.

It's not clear what has happened since 2016, but a recent image on Google Earth shows that sections 38 and 124 of Hartebeesthoek 303 are still bare and undeveloped.

It should be noted that Amolemo Mothoagae also played a role in the three previously discovered questionable farm purchases that are now being investigated by Tshwane. She previously refused in writing to answer media inquiries about it, and now holds a senior position in Johannesburg City Council's housing department.

Nava Pillay was also approached previously and then again when research for this story was compiled. He did not respond to questions sent to him in writing. – **By Susan Puren**

† *Research for this series of reports was done with funding assistance from the Open Media Trust* ■



Over-valued farmland

# Pillay's pension caper

**Former SARS deputy commissioner Ivan Pillay's early retirement on full pension and instant re-employment was arguably not criminal, but it did amount to a devious scamming of state funds and flouted strict rules for state employees**

**N**ICO COETZEE, A SENIOR operational specialist in the Human Resources division of the SA Revenue Service, woke early on 9 October 2009 with something on his mind. At 5.57am he sent an email to recently appointed SARS Commissioner Oupa Magashula expressing his misgivings over deputy commissioner Ivan Pillay's application for early retirement "to provide for his children's education". And on top of that, after his retirement Pillay wanted immediate reappointment to his job.

**'That may put yourself and the Minister in a tight spot'**

Coetzee, then 61, with 22 years' service at SARS under his belt, dealt with HR's most difficult pension cases. He pointed out that in a similar request for early retirement the previous year, Pillay had said "he wished to pursue other interests". If his children's education was now sufficient reason to secure approval for his early retirement – and immediate re-employment – "it could be construed that SARS is willing to contribute from its budget an amount of +R340,000 towards the education of his children. [That] may put yourself and the minister in a tight spot," Coetzee advised Magashula.

The previous day Coetzee had emailed Magashula on the reappointment issue. "It is not unusual that a retired employee is reappointed after retirement in a contract capacity. What may raise some eyebrows in this particular case is that the employee is appointed in the same position he

held before his retirement.

"Ordinarily such a reappointment will be to a different and a lower-graded position. We had two similar applications for early retirement, both of which were not approved by the minister as he could not find sufficient reason to approve (them)."

In the HR division, Coetzee reported to Susanna Visser, then 47, head of executive remuneration. Visser shared his misgivings, so much so that she advised commissioner Magashula that it was not advisable to continue with the process. "We were both uncomfortable with the request as it was for personal reasons and we could find no business reasons to pay the penalty on behalf of Mr Pillay," said Visser in a sworn statement she was to make later to the Hawks. "We were also concerned that it could set a precedent whereby others could come and claim the same benefit."

There are strict rules for the 1.2m-plus active members and 450,322 pensioners and beneficiaries in the Government Employees Pension Fund (GEPF), one of Africa's largest pension funds, with accumulated funds and reserves of R1.8 trillion.

The Public Service Act's section 16 (2 A) gives state employees the right to retire at 55, by written submission to their head of department. That's the normal route. But there's a penalty. Under GEPF rule 14.3.3 (b) their early pension benefits will be reduced by one third of 1% for each month between leaving and contracted retirement date.

As deputy commissioner and head of enforcement, the then 56-year-old Pillay was pulling in around R2.5m/year. On that, a full pension at normal retirement age of 60 would give him a lump sum payout of around R2.36m and R53,303/month (with annual increases) for life. But the early retirement penalty would reduce the lump

sum to R2.12m and the monthly income to R48,563.

Until May 2009 Pillay's head of department at SARS was then-commissioner, Pravin Gordhan. And while Gordhan might have been amenable to letting Pillay go under 16 (2 A), there would have been that annoying reduction in benefits. This the canny Pillay was determined to avoid. He opted for the less-chartered route of PSA rule 16 (6) (a), for both early retirement and full benefits, as though he'd left at 60. However this route required the approval of the executive authority (ie the minister), who had to be satisfied there was "sufficient reason" for the early departure and that this wasn't just an attempt to wangle full benefits years before they were due.

And if the minister gave the okay and an early "full pension" kicked in, so did the GEPF's rule 20: the



**Ivan Pillay's sham retirement cost the taxpayer over R1million**



Oupa Magashula

employer must compensate the fund for lost contributions. In Pillay's case, the penalty would be R1,141,178.

Pillay set about his "early retirement" with his usual meticulous planning and attention to detail. By 2009 he had bought additional pensionable years for the period 28 February 1980 to 27 April 1994 – when he was an ANC intelligence chief in the struggle.

The sting in Pillay's early retirement was that he had absolutely no intention of stepping down as deputy commissioner. It was a sham retirement. He just wanted his pension benefits four years early, and without any reductions.

Ivan Pillay and Pravin Gordhan had known each other since the struggle years of the early 1970s. Both were experienced spies, secretive and skilled in the art of smoke and mirrors – and deception. Gordhan was a key figure in the ANC underground network who spent four years developing the structures of Umkhonto weSizwe (MK) and Operation Vula. Pillay was commander of MJK, the much-feared Mandla Judson Kuzwayo unit, and head of Operation Vula in Lusaka. Both were members of the Central Committee of the SACP.

Post-1994 Pillay played a key role amalgamating the former protagonists' intelligence services into the newly formed National Intelligence Agency and South African Secret Service. When Gordhan was deployed to SARS as deputy commissioner, he persuaded his old comrade-in-arms to join him in 1999 as General Manager: Special Investigations.

Pillay's brief was to head the enforcement division and set up a hard-hitting covert surveillance and intelligence unit. It was the alleged activities of this unit that landed Pillay, along with former police spy Johann van Loggerenberg and Andries "Skollie" van Rensburg, in the dock in the current "rogue unit" case over the 2007 bugging of the National Prosecuting Authority. After much orchestrated media pressure, the case is widely expected to be thrown out next February by new NPA head Shamila Batohi.

Pillay is married to Dutch activist and investigative journalist Evelyn Groenink (author of the 2018 book *Incorruptible*, a 30-year project investigating the murders of ANC and Swapo activists Dulcie September, Anton Lubowski and Chris Hani). They have two daughters, Devi and Vani, and in 2009 their mother was desperate to relocate to the Netherlands for the girls' education. This provided the motivation for Pillay's early retirement request, which he outlined in an undated memo to then SARS commissioner Gordhan. A bank loan, he told Gordhan, would be "prohibitively expensive" in view of prevailing high interest rates.

"In view of this I have decided to inform you I intend to retire in 2009 when I reach the age of 56 years. As I have already reached the earliest optional retirement age of 55 years, the retirement benefits will provide me with a lump-sum benefit (that will financially support my decision in terms of the education of my children) as well as a monthly pension."

Pillay's memo continued with a candid admission: "Clearly I am doing this on account of a matter that has nothing to do with my work at SARS. I still feel I am still capable of doing my work, I still have the enthusiasm and will to do it and I am of the opinion that through my work I can still contribute to the establishment of an even better South Africa for all its citizens.

"Taking this into account, I will appreciate it if you will consider to approve that immediately after my early retirement, appoint me to my current position but as a contract employee."

Pillay went on to point out that under GEFP rules his lump-sum award and monthly pension from the fund would both be reduced. However,

under an amendment to the Public Service Act, ministers could approve that employers pay these penalties.

"In view of this it will be appreciated if, when I take early retirement, you would recommend to the Minister [*Trevor Manuel*] that SARS pay to the GEFP my early retirement penalties. It is estimated that the penalties will amount to R1,064,257."

Apparently Gordhan sat on this application. Did he know he was about to be redeployed to take over from Trevor Manuel at Finance, and rather than risk rejection by Manuel preferred to wait and steer through Pillay's early pension himself? Sure enough, President Zuma's promotion of Gordhan to Finance minister was announced on 10 May 2009. And five months later the new commissioner

**'Magashula indicated they'd decided it will be five years and not three and continued to sign the contract'**

at SARS, Oupa Magashula, forwarded Pillay's children's education motivation to Nico Coetzee in HR, with orders to use it for an application to Minister Gordhan.

Magashula must have been dismayed with the disapproving reaction in Coetzee's emails and HR's request that Pillay's application be shelved on the grounds that his reasons were personal and not work-related.

Undeterred, a month later, on 27 November 2009, Pillay came up with an instant "work-related" reason. In his ten years with SARS, went his new motivation, he had been expected to perform at a very high level and "this extracted its toll from me in the sense that my health condition is slowly deteriorating. Added to this, my family responsibilities, for a long time, suffered on account of the dedication required by my job. With the aforementioned in mind, although not easy, I have decided to take early

retirement.” He continued: “However, I am still enthusiastic about SARS [...] and am willing to serve in SARS in a different capacity, where the demands of such a job will positively support the reasons why I am in the first instance taking early retirement.”

Pillay laid down his “conditions” to Commissioner Magashula: First, he would be appointed a contract employee. “The second condition will be that my early retirement is approved in terms of section 16 (6) (a) and (b) of the Public Service Act, meaning that the Minister approve that the penalty [*then assessed at R1,292,732*] imposed on my pension benefits per Rule 14.3.3 (b) of the GEPP Rules be paid by SARS.”

However, when the request for approval that the ever-cautious Magashula submitted to Minister Gordhan, it said that the application was being made under section 16 (2 A), the *hoi polloi*’s route which slashed the benefits – and for which the minister’s approval wasn’t needed anyway.

It’s hard to imagine this was done by mistake. Whatever, a couple of months later Gordhan announced his approval and presumably the minister’s clout did the trick, for despite the penalties levied by rule 14.3.3.(b), Pillay got his early retirement with full benefits. When Nico Coetzee in SARS’s HR instructed Yolande van der Merwe in accounts to get the R1,141,178.11 additional liability payment off to the GEPP, he described it as a “discretionary decision” by SARS.

To ease any concern Gordhan might have had about preferential treatment for an old comrade, Commissioner Magashula had been under the minister’s orders to concentrate on precedents: how many other government employees had been given early retirement with full benefits and then been re-employed?

HR’s Susanna Visser (see more about her scary encounter with a former “rogue unit” boss in box story on page 16) later told the Hawks that Magashula had obtained such a list from “the head of the Government Employees Pension Fund” and that these precedents had been incorporated into the commissioner’s memo to Minister Gordhan by Marco Granelli.

Granelli was Magashula’s chief of staff and his key job in the commissioner’s office was to rework and tweak the commissioner’s memos (and correct

his language, spelling and grammatical errors). The 51-year-old former journalist and political correspondent with the *Pretoria News*, is now senior communications manager with the Independent Electoral Commission, where he manages media relations.

From the IEC offices in Centurion, Granelli says that although in his four years in the Commissioner’s office he worked on “hundreds of memos” he did indeed recall drafting one to the minister regarding the early retirement of Ivan Pillay. “Two or three years ago the Hawks got hold of me and asked: What did I remember? What were my recollections of the whole thing?” he tells *Noseweek*. “I told them and submitted an affidavit.”

Granelli continues: “If you can get my affidavit from the Hawks, feel free to publish it, but I’m not willing to engage any further on that. At your peril will you name me. There is a court process that is also trying to find out the truth. [*Gordhan is seeking a review of this May’s Public Protector’s report into the early retirement affair, which found that he acted irregularly*]. Why don’t we let that take its course? It doesn’t need a journalist to expose the truth. You don’t have faith in the courts of our country?”

Sadly, short-fused Granelli’s 2016 affidavit to the Hawks doesn’t blow the lid off much. His affidavit briefly recounts that in 2010 the commissioner requested him to assist with the editing of a memo to the minister regarding the early retirement of Deputy Commissioner Ivan Pillay,

and that Magashula gave him the password to access Susanna Visser’s documentation in HR.

“I am unable to recall the exact contents of the first memo,” reads Granelli’s affidavit. “Days later Commissioner Magashula requested me to redraft aspects of the memo to emphasise the fact that a precedent existed for a senior member of the public service to be granted early retirement and immediately be reappointed on contract.

“I was also requested to emphasise the important role Mr Pillay played within the organisation and how it would be detrimental to the SA Revenue Service were Mr Pillay to leave the organisation. This was done and I provided a second draft.”

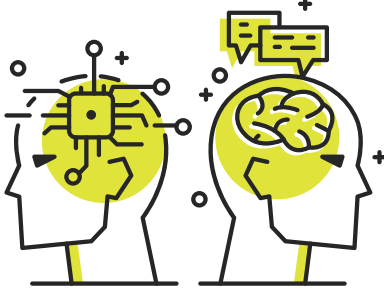
What Granelli left out of his affidavit was that, after the first memo from Commissioner Magashula was dispatched, Pravin Gordhan said he wasn’t willing to sign it in its then present form. A senior aide in the commissioner’s office at the time tells *Noseweek*: “The minister wanted it very clearly put in, and more of a case made, that Pillay’s application was not without precedent and outside normal channels; that this was not a one-off; that it was done in a number of cases, including and especially for people who had sacrificed much of their life to the struggle against apartheid and for freedom.”

To this end, says the aide, Magashula instructed HR to conduct research into how many employees had been allowed to take early retirement and



Gordhan and Magashula

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retain full benefits. “After this the memo was redrafted into a second version which highlighted the fact that there were precedents – not within SARS, but in other government departments and state entities.”

The aide recalls that a figure was quoted, “somewhere between five and ten prior cases, certainly under a dozen, where there were special circumstances and members’ departments had made up the contributions by paying the additional liability to the GEPP so that the early retiree’s pension wasn’t affected.”

Oupa Magashula’s aide says there was “significant internal discussion” over Pillay’s early retirement and immediate re-employment. “There were those who wondered whether this was legal or appropriate. There were those who questioned whether this was an appropriate use of state resources. And those fears, part of the memo’s development process, including a back and forth between the minister’s office, was indeed to address some of those concerns.

“Pravin Gordhan was certainly integral to this thing. This didn’t come from Oupa. The minister wanted some changes made; we made those.”

Despite the aide’s recollection of “under a dozen” cases that had been drafted into Magashula’s memo, the final version that went to the minister on 12 August 2010 sang a different song. Magashula wrote: “Over the past five years the GEPP has approved over 3,000 requests from various government departments for staff members to retire before the age of 60 with full benefits. The statistics are attached to this memorandum as received from the GEPP (Appendix A). In addition, the former and current ministers of Finance have approved at least five such requests over the past two years (see Appendix B).”

Magashula added: “Given Ivan’s critical skills, experience and leadership, he has agreed to remain in the employ of SARS as Deputy Commissioner after his retirement on a three-year contract to assist with the leadership transition.”

Gauteng Director of Public Prosecutions Sibongile Mzinyathi dispatched Hawks investigators to go to SARS for Appendix A. But

it was never found. And although the 3,000 figure has never been confirmed, it became a highlight of attorneys Webber Wentzel’s outraged responses to the 2016 criminal summonses against Gordhan, Pillay and Magashula.

In court papers Torie Pretorius SC, head of the Priority Crimes Litigation Unit at the NPA and the man heading the early retirement investigation, says his team found the 3,000 figure to be untrue.

So where did Oupa Magashula get it from? On March 25 this year the former Commissioner told the Public Protector he had received it in an email from Kenny Govender, deputy director-general in the Department of Public Service and Administration. Govender didn’t say anything of the sort in the emails that *Noseweek* has seen between the two. On 23 July 2010 Magashula thanked Govender for the “quick discussion” the D-G had with Pravin Gordhan the previous day regarding Pillay’s early retirement.

Magashula goes on to ask: “Is there a precedent for authorising early retirement and re-engaging the same person on a short contract completely different from permanent employment, with a scaled-down responsibility, salary and other conditions of employment? Do you have statistics of how many of these early retirement cases with re-engagement have been processed?”

In his reply Govender puzzlingly refers to Employee Initiated Severance Packages – completely irrelevant to Pillay’s early retirement case. These EISPs, he said, were “granted to employees that are generally in excess of the organisation as a result of a restructuring exercise. There is no restriction in the appointment to the public service or to the same department on a person who has left on an EISP. Any new appointment will be to a new post with a new set of conditions. I do not have figures on how many were re-employed, but I am aware of a few that were.”

Odd, since Govender was well-placed to assist Gordhan in their “quick discussion” regarding Pillay’s early pension. He was a long-standing member of the GEPP’s 16-strong board of trustees, where he sat on the benefits committee. He

did not respond to *Noseweek's* request to discuss his much-quoted "over 3,000" early retirement cases.

Public Service guidelines issued in February this year for Section 16 (6) applicants like Pillay say: "Applications for re-employment, after early retirement without pension penalties was approved, can only be approved by the relevant EA (executive authority, meaning the minister) or her/his delegate, on the condition that such employee may only be reappointed on contract in exceptional circumstances, only after the effluxion of the period wherein a penalty was paid by the state on behalf of employee (ie only after the normal 60 years retirement age has been reached by the employee), unless the employee agrees to pay back such accrued benefits to the fiscus."

Cut out the gobbledegook and that means that early retirees can only be reappointed in "exceptional circumstances". And even with the minister's approval, only when they've reached 60 – unless they repay the penalty their department paid on their behalf to the GEPF.

Anyway, when Pillay retired as deputy commissioner of SARS, he didn't sit back and enjoy his welcome lump sum of R2.36 million and R53,300/month. Without a day's break, he was back at his deputy commissioner's desk, on the same fat salary and working conditions unchanged. About the only concession to change was that Gene Ravele was installed to

lead enforcement – reporting to Pillay.

There were some odd goings-on though. Susanna Visser in HR's Executive Remuneration drafted a three-year contract for Pillay as approved by Minister Gordhan, but when witnessing his signature noticed that someone had changed it to run not for three but for five years, until 31 December 2015. She queried this and later stated in her sworn statement to the Hawks: "Mr Oupa Magashula indicated that they decided it will be five years and not three and continued to sign the contract. I advised, but the advice was cast aside and not taken."

In 2014 Pillay was to puzzle Susanna Visser again, with a request for a new four-year contract to run from 1 April 2014, when the first contract still had nine months to run. "I was just advised that the minister Pravin Gordhan and Mr Ivan Pillay wanted to conclude a new contract," Visser told the Hawks.

As it happened, Gordhan knew he was about to be shifted from Finance to become Minister of Cooperative Governance and Traditional Affairs (the shuffle took place that May). Clearly the old spymaster was anxious to see Pillay, his eyes and ears within the Revenue Service, securely in place for the foreseeable future before he left his seat of power.

But it all came to naught. In 2015 Pillay was summoned to a SARS internal disciplinary hearing to face nine charges relating the undercover "rogue" unit, plus one charge alleging fraud and/or corruption in relation

to his early retirement remuneration package. He resigned before the hearing could take place, was reinstated by order of the Labour Court and finally resigned again that May. In a settlement package all charges were withdrawn and he received a payout of R3.75m (18 months' salary). He had pitched for R10m.

But the early retirement saga lingered on. In a blaze of publicity on 11 October 2016 the then national director of public prosecutions Shaun Abrahams announced summonses for fraud, alternatively theft, charges against Ivan Pillay, Pravin Gordhan and Oupa Magashula over the payment of R1,141,178 by SARS to the Government Employees' Pension Fund for Pillay's reduced benefit penalty. Three days later, outraged pressure groups Freedom Under Law and the Helen Suzman Foundation produced, seemingly out of the blue, what has become known as the Symington Memorandum.

Bearing the date of 17 March 2009, its author was Vlok Symington, a member of SARS legal division and the memo was addressed to then commissioner Pravin Gordhan.

The Symington Memorandum gave Gordhan three assurances: Pillay's application for early retirement, his application for waiver of the early retirement penalty and his request to be reappointed on contract were all "technically possible" under the rules of the GEPF, read with SARS's employment policies. Exactly what

## It was entirely above board – Pravin Gordhan

**P**RAVIN GORDHAN TOLD THE HAWKS that he approved Commissioner Magashula's proposal for Ivan Pillay's early retirement and re-employment "because I believed it to be entirely above board and thought it appropriate to recognise the invaluable work Mr Pillay had done in the transformation of SARS since 1995."

Gordhan, now Minister of Public Enterprises, added in his 23 August 2016 statement: "I was told that Pillay sought in this way to gain access to his pension fund to finance the education of his children. I understand that Mr Magashula had established from enquiries made with the Department of Public Service and Administration that the terms to Mr

Pillay's retirement and re-employment were lawful and not unusual."

Pillay told the Public Protector on March 25 this year that he met Gordhan during the struggle, around 1971 or 1972. They were not friends but he considered Gordhan a comrade. Pillay said he requested early retirement to access his pension, but wished to continue working at SARS. It was a stressful environment, they worked long hours and his health had deteriorated.

His family at that stage wanted to go to Holland for the education of his children and he wanted a flexible solution so that he could work in a less stressful role and have more time to visit his family from time to time. ■



Pravin Gordhan

was needed. Seventeen days later Abrahams felt compelled to announce that the summonses against Pillay, Gordhan and Magashula would be withdrawn on the grounds that the Symington Memorandum showed there was no *animus* (knowledge of unlawfulness and intention to act unlawfully), by the three accused, since they had been given legal advice – which they had believed – that what they were planning was not unlawful.

The decision was greeted with fury by Hawks national head Lieutenant General Berning Ntlemeza, who considered the Hawks had a cast-iron

case. Ntlemeza accused Abrahams of making his decision “based on the noise made by politicians, civil society lobby groups and the media sympathetic to the accused.”

One does ponder why the Symington Memorandum, which got Minister Gordhan and Co so conveniently off the hook, took more than seven years to surface. Some senior officials in the Hawks and NPA consider its late emergence decidedly fishy. From his office in SARS’s legal division, Symington says: “I’m happy to talk. Send me an email, I can inform our media people and they can give me the go-ahead.”

We emailed: How come this memo took seven years to emerge? Why didn’t you produce it to the Hawks when they launched their investigation? Were you ever accused of creating the memo later than 17 March 2009 in order to assist Messrs Pillay and Gordhan?

No response, so we call again. “I’m very sorry, but I’m not allowed to engage on this,” said Symington. “I would love to, but that would be immediate dismissal.”

! *All the documentation relating to this story can be viewed on Noseweek’s website* ■

## ‘Hijackings can be arranged’ – Skollie

**S**ARS ENFORCEMENT HEAD IVAN PILLAY took the Revenue’s HR executive Susanna Visser to meet the “rogue unit” at a guesthouse in Brooklyn, Pretoria. Visser’s mission that day in March 2008 was to regularise and “surface” a group of employees who worked undercover for SARS investigating the illicit economy.

At the meeting, she later attested in a statement to the Hawks, there were discussions about who the group would report to, since “Skollie” [*Andries Janse van Rensburg*] was no longer going to be in charge as he was becoming a problem. “I did not know who Skollie was,” she said.

A couple of days later Pillay took Visser to meet the problem unit’s leader (pay packet: R1.3m/year), to try to reach a settlement agreement with him. While Pillay settled into a nearby office, Visser was left to get on with it.

“Skollie was a threatening character and made threatening remarks to me,” reads her statement. “He said things like

‘hijackings can be arranged’. I was very scared of him. I went to Mr Pillay and told him I was not prepared to deal with this matter on my own.”

After that Visser only met Van Rensburg in the presence of the head of Employment Relations, George Nkadimeng, Cosatu’s first deputy president in the mid-90s. He died in what friends described as “a hijacking disguised as a car accident”, in April 2011.

This immediately led to speculation that “rogue unit” members may have been involved.

Visser’s statement described how she and Nkadimeng shuttled between Van Rensburg and the office where Pillay waited. “At some point Skollie informed us that he is prepared to talk to the media if we do

not agree to pay him the balance of his employment contract. We informed Mr Pillay that he is threatening with information that he would leak to the media, however Mr Pillay told us that ‘he just thinks he still has it’.

“[But] At some point during in these negotiations we were informed to pay Skollie the full balance of his employment contract.”

A memo to obtain a mandate for SARS to enter into the separation agreement was signed by Oupa Magashula (then head of HR) and enforcement head Ivan Pillay. The settlement amount was R3,150,894 (36 months’ remuneration: R3,063,937) plus leave pay (R86,957). “I never met or spoke to Skollie since,” stated Susanna Visser. ■



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# Liquidators given the boot after 11 years of ‘reckless neglect’

Once-celebrated Lenasia businesswoman Dolly Naidoo rises from the ashes to face off with lenders, recklessly languid liquidators – and the mighty Asset Forfeiture Unit

**E**LEVEN YEARS AFTER THE COMPANY that owns the Sheffield Plaza shopping centre in Lenasia, south of Johannesburg, was put into liquidation, the liquidators had still not filed a report of their administration with the Master of the High Court. They also failed to file a liquidation and distribution account, which by regulation they should have done within six months of their appointment.

In all that time the two liquidators of the company, Yamani Properties 1015 (Pty) Ltd, missed numerous deadlines to file the account – and the Master’s office had not inquired as to why, nor reprimanded them for their non-compliance.

In the meantime, a prospective buyer, Pannicos Protopapas (better known as Panico Protopapa) has been left in possession of the shopping centre without having paid anything for it, for almost ten years. Nor has he paid any rent for over eight years, despite collecting monthly rentals from all the tenants – and none of it has been accounted for to the liquidators.

Also implicated in this extraordinary legal fiasco is Business Partners, the entity founded decades ago by the late Dr Anton Rupert and his son Johann to fund small to medium businesses, as well as the state’s Asset Forfeiture Unit.

All of them claim to be innocent of any wrongdoing.

In February this year the two financially devastated majority shareholders of Yamani Properties, sisters Dolly Naidoo and Arthilutchmee Chetty eventually brought an application to court for the dismissal of the two Pretoria based liquidators, Stephen Anticevich and Rina Stroh (see *noses*49;101&112), who were appointed provisional liquidators in 2008 – an appointment that was made final only in 2012.

Naidoo and her attorney Sybrand Tintinger, an insolvency lawyer, did

raise the issue of the handling of the Yamani estate with the Master of the High Court in Pretoria. However, while the Master did note issues with the Yamani liquidators, the lack of any action resulted in Naidoo and her sister applying for their removal.

In a letter dated 15 January, Christene Rossouw, Deputy Master of the High Court in Pretoria, disclosed that Anticevich had been “removed in a matter in the Pretoria High Court several years ago due to his failure to finalise an estate in a reasonable time”.

Rossouw wasn’t very complimentary about co-liquidator Stroh either. In a letter addressed to Stroh, Rossouw said: “Please note that the Master has received several complaints, mostly by creditors in matters where you are appointed, that they are experiencing difficulty in communicating with you.” As did *Noseweek*.

The applicant Naidoo owns a 40% stake in Yamani and her sister, Chetty holds a 10% stake.

“The estate of [*Yamani Properties*] was not administered at all according to the applicable legislation framework (Companies Act, 1973, Companies Act, 2008 and Insolvency Act, 1936) by [*Anticevich*] and [*Stroh*]. This is a text book example of how an estate should not be administered by liquidators,” Naidoo states in her founding affidavit submitted to the North Gauteng High Court.

“In spite of the fact that the company was placed in liquidation in 2008 and the liquidators were already appointed on 16 May of that year, they have to date not filed with the Master any reports, any accounts or given any meaningful feedback to the Master, until after demands were recently addressed to the Master [*by attorney Sybrand Tintinger*] on my behalf, as to what they had not done in the estate in liquidation.

“Hastily, a very vague report was put together, emphasising rather their

lack of action and flouting of their law-imposed obligations,” Naidoo wrote.

“To date, no liquidation and distribution account had been presented to the Master as is required from the liquidators to do within six months. Equally, to date the liquidators have not applied for an extension of time for lodging of any accounts, which they were by law obliged to do within six months from their date of appointment,” Naidoo said.

“In short, it would appear as if the liquidators have simply abdicated all their duties and functions to [*Business Partners*], as the then only secured creditor in the estate... They could not care to do their work.”

Business Partners owns a 40% stake in the company in liquidation, and has a claim for about R2.6 million against the estate.

Danie Frey, Business Partners’ legal manager, refutes the allegations implicating them in the maladministration of the liquidation. “The first liquidators did not abdicate their responsibilities to Business Partners, nor would Business Partners accept such administrative



Dolly Naidoo



Sybrand Tintinger

responsibility or act in conflict with insolvency legislation,” he insists – but more about that anon.

On May 14 this year a high court judge granted the application and ordered that Anticevich and Stroh be removed as liquidators.

The replacement liquidators, Conrad Alexander “Alex” Starbuck of Lex Star Trustees and Jacolien Barnard of Barn Trust, were appointed by the Master of the North Gauteng High Court on 7 June this year.

On September 12, Anticevich and Stroh filed a notice of motion to reverse their removal as Yamani liquidators. Frey said that the matter would be heard in May 2020.

*Noseweek* sent Anticevich questions regarding his handling of Yamani’s liquidation but he did not respond.

He wrote in a letter to the Master in

January: “This allegation of abandonment of the administration is without any substance.”

*Noseweek* was unable to locate Stroh.

Naidoo’s attorney, Tintinger, says in a letter to Rossouw dated 15 January: “Stroh does not know what is going on in this estate.”

“What is equally worrying,” says Naidoo in an affidavit, “is that a Master’s file should have proof of insurance of assets”. There is no such proof.

“The complex was, irregularly, not advertised at all or sold on tender, but simply sold out of hand to the chosen purchaser for R3.5 million plus value added tax, before any meeting of creditors or shareholders.”

She said that the way the buyer for Sheffield Plaza was selected was irregular in that, she alleges, Business Partners brought in their preferred purchaser, Panico Protopapa.

In response, Frey of Business Partners’ told *Noseweek* that in 2008 the liquidators received two offers for Sheffield Plaza but neither materialised. “In 2009, the current buyers made an out-of-hand offer for the purchase of Sheffield Plaza, which was more or less in line with the valuation.

“The buyer of Sheffield Plaza made an arm’s-length offer to the first liquidators, who considered the offer independently.”

Protopapa said that there had been another offer, of R2.8m, for Sheffield Plaza at the same time that he was offering R3.5m.

In an initial telephone interview, Protopapa told *Noseweek* that he was a client of Business Partners and had bought property from them. However, during a subsequent face-to-face

interview at his offices in Houghton, Protopapa said that when he made an offer for Sheffield Plaza he had “no relationship with Business Partners”.

In an answering affidavit earlier this year, Anticevich said that after his appointment as joint liquidator of the Yamani estate, various offers were received to purchase Sheffield Plaza.

In December 2009 Protopapa signed an agreement that simultaneously saw PLJ Investments Property and Renovations, in which he has an interest, become the buyer of Sheffield Plaza and of Tupa Real Estate, a rental agency in which he also has a stake, become its managing agent.

According to Naidoo’s version, shortly after the Sheffield Plaza sale was agreed, Business Partners and Anticevich agreed that PLJ Investments did not have to pay occupational rent and this went on for eight years.

Frey denied that Business Partners gave any such instructions that PLJ Investments could stop paying occupational rent, saying: “Business Partners in any event has no authority to give such instructions.”

However, Protopapa said that his company did pay occupational rent for Sheffield Plaza “for a while” or for about six months.

“After a while, we said, guys, we can’t pay occupational rental anymore. We have done this, this-and-this to the property. We agreed we no longer had to pay occupational rental,” he said.

Naidoo’s attorney, Sybrand Tintinger told *Noseweek* that while Protopapa wasn’t paying occupational rent he was pocketing all the rent received from all the Sheffield Plaza tenants.

“As soon as I came on record, the conveyancers and Business Partners realised that they had a problem – ‘now we need to get our house in order!’ The conveyancers attending to the transfer immediately wrote to Mr Protopapa saying ‘please pay the past eight years’ occupational rent immediately’ [totalling between R3m and R4m]. Mr Protopapa’s response was: ‘I’m not paying you.’

“That’s where the factual dispute now arises. Mr Anticevich contends he received instructions from Business Partners not to collect rent. Business Partners contends that, while they gave instructions to the liquidators, the liquidators are not bound by their instructions and liquidators should do what the law requires them to do. (When it

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suiting them, they didn't once inquire about whether they were getting occupational rent or not.")

In February this year, after an eight-year hiatus, PLJ Investments resumed paying rent.

Protopapa confirmed: "We have resumed paying, earlier this year. We are paying but we don't want to pay... I want to claim it all back. I think it is nonsense that I am paying the occupational rental."

Attorney Tintinger had more to say about that: "Another strange and irregular feature of the sale agreement is that there is no escalation in the occupational rent of R35,000 a month. The purchaser was a buddy-buddy purchaser within the Business Partners stable. There was collusion between Business Partners, its token purchaser and its token liquidator."

Frey dismissed Tintinger's allegation that Business Partners colluded in this as "entirely without substance". He says Business Partners had no influence over the liquidators throughout the process and the company was "severely prejudiced by the delays in finalising the liquidation process".

Protopapa adds: "There is no chance in hell that there is collusion. Rather than us colluding with Business Partners, we have been fighting with Business Partners."

"I'm not in the business of doing anything wrong. Business Partners kept trying to cancel the deal because they couldn't give us transfer," he said.

Before Yamani went into liquidation, Naidoo told *Noseweek*, she was a "very successful businesswoman in my own right".

"I had been running a BP filling station in Lenasia South very successfully... Due to my performance there, I was nominated for, and received, various entrepreneurial awards.

"My pictures were featured on all [*Business Partners*] promotional merchandise including calendars, diaries and advertisements in the media, even in the [*Sunday Times's*] *Business Times*. I have won entrepreneurship awards that were run by Business Partners... I was also featured on SABC promoting Business Partners," Naidoo said.

Yamani ended up in liquidation after the NPA brought a case against her former husband, Rajan Naidoo, in 2004, Naidoo explained in an affidavit submitted to the court.

"My ex-husband was suspected of

taking part in racketeering activities and trading in precious metals unlawfully. There were 27 co-accused in the criminal proceedings.

"Simply because of association, I was cited as a co-respondent in the proceedings instituted by the Asset Forfeiture Unit, which led to the attachment of all of my assets."

In addition, her business accounts were frozen and a caveat placed over her household assets.

"Without funds to meet operational requirements, the businesses disintegrated rapidly," Naidoo said.

Frey confirmed that, prior to the Asset Forfeiture Unit's arrival on the scene, Naidoo had approached Business Partners in 2002 to finance one of her businesses and in 2001 to help finance the purchase of Sheffield Plaza.

"Ms Naidoo's business challenges started around 2007 [*three years after the Asset Forfeiture Unit had struck*] when, as a result of rapidly rising interest rates, she began to struggle with the repayment of her business loan. Rental income from Sheffield

## Without funds to meet operational requirements, the businesses disintegrated rapidly

Plaza was not sufficient to service the loan," Frey said.

Frey said that after months of non-payment on her loan and efforts made to turn matters around, Business Partners applied for the liquidation of Yamani in April 2008.

"I tried my very best to seek information... and was kept mostly in the dark," Naidoo said, referring to when Yamani had been put in liquidation.

Naidoo said that she had endured "12 years of hell" related to the NPA matter and only on June 23, 2016, was this cloud lifted when all charges against Rajan Naidoo were eventually dropped. "Unfortunately, I was the victim in this. Over the years, I have spent close to R10m on legal costs," Naidoo stated in an affidavit earlier this year.



Panico Protopapa

*Noseweek* has a copy of a letter sent by Gerrit Roberts, NPA Deputy Director of Public Prosecutions in Johannesburg, dated 28 June 2016, where he writes to Rajan Naidoo's lawyer Yusuf Ismail and says: "It is confirmed that the matter was unconditionally withdrawn against all the accused."

The end of the NPA case led to the unfreezing of Naidoo's assets and she then started to investigate what had happened to Yamani.

In late 2018, Naidoo met Tintinger and he highlighted all the issues with the liquidation of Yamani.

Tintinger said: "When Business Partners put this shopping complex into liquidation, they never believed that Dolly Naidoo, who had her [*own*] problems at the time... would rise from the ashes of this liquidation. It never troubled them [*the liquidators*] at all [*that they did not*] report to the Master on this liquidation or do their work because what they effectively did was abdicate the administration of the liquidated estate to Business Partners."

"To make this estate even more remarkable, you have a secured creditor who doesn't prove a claim for nine years still wagging the tail of the dog. I've never seen anything like this. This estate is in so many ways quite extraordinary," Tintinger said.

Frey said all the allegations were aimed at "creating an atmosphere of drama and require no response".

But, said Naidoo, once Tintinger started to advise her, Business Partners had changed their tune. "It came to our attention that the transfer had, in fact,

not gone through and the property was still in the name of my company, Yamani Properties, 11 years later.”

Frey said that in October 2008 Business Partners submitted its claim to the then Yamani liquidators. (There is no evidence, however, that the claim was ever formally proved at a meeting of creditors.)

“The process of transferring Yamani property was started and the buyer took occupation of Sheffield Plaza in 2010,” he said. “Transfer has been delayed due to a variety of reasons, which include continuous problems with obtaining accurate and applicable clearance figures and meter readings from the City of Johannesburg to allow the transfer of the relevant property,” Frey said. Issues with municipal clearance are known to be a common problem.

In an answering affidavit earlier this year, Anticevich said the transferring attorneys, Strydom’s of Randburg, had attempted to obtain the rates clearance certificate for the Sheffield Plaza property from the City of Johannesburg but “various challenges were experienced”.

In a letter to the Master on 15 January, Anticevich said that the other issues faced included missing approved building plans and whether the building transgressed a building line.

Protopapa adds: “It is an absolute nightmare for us. I have never doubted the [former] liquidators.”

Tintinger said that once he had got hold of the liquidation file at the Master’s office, he was surprised by what he found. “I couldn’t believe that

the second meeting of creditors was never held. I never saw anything like it. That struck me as strange.”

In a letter dated, 15 January this year, Anticevich wrote to the Master acknowledging that no second meeting of creditors had been held, and saying he would immediately proceed with

**The allegations of racism and fraud are dismissed with the contempt they deserve. We would never tolerate it in our company.**

convening one.

Tintinger said: “What also struck me as strange was the sloppy application for extension of powers and the unconvincing reasons given at the time.”

Naidoo alleges that all rent collected from Sheffield Plaza tenants from 2008 to 2011 was illegally paid directly to Business Partners and not into the account of the liquidators.

Business Partners allocated the payments from Sheffield Plaza tenants “to a general slush fund” without even crediting interest on these receipts for more than eight years, she alleges, adding: “This can be proven by the statements of accounts of Business Partners.”

Frey denied these allegations.

Naidoo said: “Business Partners never proved a claim until 11 years later in 2019 only after my attorney reported the irregularities to the Master.”

Frey said: “The claim was filed with the first liquidators in October 2008 and was never challenged by them.” Which avoids the question: was it ever proven?

While Yamani was in liquidation, Naidoo said she had to deal with Frey and a lawyer who did some work for Business Partners, Morris Pokroy. She said they both treated her badly.

“The most astonishing aspect during this time was the treatment I faced by Business Partners and associates,” Naidoo said. Frey denied this, too,

saying: “Business Partners strives in all dealings with clients and other stakeholders to abide by fair and professional conduct.”

Naidoo said she paid Business Partners R370,000 while Yamani was in liquidation to pay off the debt owed to Business Partners as she had signed surety for debt.

Frey said he could not comment on this statement “given privacy issues”.

Naidoo said: “I was placed under immense pressure by Frey. At one point was given an ultimatum by him. Frey mentioned that he would ‘cut the locks of my gate’ to remove assets from my property if I didn’t pay my monthly fee.”

*Noseweek* has a copy of an email dated 30 August 2016, where Morris Pokroy wrote to Naidoo and said: “We are forwarding the warrant of execution to the sheriff together with an indemnity, that will enable him to appoint a locksmith to open your premises and make an attachment of all movable assets.”

Naidoo said she suspected a “very strong racist element” to the whole matter involving Business Partners and Yamani. “My backstory was the perfect narrative for Business Partners to exploit. A woman from a previously disadvantaged background who garnered success and became an entrepreneurial figure to reckon with.

“I have faced the wrath of a racist institution that banks on the success of black individuals to cover their implicit racism. I ask myself, had I been a white male, would I have endured the same treatment? The answer is: probably not.”

Frey responded: “The allegations of racism and fraud are dismissed with the contempt they deserve. We would never tolerate it in our company. We invite Ms Naidoo to raise her concerns directly with Business Partners with the view to address her accusations and resolving the matter.”

Naidoo said she has still needed to quantify the claim that she would like to put forward. “But how do I quantify years upon years of unrelenting fear and pressure? To put this into context, I lived day in and day out with the fear of knowing that Business Partners and their associates could destroy the remnants of my estate,” she said.

“They [Business Partners] are guilty and they know it... If the longevity of their business is important, they will settle with me to the point where I will gladly remain silent,” Naidoo added.

Frey said Naidoo’s statements were without foundation. – **By Justin Brown**

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# The missing lift

No clear skies for Wonderboom Airport as their wheelchair compliancy and mothballed infrastructure lands them in more hot water

**A**LIFT IMPORTED FROM SWEDEN and worth almost R5 million, which was supposed to make Tshwane's Wonderboom National Airport wheelchair compliant has been in storage since 2017 because of supply chain mismanagement. Storage costs alone are now running at R60,000-plus.

In a recent scathing report by the oversight committee for roads and transport in Tshwane Metro, NTV Multi-purpose Contract CC was said to have been paid R3m in advance but never installed the lift. The committee found lapses in governance, supply chain maladministration and irregular expenditure at Wonderboom.

However the report was hastily withdrawn from the agenda of the monthly council meeting held at the end of October.

Following *Noseweek's* recent damning revelations (*noses240&241*), the council's general mismanagement of Wonderboom Airport has, it seems, become too much of a political hot potato for open debate.

Victor Netshiungani, the sole director of NTV tells *Noseweek* that his company was in fact short-paid by Brainwave Electrical, a local cooperative (read BEE middleman) that was appointed for the work by the airport and its owner, the City of Tshwane.

"We were advised that the City of Tshwane was trying to develop cooperatives by merging them with companies, since these (council-sponsored) cooperatives did not have resources and the required skills," says Netshiungani.

He told *Noseweek* that a Tshwane official, Tshiamo Sebatso, directed him to work with the cooperative. *Noseweek* has established that Sebatso is a finance clerk at the municipality's supply chain management and that she was seconded to Wonderboom for a short time in 2017.

Correspondence seen by *Noseweek* shows that in March 2017 NTV gave Tshwane a quotation for R1.8m for the lift only. Then in November 2017, NTV gave Brainwave Electrical a quote for nearly R3.4m, this time for both the supply and installation of the lift. A 50% deposit was requested on arrival of the lift in South Africa.

The only payment Brainwave made to NTV was for R1.34m on 1 July 2017, months before it was even supplied with the quote. Netshiungani says Brainwave was paid R1.49m at the time, meaning both payments were made in advance and even before the lift landed in the country.

According to Legal City, Brainwave co-operative was formed in 2014 and has a business address in Mamelodi

in Tshwane. From its original 19 members four have resigned, eight have been disqualified and seven remain.

Netshiungani says the cooperative's part of the work was inspection and logistics, getting the plans drawn and to order and deliver the lift, but no actual groundwork was done due to non-compliance with the contract on the part of Tshwane, which did not pay the 50% deposit.

"We are ready to install at any time should anyone take full responsibility to cover the balance of the project, since at the moment there are claims that three million was paid, which is not true."

That is quite interesting because the architectural firm that compiled the baseline document for Wonderboom's management in 2017 says important building requirements are still not in place. They have since been told that the upgrading of the building was shelved due to a lack of funds and that they would be contacted once money was available. At the time the firm already had the lift retrofit proposal thoroughly worked out and documented in concept drawings.

But still outstanding, even today, is a new rational fire plan for the building, as the previous version had become inadequate because of the updated SANS10400 requirements. In theory this means that the lift should not have been ordered, as a fire engineer first needs to approve the citing of the lift where suggested and only after approval is given can it actually be ordered, says an insider at Wonderboom Airport.

A concept plan for a proper approach road and security control point to the technical buildings, as required by the CAA, was also submitted by the architectural firm but to date the concept has not been finalised and there was no further involvement or inspection by – or payment to the Civil Engineer, even though the road adjustment was



Wonderboom Airport

built as per the proposal.

Netshiungani told *Noseweek* the lift is in storage and that he cannot disclose the location for security reasons. *Noseweek* was told, however, that Jessen Lifts (Pty) Ltd in Randburg ordered the lift and probably has it in storage.

Apart from the missing lift the oversight committee also found that about R13m had disappeared since building was started on a hangar and a training centre at Wonderboom in 2017. Not only is theft alleged but the airport's maintenance budget was used to erect the buildings. The training centre is empty and the poorly built hangar cannot be used for storage because it is likely to flood when it rains. Neither an occupational health and safety certificate nor engineering clearance for the buildings has been issued.

In 2018, R800,000 was spent on a so-called green wall, yet the airport management has no idea what the money was really used for.

And more contractors were paid for smoke alarms, fences and temporary offices for SARS, the SAPS and the

Metro Police, but none were completed.

The Tshwane Investigative Unit, seconded to the airport by the mayor's office two years ago, has not submitted any reports on its findings so far. The oversight committee recommended that all cases be referred to the Hawks and that a forensic audit be done.

The committee also established that Tshwane should pay R1.1m per month to security company Both Best which employs 75 guards on a rotating basis at the airport. The guards only earn R6,200 a month, while Both Best is paid an average of R13,000 per guard. The report called for a thorough investigation of the security company to determine whether it meets the required standards.

The report confirmed that the last time fuel was purchased for the airport was in 2018 – as exposed by *Noseweek* in our previous edition – and “the last drop” was sold in March 2019.

The report mentions the illegal appointment and reappointment of Professional Aviation Services (PAS) to manage the airport. It confirmed what *Noseweek* has written about PAS



**No wheelchair access**

by stating that management of the airport is worse than two years ago and still deteriorating.

One achievement mentioned by the oversight committee in the report was that the lights on the runway work 24 hours a day. – **By Susan Puren** ■



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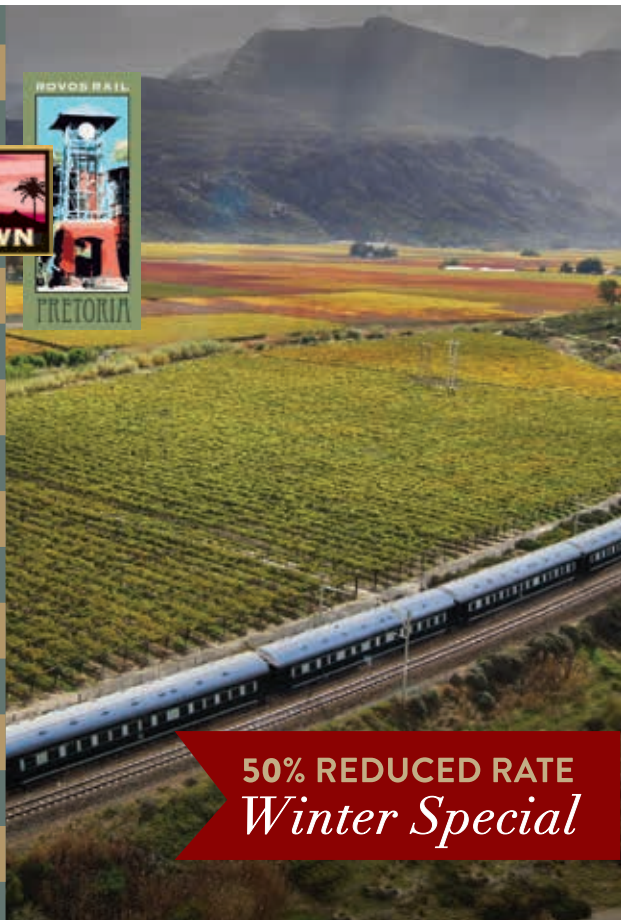
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# Environmental impact

## Eco-savvy new minister favours nature-based solutions

**B**ARBARA CREECY HAD BEEN IN office as the new Environment minister for just two weeks when she was slapped with a major court action over the government's appalling progress in cleaning up air pollution in the Mpumalanga Highveld.

Environmental groups Vukani Environmental Justice Movement in Action and groundWork submitted more than 500 pages of court papers demanding that the government clean up the area's killer air.

Represented by the Centre for Environmental Rights, the groups said the government had violated the constitutional right of the people who live and work in the Highveld Priority Area to a healthy environment, having failed to improve the dangerous air pollution levels – mainly caused by 12 of Eskom's coal-fired power stations.

Some environmental activists viewed the court action over this "inherited" issue as a wake-up call, while others dubbed it a "baptism of fire" for the new minister, appointed in

May to President Cyril Ramaphosa's new, reduced Cabinet. It was, they said, partly a bid to get Creecy to take urgent action on the air pollution, but was also a test to see how Creecy would handle the complexities of coal, which is key to South Africa's economy but also a huge source of pollution.

With climate change and environmental issues coming to the fore globally, it is significant that Creecy was chosen by Ramaphosa as Environment Minister in a department that's now merged with Fisheries and Forestry. The Department of Environmental Affairs was renamed the Department of Environment, Forestry and Fisheries (DEFF) in June 2019, incorporating the forestry and fisheries functions from the previous Department of Agriculture, Forestry and Fisheries.

Even former mining boss Nicky Oppenheimer said recently the Environment ministry was the most important in the government... with environment "at the forefront of everybody's mind".

Creecy, a member of both the ANC's National Executive Committee and its National Working Committee – and one of the longest-serving members of Gauteng's provincial legislature – has made her mark in government in various ways. As Education MEC – a position she held from 2009 – she led a turnaround strategy for the Gauteng Education department to improve matric performance in 400 under-performing township schools. The programme was recognised by the UN and awarded first prize in the category Improving Delivery of Public Services.

Creecy's integrity stunned observers at the Life Esidimeni hearings in Johannesburg last year when she strongly refuted claims made by former health MEC Qedani Mahlangu and others that Life Esidimeni had cash problems which caused it to shut down. She stressed that the Treasury would never have endorsed cutting down on essential social services and said the provincial health department had more than enough funds.

There was widespread speculation ahead of the cabinet appointments that Creecy, most recently employed as the respected Finance MEC in Gauteng, would become Finance minister or deputy in the new Cabinet – but she's not complaining. Phrases like the "just transition", the "circular economy", "biodiversity loss" and "ecosystem degradation" slipped easily off her tongue when we met for an interview at Parliament. She spoke continually of that elusive concept "the just transition", relating to the move to a low-carbon economy, while keeping in mind the need for an inclusive economy and sustainable development.

"This is a fantastic job; a very interesting, stimulating portfolio," Creecy said. "Now, with fisheries and forestry thrown in, it's huge, with many different policy areas. (The work) is a big mix between economic



Barbara Creecy is sworn in as Minister of the Environment

development issues and conservation, sustainable use, climate change, waste management and everything that creeps and crawls and flies and swims.”

When we met, Creecy had just returned from the UN Climate Action Summit in New York where, amongst others, she met Swedish teen-hero Greta Thunberg. “I asked to take a selfie with her! I was very struck by how young and vulnerable she is. She reminded me of how young some of us were when we got involved in the struggle against apartheid. Hector Petersen was ten when he was shot.

“I am a great believer that if you don’t feel strongly and passionately about things when you are young, when will you ever feel strongly and passionately about things? The children of 1976 changed South Africa, so I think these young people who are fighting the climate change struggle deserve respect for their views.”

Of the UN Climate Action Summit, Creecy said: “The big issue on everybody’s agenda now will be the question of the just transition. South Africa is a heavily coal-dependent economy, with 80% of our power coming from coal. Climate change is affecting our lives already. We have good global commitments but we haven’t done enough to domesticate those things. That will be a key area of focus.”

Commenting on the government’s recently released Integrated Resource Plan (IRP2019), she said she was “happy about the massive increase in renewables”.



**Barbara Creecy and Greta Thunberg**



**Coal plant in Mpumalanga**

Creecy sees the three big environmental issues as climate change, loss of biodiversity and environmental degradation. “These issues are everybody’s issues. They are happening right now and already impacting on all our lives: the drought in the Western Cape, the ongoing drought in Northern Cape and Eastern Cape, the severe weather events in KwaZulu-Natal and Gauteng, the cyclone in Mozambique. The poor and vulnerable in our society are going to be the people most impacted by these things and have the least ability to deal with them.”

In our interview, Creecy spoke of the tightrope she has to walk in dealing with numerous issues and of the delicate balance between “keeping the lights on, on one hand and not creating a major public health threat on the other hand”.

(In the court action over pollution of Mpumalanga Highveld, the Environment department has “presented a settlement proposal to the parties in this matter and awaits their response,” a departmental spokesman told *Noseweek*.)

Said Creecy: “It’s a reality that the atmosphere on the Mpumalanga Highveld is heavily polluted – and it’s a reality that we have to do something about it – but how do you walk the

tightrope? That’s my challenge.

“We all know what happened when there wasn’t energy security earlier in the year, so it’s a question of how to get everybody to the table and to agree to start doing something about this, to ensure we address the problem without affecting the production of electricity.”

Creecy said she anticipated doing a lot of “this sort of tightrope walking” in her new portfolio. “There is not only one ‘just transition’ in this country, there are many just transitions because all decisions we take can have unintended consequences. We need to be clear from the start, what we are we trying to avoid. We have to have energy security and we can’t shed jobs.

“I am fully aware that the solutions to poverty, inequality and unemployment lie in economic development – but in our current context they have to lie in sustainable economic development.”

In October, Creecy was widely praised by environmental groups and others when she set aside the environmental approval by the Department of Mineral Resources for a planned open-cast coal mine – the Palmietkuilen coal mine – on the East Rand. She said it was crucial for commercial agriculture in the Springs/Nigel area to be safeguarded.



It had been anticipated that the proposed coal mine would have produced 2,400,000 tonnes of coal a year for nearly 50 years. But it would have been upstream of the Blesbokspruit – one of the largest wetlands in the Highlands area which feeds the Marievale Bird Sanctuary in Springs and flows into the Vaal River.

In her decision, Creecy said that, while she was aware of the social benefits of the proposed mining, “I find that such does not outweigh the

**‘This shows we have  
a Minister of the  
Environment  
who is interested in  
the future of the  
country’**

need to protect and preserve the prime agricultural land”. The area had been used for agricultural purposes for generations and could go on being used for these if soil disturbances were avoided.

“One of the biggest threats to the retention of productive agricultural land is the conflict between agriculture and mining land uses. With the matter at hand, it is vital to preserve the current land use, mainly for commercial agriculture,” Creecy said.

Liz McDaid, the long-time environmental activist who was the joint winner, with Makoma Lekalakala, of the 2018 Goldman Environmental Prize for using the courts to stop the South African government’s multi-billion-rand nuclear build programme, said she will be watching Creecy closely.

“I think she is a minister with good intentions. She has shown she’s competent and humble enough to acknowledge there are faults and she’s going to fix them.”

McDaid, not known for faint praise,

lauded Creecy for the decision on the Palmietkuilen coal mine.

“This shows we have a Minister of the Environment who is interested in the future of the country. She’s shown us that she is prepared to stand up against the mining industry. I hope her colleagues in cabinet will give her one hundred percent support, as those are the kinds of decisions we need when looking to the long-term wealth of the country rather than short-term greed.”

McDaid continued: “The department ... has a huge responsibility for environmental management and law enforcement. Their law enforcement activity is crucial for our economy because derelict mines, air quality, air pollution all impact on health and the environment. Somebody has to be the custodian of a good clean environment... You can’t have good sound economic development without good strong environmental regulations. The sooner South Africa realises that, the better. We cannot continue polluting and affecting the most vulnerable people. It’s just not fair.”

When we met Creecy had come from an “extremely sad” gathering of about 300 fishing people in Lambert’s Bay on the West Coast. Her trip was part of a systematic programme to visit different geographical areas where fishing folk live.

“Their families have always had a livelihood from fishing; they want to continue to make a livelihood from fishing and they can’t understand why somebody has to give them a right to do what they have always done historically. Many of them have been excluded from the process of fishing rights. In the Western Cape, there were 10,000 applications by small-fishing persons for a right in terms of the small-scale fishing policy. Only 2,000 got through the loop. Some of them failed because they needed to initial every page of the application and didn’t have lawyers to help them fill in their applications.

“People in that community are really poor – and dependent on this industry. The way we have been implementing policy is not helping them. The way in which we deal with these applications has to be empowering; it cannot be exclusive. The purpose under my watch will be to help people to comply, not to keep people out. It needs to be developmental, not exclusionary and perjorative.

“I have been hosting meetings with subsistence fishermen and fishing communities in the Western Cape, including the West Coast at Lambert’s Bay, the Overberg region at Hermanus, and all Cape Town Metro small fisher communities in Hout Bay. These were very difficult meetings where fisher-people spoke of the extremely hard conditions in which they live and work, their lack of access to sustainable livelihoods and their frustration that they still have not received the small scale rights they had hoped to receive in 2016.”

At the time of our interview, Creecy was also preparing for a colloquium – in November – on single-use plastics. “We are all concerned about the impact plastic is having on the environment, particularly on our oceans. Some people say by 2050 there will be more plastic than fish in the sea. We are working closely with industry in organising this colloquium.”

Creecy was also mulling over the recent Afro-barometer survey which found that more than half of South



**Cleaning up**

Africans had never heard of climate change, as well as the release in October of the National Biodiversity Assessment (NBA). The five-year study found that the major pressures on South Africa's biodiversity are habitat loss, changes to freshwater flow, overuse of some species, pollution, climate change and invasive alien species.

"Key take-outs are that South Africa's long history of conservation and environmental management is paying dividends: about 9% of our total land mass and sea mass are now under-protected areas and about 75% of our ecosystems are well protected.

"The NBA revealed that 36 South African plant species are already confirmed extinct, a further 70 possibly extinct and 14% of all plant species threatened with extinction. Of the 2,911 animals assessed, 12% are threatened with extinction.

"Another interesting take-out is the fact that there are about 420,000 people working in the conservation sector, which compares favourably with a big sector like mining that is about 430,000. The statistic is: for every one person involved in conservation there are five others who would be making a living out of the biodiversity economy which wouldn't exist if we didn't look after our biodiversity."

Another issue that has received her attention recently is the long-outstanding issue of 3,000 tonnes of mercury waste stored in warehouses at Cato Ridge in KwaZulu-Natal.

"The Davis Commission of Inquiry in the 1990s recommended that Thor Chemicals should take responsibility for the safe disposal of the waste. This matter was not resolved. I visited the site in August. Following negotiations between our department and Thor Chemicals we hope shortly to announce how Thor Chemicals will take responsibility for the waste."

Asked whether she believes economic development can be balanced with environmental care, she said: "In fact, environmental care/conservation has become one of the world's key drivers of economic development. If one considers the example of the global energy revolution currently underway which is moving us from a century of fossil fuel dependence to sustainable renewable energy, one starts to understand this new and exciting relationship – called sustainable development.

"The global efforts to create a circular

economy where one person's waste becomes another person's product or raw material is part of this new impetus for development within our fixed planetary boundaries. Indeed, the use of the 'development' moniker for economic activities that do not consider environmental care/conservation is being seriously questioned."

Asked about her prioritised goals, Creecy said these include the expansion of marine protected areas; ensuring that the government's three Phakisa (meaning "hurry up") programmes – Waste Phakisa, Oceans Phakisa and the Biodiversity Economy Phakisa – move from planning to implementation phases and deliver on job promises; and to deliver on Job Summit commitments in the forestry sector.

"In conservation, our goal is to open two new national parks, thereby increasing our protected land areas to 16% of our land mass: one will be in the Northern Cape around the SKA and the other in the Eastern Cape."

Another priority, she said, is "to align the important work we are doing on Working for Water to ensure we are protecting our most important catchment areas, estuaries and wetlands. This will include removal of alien species, rehabilitation of wetlands and estuaries.

"We also plan to further drive the land-sector programme Working for Ecosystems, in rehabilitating denuded grasslands, forests and woodlands by re-establishing healthy grass cover and planting trees and shrubs to combat

desertification; [we plan] to ensure more effective diversion of waste from landfills, and informal dumping into re-use and recycling; and ensure we allocate fishing rights to small fisher communities throughout the country and support them to grow sustainable businesses; ensure the FRAP 2020/21 process of fishing rights allocations in 12 fisheries is fair, accountable, transparent and promotes our economic transformation objectives."

Other priorities include: passing the Climate Change bill and ensuring all municipalities and provinces have climate-change adaptation and mitigation targets and implementation strategies; participating in the just transition process so that we set our country on a sustainable low-emissions development trajectory."

Asked about perks of the jobs, Creecy said that already in her short tenure she'd been to some of the most beautiful places she had ever seen. "Have you seen the extent of the kelp forests of the Western Cape? Have you seen Kosi Bay? You stand on top of that hill and look at the three lakes... I went to Langebaan the other day. We overlooked the lagoon – and then went to one of the hides and saw these amazing little waders. The scientist with us said these tiny little birds fly to Russia and back every year. When you see these places and these creatures, you say, 'yes it is our duty to give to the next generation an endowment of at least equal value to that which we have inherited.'"

– By Sue Segar ■



Vukani Environmental Justice Movement in Action

# Struggle credentials and a shining public service record

**B**ARBARA CREECY WAS BORN IN 1958 and grew up in Johannesburg. Her parents were politically aware – her father, who grew up in the UK, was a pacifist and a member of the Communist Party and went to prison for refusing to fight in World War II. He later played a non-combat role in the war effort, driving an ambulance. Her mother’s parents were trade unionists.

Creecy’s father died when she was eight, which affected her deeply. She was highly aware she was the only child in her school who did not have two parents. “It shook my confidence. I dealt with it by applying myself academically. I did well at school.”

Her father, a chartered accountant, had also run a correspondence college teaching bookkeeping and accountancy. “My mother worked with him. The business depended on my father writing the courses and textbooks, which were updated every year. When he died the business was not sustainable. My mother had a tough time.”

Creecy attended Roedeian School for girls in Parktown – “not the happiest years of my life” – where she felt “like a total misfit”. In a speech at the school recently she said the Roedeian curtsy “which we learned to do every afternoon in junior school” came in handy when she met Queen Elizabeth. “The handshake with the “Good afternoon Madam” was flawlessly delivered with the curtsy. I was the only one in the line-up who got it right!! Thank you Roedeian!”

Her mother, who died in 2006, was strict, pushed her children to do well and encouraged a strong sense of independence. “She instilled the belief that there’s nothing women can’t do.” Creecy also credits her mother with her early political education.

Creecy won a scholarship to Wits University where she obtained an Honours degree in Political Science. She later earned a Master’s degree in Public Policy and Management at the University of London. She recalls how, on 16 June, 1976 – the day of the Soweto uprising – she was sitting in a tutorial at university. “Our lecturer said we would not be having a tutorial but instead, going to Jan Smuts Avenue. We lined up with our plac-

ards, wanting to march to meet the students from Soweto. It didn’t take long before the security police arrived. That was my first experience of student activism.”

Creecy became active in student politics and joined the ANC after attending a conference at the Roma University in Lesotho during her honours year in 1979. After university she became increasingly involved in activism and in the ANC’s underground structures. She worked with well-known activist and attorney Priscilla Jana, who dedicated her practice to defending people facing ANC trials.

“I learnt a great deal from her. Through her I met many people who played a key role in my life, including Jabu Ngwenya, who was working with the Soweto Civic Organisation. He’d borrow my car in exchange for giving me political lectures!” She also met Sampson Mdo, Sydney Mufamadi, Valli Moosa, Popo and Terror... when they started taking over the leadership of the UDF. “They had an enormous impact on my development.”

Creecy was involved in the formation of the United Democratic Front in 1983 and then worked for the UDF’s Civic Desk and for an NGO that trained trade unions and community structures. She was closely involved when the UDF started working with the Congress of SA Trade Unions (Cosatu) in the Mass Democratic Movement in the late 1980s.

During the states of emergency in 1985 and 1986, when activists were arrested and their work disrupted by the apartheid government, Creecy reported to the ANC’s underground machinery in Botswana. In 1988, after their communication lines were cut off, she went to London to meet the people responsible for the Botswana machinery and was told not to return to South Africa. She went to the Soviet Union for about two months. Not long after that, the ANC and other organisations were unbanned and she returned to South Africa.

Creecy, who was one of the longest-serving Members of the Gauteng Provincial Legislature, was elected to the legislature in 1994. During her first two terms, she served as the Deputy

Chief Whip as well as Chairperson of both the Social Development and Education Committees.

In 2004, Premier Mbhazima Shilowa appointed her as MEC for Sports, Recreation, Arts and Culture. In May 2009, she became education MEC until May 2014 when Premier David Makhura appointed her the new Gauteng Finance MEC, responsible for Gauteng’s provincial treasury, where she introduced the open tender system, requiring the public adjudication of tenders and independent probity audits to make sure procurement processes were above board.

Creecy also headed the department of e-Government and an agency called Gauteng Infrastructure Financing Agency, earning her a reputation for modernising the public service. Her push for better financial management led to the Gauteng Treasury being recognised as a pioneer in financial management and earned the department a number of awards.

After the May 2019 elections, Creecy took office as an MP. On 29 May President Ramaphosa appointed her to the post of Minister of the Environment.

Creecy has two children of her own as well as “some more that are in my life”. – **By Sue Segar** ■



**Barbara Creecy**



## The Madness of Crowds: Gender, Race and Identity

**T**HE TITLE OF THIS BOOK MIGHT SEEM to suggest that it deals, say, with the frenzy of populism generated by the insanities of Trump, or the Little England delusions cultivated by the inanities of Johnson. But these get no mention from Murray, who is himself a Brexit supporter, and associate editor of the right-wing periodical *The Spectator*: he is concerned with another kind of madness altogether, inflamed by “the intersectional, social justice movement”, an apparently monolithic body whose “aim... has consistently been to take each [issue] – gay, women, race, trans – that they can present as a rights grievance and make their case at its most inflammatory. Their desire is not to heal but to divide, not to placate but to inflame, not to dampen but to burn. In this again the last part of a Marxist substructure can be glimpsed.”

Evidently, then, while we have been stressing about the growth of violent populism or the escalation of war thanks to US foreign policy, the real threat has been hiding in plain sight in Western academia and media – liberal academia and media, that is.

Murray, like many right-wing commentators, is well-educated, and he writes with some force and clarity. His thesis can be summed up as What’s sauce for the goose is sauce for the gander; that is, he excoriates the instances of double standards he finds everywhere: “Many [gays] would appear to want to be precisely equal but with a little gay bonus,” he complains (he is gay himself, but does not claim a bonus, other than being very acute on the subject of gayness). As for women, “the current accepted way of regarding women is: the same as men, but different where it’s useful or flattering”. And, referring to a televised incident in which Ellen DeGeneres embraced the pop star Katy Perry “at eye-level with her breasts and ogling them with her mouth open,” he comments, “although by then there was considerable agree-

ment that men could not objectify women, it appeared that an exemption clause existed for celebrity lesbians.”

It is easy to dismiss Murray’s concerns as standard right-wing gripes (and there is a certain predictability about them), but they are more difficult to refute. He has assembled a formidable array of examples to bolster his case, usefully footnoted with links to the incident in question. To sum up baldly, I’d say that most of the cited incidents do support his points, whereas others rely on some tactical skewing of perspective.

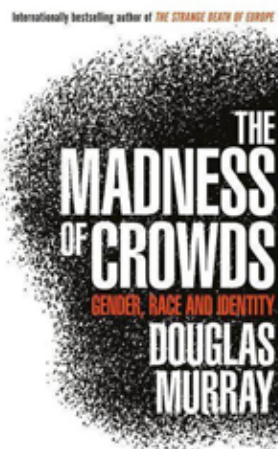
In the first category is the case of Avital Ronell, a celebrated feminist academic at New York University. For three years she relentlessly harassed, both mentally and physically, her supervisee, a gay male graduate student. Despite his repeated complaints, the university failed to take any action against Ronell. When at last they did so, and suspended her for a year, the suspension elicited an outraged petition from many of her distinguished colleagues, including the feminist superstar Judith Butler, praising Ronell for “the grace, the keen wit” she avowedly possessed, and vilifying her victim. Ronell did her best to block the young man’s appointment elsewhere; meanwhile she has been reinstated at NYU and is about to return to her teaching (and other pursuits). As Murray sums it up: “All of which suggested that allegations of abuse are indeed always to be taken seriously, unless the victim is a man or the accused is a professor of feminist literary theory.”

Less convincing are Murray’s strictures against gay parenting. He criticises Olympic diver Tom Daley and his husband for publishing a photograph of an

ultrasound of their baby without mentioning the surrogate or the egg donor: “here were two gay men writing at least one woman... out of the story entirely. Indeed, writing a woman out of perhaps the most important story any person could ever be involved in”. But what would Murray have preferred: for the two fathers to be photographed with the ultrasound plus the egg donor plus the surrogate mother?

Surely the ills Murray dissects so incisively are negligible compared with the evils to which they were a reaction: the special pleading in favour of gays must be less harmful than the brutal homophobia it was a response to; by the same token, the double standards of feminism are trivial compared with the blind prejudice of sexism; and the inequities of affirmative action are less destructive than the deprivations of racism. Of course, we would rather be without both poles of the equation; but in an imperfect world we may have to opt for the lesser evil. Murray seems to me to anatomise the lesser evil and leave the greater revived by his efforts.

Murray’s book demonstrates once again the role of the excesses and absurdities of the woke left in creating a platform for the right. Murray occupies that platform eloquently and at times persuasively; but in the end his platform becomes a pulpit. And, resonant as many of his examples are, they are of not much account in the larger scheme of things. Thus, to cite, say, society’s tolerance of Ellen DeGeneres’s ogling of the boobs of some pop star as an instance of *The Madness of Crowds*, in the face of the electoral victories of Farage, of Erdogan, of Trump, is not just inappropriate: it’s dishonest. ■



**THE MADNESS OF CROWDS**  
by Douglas Murray



## Please bring on X-Mas

**O**H NOSEY ONES, I THINK IT'S THE first time in many years that I am looking forward to the X-Mas holiday, or better said, the X-Mas break. The good Lord knows I could use a break after having to deal with the trials and tribulations of the land reform programme.

Yes, I must admit I am not so much looking forward to the break because of my love of celebrating the birth of Jesus, but because it assures me and my fellow submerging farmers a stay of execution, albeit temporary, but a stay nonetheless because who knows what will happen come 2020.

Will the honourable minister see this land reform challenge with business-focussed 2020 vision, or will she continue looking at it with the tunnel vision of politics?

Argh man! Speaking of politics and this land reform thingy, I get a call from a friend who also happens to be a senior member of the local DA. He's calling to compliment me on the "very funny" piece I posted on Facebook as an open letter to the minister.

Whoa! Hold on there, I said, I do not post on Facebook unless it's a simple happy birthday or suchlike to my American friends. Other than that I shy away from posting on social media, period.

Then alas it dawns upon me that my DA friend did say he saw the posting on the DA's page. Naturally putting two and two together it was clear this posting was done by a third party.

Okay, fair enough, but here's my problem nosey ones: I think of myself as a small sailing vessel in the turbulent waters of the rough sea called Land Reform. I send out a distress call hoping the SS land reform minister will respond and then change course and quickly come to my aid.

Instead the distress call is immediately recognised by the SS DA. Oh just great! I say, I got the attention of the SS DA, a ship that has its own distress signal floating about and is desperately trying to save itself from sinking. What can the SS DA do for



me? Tow me down to the depths with it? Please, snow or no snow, clear the skies. I really need to hear the ho, ho, ho of the old white fella in a red suit riding a sled.

Yessir, I need this X-Mas break. I look forward to happily putting up my Christmas tree. And it's no desktop specimen. It's a reasonably full-size one. Fake, but good size nonetheless.

Yes, I look forward to lounging in front of the TV, watching those X-Mas movies that, for sure, will bear no similarity to how X-Mas looks in this here Southern Hemisphere. Here, there'll be no snowed-up streets or sidewalks; no romantic vision of ice skating on a frozen lake, let alone waking up in the morning, peering out of the window and seeing the majestic beauty of a snowfall. No, our African butts are going to be met with a blazing sun augmented with a little jiga-ma-jig called climate change.

Sorry if I'm being insensitive to remind you of the unavoidable, excruciating African heat during this time of the year. It's as inevitable as those X-mas movies – which is why I can be forgiven for taking a hard line on my helpers on the farm when they complain about the heat. I mean is it so bad for me to belt out "Hey, it's not as if you're immigrants from flippin Saskatchewan!"?

By the way, I was writing this piece while simultaneously

watching the rugby world cup. Mind you, I am not a TV sports-watching person but because of national pride I found myself captivated by the final.

And all I can think of is that our victory is a reminder of just how much we Mzansi people have to be thankful for. A nation that has a bright future because we are trying – for the most part, in unity – to address our socio-political and economic challenges.

Just like the Boks in unity scored two tries, so the EFF and its continuously racist-driven rhetoric can go jump off Table Mountain.

In spite of what EFF spokesperson Mbuyiseni Ndlozi, said, we don't need our white Boks congratulated by Prince Harry, thank you, we've already done it. ■





## You take the high road

**Y**OU WANT TO INITIATE A CLASS action suit on behalf of which group?" asked the lawyer. "Motorists," I replied. "We are under siege, Sir. These bastards accost us everywhere; on the highway, at the robots – we're not even safe in the parking lots!"

He nodded and made a note.

"So, you want to start a class action on behalf of motorists against criminals on the road?"

"Not criminals, pedestrians! The crooks have the decency to know they are a menace. At least they sneak up on you. These bipedal pests march in front of you with a breathtaking impertinence."

"What type of restitution do you want?"

"My group wants the legal right to retaliate with lethal force as self-defence."

"You want a law giving motorists the right to murder pedestrians?"

"No, not kill them, obviously. Maybe just bump them a bit from time to time."

The lawyer put down his pen. "Hah, yes, I appreciate your frustration as a driver; but you cannot resort to violence whenever you feel aggrieved. You will be charged with manslaughter or attempted murder. Two wrongs don't make a right."

"How many wrongs will it take?" I asked. "I'm ready to go all-in here. And I have a massive groundswell of support behind me. I don't know how long I can hold them back."

He lowered his head so he could look at me over his glasses: "Unfortunately, the National Road Traffic Act places a much more onerous burden on the motorist than the pedestrian."

"I know of a case where a pedestrian paid a R400 admission-of-guilt fine for crossing a highway; that's 'jaywalking'. In terms of Section 57 of the Criminal Procedure Act, it can result in a criminal record, but there is little capacity or will from law enforcement to impose these bylaws."

"Forget about Section 57. Let's argue Common Law, Section 10." I suggested. "Explain," the lawyer said.

"I have inherent dignity and the right to have my dignity respected and protected, are you with me?" I asked.

"I know the Bill of Rights, how does it

apply here?" he demanded.

I leaned forward to make my point. "Is it dignity, when a licensed driver has to slam on breaks for a millennial with a man-bun stepping into the street whenever he wants because he thinks his kale smoothie has right of way?"

Stunned silence from the lawyer. I expanded the point. "The ignominy when I have to slow down for a pack of Sisis, marching in the middle of the road, two-by-two, when there are pavements on either side of them! What are they trying to do? Take back the land one road at a time? We can probably make some kind of land restitution claim here..."

The lawyer lifted his hand for me to stop. He obviously got the gist of my brilliant legal arguments.

"Dignity Rights don't work like that. The right to an unimpaired dignity is protected by the *actio iniuriarum*. Such can be invoked when a person is subjected to offensive and degrading treatment or is exposed to ill-will, ridicule or contempt, such as racism or defamation. Your case is not a class action. It's vexatious at best."

"Hmpf," I conceded. "Okay, what if we

just lobby to change the current laws ever so slightly then?"

"That is a more reasonable approach," the lawyer said. "What do you have in mind?"

"Simply change the punishable offence from 'jaywalking' to 'walking'. And expand the scope of 'punish' a bit. Time is running out. My people are ready to take the law into their own steering wheels."

"Please don't tell me you are planning to do something... unwise. How many protestors are we talking about here?"

"Well, I posted on Facebook that I was going to see a lawyer about starting a class action and then write a *Noseweek* column about it. Thirty-five people 'liked' it. God knows what they are capable of."

The lawyer packed up his briefcase: "Sadly, and it truly grieves me to say this, I do not have the skills to represent you and your mini-mob of maddened motorists," he said. "I have a degree in law, not psychiatry. Good day."

To my 35 Facebook friends, as you can see, the road ahead of us remains long, indecorous and filled with pedestrians.

The struggle continues. ■



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