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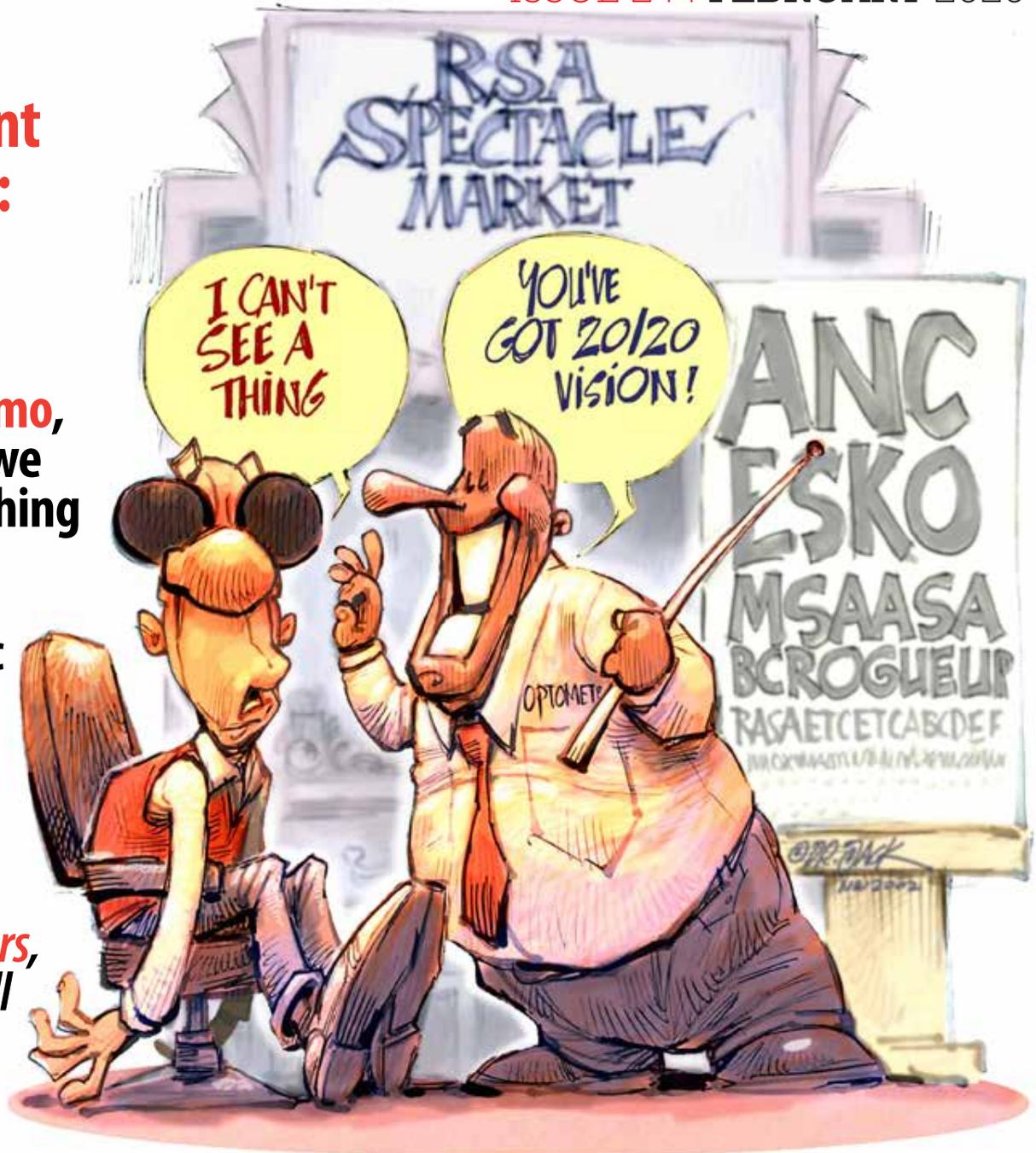
Government corruption:
Where are we now?

NHI: Dr Dhlomo,
why should we believe anything you say?

Protest: Scenic Cape Town lakes filling with sewage

New Lenasia mall liquidators,
but 'buyer' still not budging

SARS saga:
all wrapped up?





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Letters

Letters to the editor should be sent by email to editor@noseweek.co.za

Assange could benefit from US and UK extradition bias

OH, THE CONFLICTS BETWEEN POLITICAL correctness, freedom of speech, respect for the law, corruption, power politics and state security; all of which apply to the case of Julian Assange. Most notable, though, is the biased application of extradition agreements when it comes to the UK and the USA.

In the current UK case of Harry Dunn, the British teenager who was killed in a motoring incident by an American woman who (supposedly) had diplomatic immunity which enabled her to flee the UK while the investigation was in process. She has since been charged in the UK with causing death by dangerous driving. Failure to attend to court hearings in the UK should render her subject to extradition, which the USA authorities have already stated they will refuse to do. So, logically, the UK should do the same – refuse to extradite Julian Assange and set him free.

Irving Schnider
Johannesburg

■ DOESN'T THIS ACT OF PURE INSANITY PUT THE US and UK on a par with our very own "corrupt" South African media freedom? Hardly.

Gareth Masters
Houghton

Old Mutual gets it in the eye

THANK YOU FOR THE DETAILED REPORT researched by Susan Puren. I've been involved in marketing residential properties around Pretoria for more than 40 years and the calculation of feasibility studies for different township developers. Why on earth would a purchaser rely on a valuation undertaken by the Seller?

The new green star-rated Old Mutual head office on Sandown Erf 660 Ptn 5 was a sitting duck, when spotted from the Sandton Eye – the Radisson hotel above the Gautrain Station – in November 2017.

Thereafter, a site inspection, including kicking the bricks, revealed a newly occupied No 1 Mutual Place, 107 Rivonia Road: 12 floors of offices above eight basement parking levels, fully occupied and the lights on.

I lodged my objection (No 968) to the Johannesburg Municipal Valuation for Vacant Land: R82.3 million – and had it revalued to R691m by the municipal valuer, who has backdated the rates to effective date 25.07.2017.

In the January *Noseweek* ('Old Mutual is dismayed', *nose243*), the insurer questions *Noseweek's* journalistic integrity.

Personally, I would like to ask Old Mutual's PR: where was Old Mutual with its transparent Corporate Governance

structures and procedures in correcting this gross undervaluation?

Nothing is more powerful than public scrutiny!

Robert McLaren
Saints Rates Crusader

Rubbishing Pravin Gordhan

I HAVE PAID MY ANNUAL SUB, BUT FOR THE first time in many years (I remember the A4 initial rag) I questioned why. You have been persistent in rubbishing Pravin Gordhan and Cyril Ramaphosa, riding your high ethical horse. Are you happy to be sharing your slot with our ethical giants the Public Protector and Julius Malema?

Johann van Loggerenberg has also been subjected to your repeated attacks. At least you included Judge Nugent's comment re Luther Lebelo: "the commission will not be party to dissemination of what is no more than malice." You of course are happy to share Lebelo's insights and I regret that I view your attacks on the above people as malicious.

I hope I can continue to enjoy *Noseweek* free of malice.

Nigel Pott
Kynsna

The truth can, I know, be inconvenient at times. But in the long run, little lies breed bigger lies, and so on ad infinitum. The world and Limpopo need to know asap that the ANC is rotten to the core. Thabo Mbeki's appointment of Pravin Gordhan as SARS Commissioner – with no qualification for the post other than his political connections – was no less contentious than Jacob Zuma's appointment of his pal Tom Moyane to that post. (Okay, as an experienced spook, Pravin was/is maybe smarter and more subtle at deception.) We have given our readers the documented evidence. No malice intended. – Ed.

Airport's latest consultant

THEY COULD HAVE SORTED OUT MOST OF Wonderboom Airport's problems with that R12m consultant's fee (*nose243*)!

Brett van Bergen
Pretoria

Stent



The 2020 picture...

● “The DA notes with concern that the Nuclear Energy Corporation of SA (NECSA) board has resigned en masse, because of the poor leadership of Mineral and Energy Minister, Gwede Mantashe.”

● “The appointment of Prof Malegapuru Makgoba, a physician, as interim Eskom Chair defies logic. Even his previous role in governance at universities has been questioned.” So began my week.

IN A RECENT ESSAY ON ITS WEBSITE, THE farmer’s agricultural union TLU SA noted how, “with a serious face,” Minister of Health Dr Zweli Mkhize had recently told Parliament that when the proposed National Health Insurance (NHI) plan is established in South Africa, the ANC government will “make sure” that wholesale corruption will not ravage this particular state entity, such as happened in other state departments. Who’s kidding who?

Just see our story on page 7!

The TLU continues: Corruption cannot be eliminated when corrupt values are endemic. If you feel nothing about stealing that which belongs to others, or you have no shame in not providing a service for which you are being paid, then this is built into your character and it is difficult to root out.

Corruption exists throughout the world, but in South Africa it has become a general way of life.

In many countries, despite searing poverty, electric fences – even just fences – and security guards are unnecessary because thieving is considered beyond the pale.

But the ANC’s South Africa is now an armed camp, with no-go areas and gangster-ridden suburbs where the army must defend the populace against criminals. The rot has spread from the top down. It is part of the ANC’s DNA. Billions disappear, while only one new school was built in Gauteng last year.

It is strange therefore to hear President Cyril Ramaphosa declare that he is “shocked” when he sees the train service out of sync, or when he lectures recalcitrant municipal officials (most of whom are ANC appointees) that their duty is to deliver services to the public.

His accession to the presidency was greeted by the naïve as a “new broom sweeping clean”, but Mr Ramaphosa was always part and parcel of the ANC. He sat in Parliament during the Zuma years of conspicuous and shameless theft. He watched it grow, to the extent that South Africa, he admits, “has run out of money”.

Noteworthy is the systematic thievery, mismanagement, arrogance and breathtaking incompetence of so many ANC appointees. At the same time thousands of diligent and skilled South Africans are refused jobs in the civil service because they are white. Advertisements continue to state that no whites need apply – this, under Ramaphosa’s current presidency.

For the umpteenth time, the Auditor-General has called for urgent action to stop the rot. But the chances of stopping this corruption is virtually nil. The same ethic that condones thieving and corruption dictates that nothing need be done about it.

Our correspondent **Susan Puren** demonstrates the point with a Tshwane update:

THERE IS A FORENSIC REPORT THAT HAS BEEN gathering dust somewhere in a deep drawer at the head office of Tshwane Metro Municipality. Titled “Flight Exodus” and dated 12 December 2018, it documents the flurry of corruption that is standard practice in most contracts between the municipality and its suppliers. It mentions names, explains their modus operandi, exposes connections, shows whose pockets are being lined and calculates the financial loss to the city.



Kurt van Niekerk

The investigation was commissioned by Tshwane’s former mayor, Solly Msimanga, and conducted by the Tshwane Metro Police Internal Investigation Unit. However, chances are good that the 217-page report was not studied. Even if it was, no action was taken against any of the perpetrators.

Leseding Bathabile Co-Operative Ltd was registered in 2014 as part of Tshwane Metro’s “Tshepo 10,000” project that aimed to empower the region’s poor. Interested parties received basic business training and were thereafter listed as co-ops, enabling them to supply certain services to the city.

One of Leseding’s members, Ramahama, told investigators she had met a man called Kupi outside the municipal office in Tshwane in 2017. He asked if she was a member of a co-op and explained that he knew a white man who needed co-ops to do work for Tshwane. Kupi offered to help her get the work if she gave him her company details to quote for a contract. The

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agreement was that Ramahama would receive 10% on the contract but would have to pay 90% to the white man who would be doing the job. Ramahama also had to pay Kupi commission.

Ramahama emailed templates of her company quotes and invoices as well as her details to Kupi. Within days Tshwane paid R1.653 million into her account. She paid R1.450m to the contractor, R92,650 to Kupi and was left with R55,000. The report shows that the budget for the project happened to be just R1.450m.

The investigators identified the contractor as Kurt van Niekerk, owner of Consumables Warehouse.

Kupi's real name was found to be Mankopane Wynand Madisha and he told investigators that he first met Kurt at the office of Tshwane Metro's Supply Chain Management.

Ramahama told investigators she had never drafted or seen the quote or invoice for the project, which happened to be the installation of a Biometric Security System at Wonderboom Airport. She had never been to the airport.

Ramahama was unable to identify the work she was supposed to have done and for which she was paid. The investigators retrieved the purchase order and three quotations for the contract from the municipal computer system. The quotes were dated 26 September 2017, the purchase order: 4 October, and the invoice was captured for payment on 11 October.

In just a few days Ramahama saw R1.653m move through the co-op's bank account.

The finance officer at Wonderboom, Tshiamo Serobatse, was not willing to give the investigators a statement but claimed she had sourced the quotes herself – contradicting Ramahama's statement about Kupi Madisha whom she had to pay for assisting her. Bank statements however, show that Madisha did receive R92,650 from the co-op.

Serobatse denied that she identified the contractor, Kurt van Niekerk, but admitted she processed the invoice, saying it had been signed off.

The acting executive director in Tshwane's Roads and Transport Department, Jabulani Mapumulo, and the act-

ing airport manager, Andre van Rooyen both denied any responsibility but then blamed each other.

The work was never completed and the investigators found that Kurt van Niekerk fronted the co-op and flouted supply chain management processes.

Van Niekerk and Madisha and Tshiamo Serobatse's names appear in more of the corrupt contracts mentioned in the forensic report. In one other case an alleged kickback of R30,000 was paid into the bank account of Serobatse's sister.

Noseweek exposed the Van Niekerk network, consisting of Kurt, his brother Le-Roy and their families and friends for the same modus operandi in 2016 and 2017. At the time their eight compa-

government as "preferred bidders" to purchase a large share in the country's second largest airline, Asiana, long in financial difficulty.

Asiana's financial situation has been steadily deteriorating: total debt at the end of the first half of 2019 ballooned to over \$8.2 billion (R119.4bn). These numbers should long ago have sent Asiana into bankruptcy protection and executives into damage control mode, but this is not about rescuing an airline likely to keep on losing money for years. It's part of the government's massive bailout of the country's conglomerates.

In India in December, the government finally announced they're going to get shot of Air India by selling 100% of the money-losing airline. Air India is reportedly \$10bn (R146bn) in debt and in 2019 was cut off from fuel supplies at several airports due to unpaid bills. (Government stepped in with a bridging loan.)

In Italy, it turns out the robust campaign to promote a sale of basket case Alitalia to Lufthansa was based on wishful thinking. Alitalia entered the third year of "extraordinary administration" (bankruptcy protection) in May 2019 and has exhausted the €900m (R145bn) lifeline extended by the Italian government two years ago. A new €400m lifeline should be available by the end of January 2020. This fresh

"this-is-not-a-bailout-honest" money is urgently needed as Alitalia lost €600m (R9.7bn) in 2019. The company should be liquidated and the assets auctioned off to pay debts.

In Germany, while the EU threatens hellfire for a new Alitalia bailout, they don't seem to mind that Condor Flugdienst is still gingerly flying around on a taxpayer guarantee.

There's an April 2020 deadline for the Condor administrators to find a new owner and deal with creditors, after which the company should be sold or liquidated because another government bailout would set a dangerous precedent.

● Feeling better about South African Airways? No? At least we're not alone in this. – **The Editor** ■



"I got my ticket for one hundred rands over the internet. Are you going to finish that salmon?"

nies had a turnover of more than R31m from work done for Tshwane metro. It is obvious that, despite the bad publicity, they did not stop doing business with Tshwane.

Kurt van Niekerk's companies that are mentioned in the forensic report had a turnover of more than R10m and all the contracts were obtained by fronting for different co-ops.

IN DIFFICULT TIMES, A BIT OF CONSOLATION of the we-are-not-alone-in-this kind: I got this from a recent article in *Wolf Street*, a US online publication that carries "stories behind business, finance and money". It is headlined "2020, the year of the Zombie airlines".

In South Korea, Hyundai Development Co and Mirae Asset Daewoo were 'selected' in November by the Korean

An amoral Compass

KZN Department of Health in hot water again after evidence of unconstitutional contracts and dealings

THE KWAZULU-NATAL DEPARTMENT of Health is no stranger to chaos. Its history is replete with tales of corruption, maladministration, a lack of consistent leadership, costly litigation due to staff negligence, collapsing infrastructure and poor service delivery.

Many examples of such stories can be found on *Noseweek's* website, www.noseweek.co.za.

A noticeably large swath of the troubles took place under the former MEC for Health, Dr Sibongiseni Dhlomo, now an MP tasked with the responsibility of ushering the controversial National Health Insurance Bill through Parliament.

His record as MEC in KwaZulu-Natal should worry most South Africans. It is littered with poor financial audits, accusations of nepotism, poor handling of the disaster in the oncology department and documentary evidence that showed clear political interference in a Health Care Risk Waste (HCRW) services contract.

However, Dhlomo is a member of the ANC's Teflon Club and instead of being sanctioned, he was promoted to the portfolio chairperson of Health after the May 2019 general election.

Just a month after his departure to Cape Town the department's Supply Chain Management Unit was disbanded due to corruption and placed under the control of the provincial Treasury.

But it is his last major act as KZN Health MEC for which he is now being dragged to court and which is expected to expose, yet again, how poorly the department was led.

The matter to be argued is simple: did the department commit a crime in order to fix another crime that was a result of its inability to carry out its duties – which in a sense is also crime?

Dhlomo had wanted to remove Compass Medical Waste, the Westville company that had run the provincial government's medical waste contract since 2000.

Eventually on 31 March 2019, his department's acting head, Dr Musa Gumede, had a letter hand-delivered to Compass's offices in Westville, Durban, telling them their contract would be terminated in 30 days. Compass tried to interdict the termination.

But Pietermaritzburg High Court Judge Jerome Mnguni ruled on 29

April 2019 that their contract, which had been repeatedly extended over 16 years on a month-to-month basis, was "irregular and unlawful" and that both Compass and the department's role in rolling over the contract for such a long period went against the Constitution and "should be frowned upon".

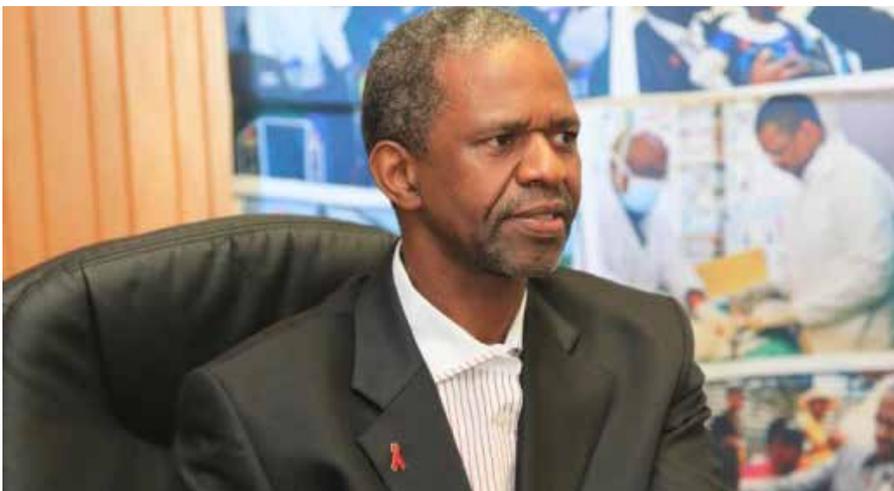
Compass had been operating the contact on a month-to-month basis since November 2003. The company claims this was no fault of theirs as the department had tried to put the tender out on at least six occasions but failed to follow through and make an award except for once in November 2013, where the Bid Adjudication Committee pronounced Compass to be the winner.

The KZN health department's then CFO Enos Ravhura informed Compass of the award but hours later received an SMS from Dhlomo which said he was "shocked that this can happen with the ANC in power". He instructed Ravhura to "withdraw the award," which he did.

This SMS forms part of a labour dispute between Ravhura and the department. Eventually the department was instructed by the National Treasury to award the contract to Compass, but the parties could not agree on the service level agreement and litigation followed. In the meantime, Compass resumed operating the contract on the decade-old month-to-month contract.

A week after the failed interdict application, Dhlomo's department released a statement congratulating the "100% Black-owned consortium" led by Buhle Waste Services, citing it as "one of the biggest and shining examples of radical economic transformation". The statement said the consortium replaced "a single, white-owned monopolistic waste management company".

Ironically Compass is a Level 2 BBBEE contributor opposed to Buhle's Level 3. Furthermore, while it is true



Dr Sibongiseni Dhlomo, former KZN MEC, now MP, who is ushering the National Health Insurance Bill through Parliament... You must be joking!



Dr Musa Gumede

that Compass was the sole provider of services in KwaZulu-Natal for 16 years, Buhle has the largest slice in the South African medical waste disposal pie, currently operating state waste management contracts in Limpopo, Mpumalanga, Gauteng (multiple vendors), the Free State, and now KwaZulu-Natal.

The provincial health department removed the contract from Compass via the National Treasury Regulation 16A6.6 which states that an accounting officer “may participate in any contract arranged by means of a competitive bidding process by any other organ of state”.

They piggybacked on a contract signed by the Mpumalanga Department of Health whose service provider was and still is Buhle. But the Mpumalanga contract was itself irregular and therefore illegal if one is to read Mnguni’s April 2019 judgment again, having expired in November 2018 and operated on a month-to-month basis ever since.

Compass wants the decision to award Buhle the KZN contract reviewed by the Pietermaritzburg High Court. It is set down for 7 February this year. They hope this review application will force the department to make public the pricing structure of its contract with Buhle, which it believes will vindicate their belief that the prices are inflated.

There is a lot of money on the line. KwaZulu-Natal’s government health services generate up to 450 tonnes of waste per month. Depending on whose rate one believes, that is anything between R5-10 million per month for the service provider, excluding other

income streams such as dealing with soiled linen.

According to an affidavit by Compass’s MD Ian du Randt, the entire affair was a hit-job designed to remove Compass at all costs, even if it was done illegally.

He claims the cost of the contract cannot be ignored, claiming Compass would have charged the department R11.17 per kg of waste removed and disposed of, as opposed to Buhle’s R23.88 per kg.

“It is irrational to view the contract with Compass as irregular on one hand but to consider it appropriate to participate in the expired Mpumalanga contract with Buhle,” said du Randt.

The KZN Department of Health will argue that, while all illegal contracts are borne equally, some are more illegal than others.

In its contradictory affidavit by legal director Willie Mkasi, Mkasi cries foul of Compass pointing out the irregular Mpumalanga contract and stating that they themselves had “enjoyed such indulgences to its advantage previously.”

(So it is someone else’s turn at the trough? – Ed.)

However, in another sentence, he said that the department had considered partnering with the Free State contract but chose against it as it, too, had expired and was operating on a month-to-month basis.

Mkasi claims the review application is nothing more than “sour grapes” by Compass who is accused of using the court to fight an unrelated tender it lost in Mpumalanga several years earlier.

In its court papers, Buhle put the blame at Compass’s door, saying they should have “encouraged the department to comply with its own procurement obligations” instead of rolling over the contract for 16 years.

Meantime, in December 2019 the KZN Department of Health called for submissions for the province’s medical waste tender – which begs the question: why did the department go to such lengths to remove Compass by April 2019 when they planned to go out to tender just seven months later?

Was it because there was an election? Is the hidden hand of politics at play or was it simply sour grapes?

Footnote: In January the KwaZulu-Natal Democratic Alliance laid charges against former officials in the KZN health department and the former MEC Dr Sibongiseni Dhlomo for their alleged roles in a multi-million-rand tender fraud.

The charges were laid on the strength of a recently released Public Protector report which found that in 2012 the department’s then-HOD Sibongile Zungu, then-CFO Mashaka Ravhura and the Bid Adjudication Committee signed off on a tender that was four times the price of its nearest competitor. The tender was for the provision of four mobile hospitals, to be paid over 26 months, at a cost of R1.4m per month – a total of R37m. In March 2016 the winning bidder, Mzansi Life, successfully billed the department for R31m.

The Public Protector found however that only two mobile units had been delivered and neither were functional by September 2017. ■

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Liquidator allsorts

The first skirmish between new liquidators and the purported buyer of a Lenasia mall has begun to play out in court as the 'buyer' tries to maintain his hold, despite having not yet paid a cent for it in 12 years

A NEW SET OF LIQUIDATORS appointed to wind up the business of a Gauteng shopping centre that went under 12 years ago, promptly cancelled the sale of the property so that they could take over management of the mall themselves. This prompted the prospective owner to rush to court to try to interdict them and block any management takeover while he is engaged in opposing the cancellation of the sale.

Yamani Properties 1015 (Pty) Ltd, owner of the mall, was put into liquidation in 2008. But when, by the middle of last year – 11 years after being appointed – the initial two liquidators had still not filed a report of their administration with the Master of the High Court, a Yamani shareholder took them to court and got them dismissed.

The pair had also failed to file a liquidation and distribution account

(nose242). By regulation this should have been done within six months of their appointment. They also missed numerous deadlines to file a liquidation and distribution account. However the Master's Office had neither asked for reasons for this omission, 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 for almost ten years without having paid anything for it. Nor has he paid any rent for more than eight years. And, despite having collected rent, monthly, from all the tenants, none of it has been accounted for to the liquidators.

Also implicated in this extraordinary legal fiasco is the state's Asset Forfeiture Unit as well as Business Partners, an entity founded decades ago by the Rupert family to fund small-to-medium businesses.

The new liquidators are Alexander Starbuck of Lex Star Trustees and Jacolien Barnard of Barn Trust. They replaced Stephen Anticevich and Rina Stroh – who are challenging their removal. (A further court hearing is set for the end of May this year.)

The current shake-up is in sharp contrast to the liquidators' predecessors, who were accused of "reckless neglect".

The liquidating trustees' key target has been Panico Protopapa and his companies PLJ Investments Property and Renovations – the prospective buyer of the mall – and Tupa Real Estate, which is Sheffield Plaza's managing agent.

One of the first moves of the new liquidators was to write to PLJ's attorneys in July last year, to halt the sale agreed in 2009, which was never finalised due to Protopapa's failure to meet the sale conditions.

Werner van Rensburg, the attorney who represents the new liquidators, wrote to Marco Martini, the attorney representing PLJ: "Our clients have concluded their investigations, from which it is evident that no sale agreement exists between the insolvent estate and your client."

Martini replied denying the claim.

Protopapa tells *Noseweek*: "I will fight to the end so that I get transfer of the property. I've told them emphatically that I'm not walking away from this transaction."

'They think Sheffield Plaza is worth R11.5m and that they are going to be in the money at our expense'

However, he has a fight on his hands, as emails from 2015, 2016 and 2019 show that Business Partners, the original funder of the mall, tried to cancel the purchase agreement with PLJ and find a new buyer.

Starbuck and Barnard's next move, on July 25 last year, was to ask all the Sheffield Plaza tenants to pay their rent into the liquidators' bank account, rather than that of Tupa.

PLJ then applied to the South Gauteng High Court on 13 August



Pannicos Protopapas

to halt Starbuck and Barnard from interfering with both PLJ's affairs at Sheffield Plaza and that of the tenants.

In an order dated August 15, Judge Windell interdicted Yamani, Starbuck and Barnard from contacting tenants and occupants of Tupa's properties as well as Tupa. In September the new liquidators gave notice of their intention to challenge the court interdict.

However, *Noseweek* has since learned that the two Yamani liquidators and PLJ have been in negotiations over a settlement that would see PLJ pay an agreed amount to acquire the company and be given terms to pay off outstanding occupational rent.

The Yamani liquidators have indicated to PLJ's lawyers that they will accept a settlement purchase price of about R7m. PLJ has rejected that amount and is planning to propose an alternative price, according to sources close to the matter.

During an interview with *Noseweek* in November last year, Protopapa said he feared that once the news about Sheffield Plaza got out then "the repercussions for us is that we aren't going to have funding".

"I'm going to have trouble when your [*Noseweek*] article goes out. All the banks are going to call us."

Protopapa said that PLJ went to five different financial institutions over the years to secure guarantees and bond finance for the Sheffield Plaza deal: Standard Bank; First

National Bank; Chester Finance; Mercantile Bank; and now Nedbank.

"We have a small property investment company. We buy buildings that are generally in distress and in poor areas," Protopapa said at his offices in Houghton.

Once the old liquidators had been removed, Yamani shareholder Dolly Naidoo applied to the North Gauteng High Court for an inquiry into the affairs of the company, in which she has a 40% stake. In June last year, Judge Mokose set up a commission of inquiry in terms of the Companies Act to probe the affairs of Yamani, with Cullinan magistrate Petro Engelbrecht appointed to run the inquiry.

"The inquiry looked into the mismanagement of Yamani Properties and into what has happened to the rental, in the region of R25m [*paid by the tenants throughout liquidation*]," Naidoo said.

"It also looked at the role of Business Partners, the liquidators and the mishandling of the estate," she said.

Danie Frey, who is Business Partners' senior legal manager, said in reply to questions that the management of the liquidation was, by law, the responsibility of the liquidators appointed by the Master of the High Court. "It follows therefore that Business Partners Limited cannot be held responsible or accountable for the perceived 'mismanagement' of the liquidation process," Frey said.

The inquiry was another cost that the liquidated Yamani estate had to cover, he added.

Naidoo said that the full transcription of the inquiry ran into hundreds of pages. Some of the witnesses at the probe had contradicted what they had said in public, she added.

Business Partners, has a 40% stake in Yamani and a R2.6m claim against the estate.

The magistrate (Engelbrecht) would issue a ruling soon following completion of the inquiry, Naidoo said.

Another battle at Yamani is over the appointment of Starbuck as one of the new liquidators. Naidoo alleges that Starbuck has a bias toward representing Business Partners in handling the Yamani matter.

Van Rensburg said his clients, Starbuck and Barnard, were "somewhat perplexed by the allegation...

We can only state that the statement is factually incorrect."

Naidoo also alleges that Starbuck was trying to cover up Business Partners' involvement in the Yamani problems.

Frey said: "Such conduct was... firstly not possible and secondly, is pure fiction, which we therefore categorically deny."

Insolvency lawyer Sybrand Tintinger, who represents Naidoo, claims that Starbuck had concluded that Business Partner's claim against Yamani was in order, without taking into account the alleged collusive dealings between Anticevich, Frey, and Protopapa.

In response, attorney Van Rensburg says his clients, Starbuck and Barnard, had "no unlawful deals with Business Partners".

Another big concern for Naidoo and her lawyer is the fact that PLJ did not pay occupational rent for all the years he was left in control of the plaza.

Protopapa claims he had a verbal agreement that PLJ Investments wouldn't pay occupational rent. He claims that this agreement was later committed to writing, although it is "the one document we can't find".

"Their [*the liquidators*] actions speak louder than words. For eight years, they have never sued us [*for Sheffield Plaza occupational rent*]. We had an agreement," he said.

The hiatus in paying occupational rent of R35,000 a month saved PLJ between R3m and R4m.

Tintinger said that Naidoo would apply to the high court to demand that Business Partners be held accountable for its "collusive" dealings that saw occupational rent not being collected.

As part of this application, all rent not paid to the liquidators by PLJ would be used to reduce Business Partners' R2.6m claim against Yamani and so the outstanding rent would clear the claim, he said.

One of the reasons Protopapa put forward to justify failing to pay occupational rent, was the improvements that his company had made to Sheffield Plaza.

In a founding affidavit, PLJ shareholder Andre Birkenstock said the company had spent R2.7m upgrading and repairing Sheffield Plaza.

"Why we believed we shouldn't be paying occupational rental is that



when we took over [Sheffield Plaza], it was making a massive loss,” Protopapa said.

However, *Noseweek* has copies of financial statements compiled by Business Partners that show Yamani was making a profit before December 2009 when PLJ signed the sale agreement.

The Yamani income statement for the year ended June 2008 showed a net income of R270,528 and for the year ended December 2008, net income was R434,573.

For the year ended March 2009, there was a net loss of R49,226.

A key sticking point for Naidoo is that the agreement to sell the plaza to PLJ back in 2009 was for a price of R3.5m, plus value added tax, but the property was now worth R11.5m, nearly triple the initial price.

“A valuation was done at the beginning of 2017 by Nedbank for PLJ Investments. Nedbank valued the building at R11.5m. This calculation was made based on the rental income, which is in the region of R150,000 a month and the value of the physical building,” Naidoo said.

Protopapa said: “The property was never worth R11.5m – it is not even worth R11.5m now.”

However, he confirmed that Nedbank carried out a valuation of Sheffield Plaza in 2017, but he had not seen the result.

“They think [Sheffield Plaza] is worth R11.5m and they are thinking they are going to be in the money at our expense. All these people are colluding so that we lose the property,” Protopapa said.

There have been several reasons why Yamani is still in liquidation after 11 years and why those involved have yet to resolve them.

Frey sent the following email to Anticevich on 30 August, 2017, which highlights the situation: “I don’t know what to do with this thing anymore. We get guarantees then we don’t get clearance figures [from the city council], by the time we get these figures the guarantees have lapsed and so it goes on and on.

“Sheffield Plaza’s wall encroaches on someone else’s property. The banks say ‘we want building plans’.



Dolly Naidoo



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We go to the council. There are no building plans. Building plans have gone missing.”

Frey told *Noseweek* that Business Partners paid more than R1.2m to the City of Johannesburg in 2014 to obtain the rates clearance certificates for the transfer of the property. Still the transfer didn’t go through.

Tupa director Louis Birkenstock (brother of PLJ shareholder Andre Birkenstock) wrote to Anticevich on 18 February 2016:

“We have endeavoured over the past year [*seven years after a judge placed Yamani in liquidation*] to obtain approved building plans for the property.”

Architect Sieg van Rensburg reviewed Sheffield Plaza’s layout and issued a report on 25 August 2015. The City of Johannesburg had no record of approved plans for the centre, he said.

The land surveyor’s layout showed

a 1.04m encroachment on the adjacent stand, Van Rensburg said. “We suspect that this was a later addition to [*the former*] Nando’s premises, erected without approved plans... The most northern structure on Sheffield Street also appears to be over the 5m building line.”

Protopapa alleged that issues stem from Naidoo’s tenure, including the problems with City of Johannesburg utility bills. “When they built the plaza, the previous owner encroached on our neighbour’s site... There were no building plans,” he said.

Tintinger said that what Protopapa did not disclose was the terms of the agreement to purchase Yamani, back in December 2009. “The property was sold voetstoots... [*the contract*] provided that the seller shall not be answerable for any deficiency in the nature or extent of the property.

“The purchaser was liable for the electrical compliance certificate...

The alleged encroachment had no impact on the sale,” Tintinger said.

Noseweek has a copy of the purchase agreement signed by Anticevich and Protopapa. It requires the purchaser to secure an electrical compliance certificate before the transfer, “the property is sold voetstoots”, and “the seller shall not be liable to point out any pegs or beacons in respect of the property”.

Naidoo said she was never involved in the construction of the plaza. “The improvements I had done were aesthetic. The main reason for this was that the franchise companies that took occupation of the centre had specific standards, with which we had to comply. Any breach of building structures, I had no part in. I was aware that there were building plans but there was never a need for me to get plans as there were no structural changes.” – **By Justin Brown** ■



*“Has there been any unusual activity in our stock?
The canary just died.”*



All the president's men

Former SARS chief to confront Pravin Gordhan about efforts to derail probe

FORMER COMMISSIONER OF THE South African Revenue Service, Tom Moyane, is preparing to confront Public Enterprises minister Pravin Gordhan with allegations that government ministers, including President Cyril Ramaphosa, attempted to derail investigations and prosecutions concerning the so-called rogue unit at SARS.

Gordhan is likely to face some tough questions [*to which we too would like to know the answers* – Ed.] when Moyane's lawyers cross-examine the minister at the Zondo Commission of Inquiry into State Capture. His appearance set down for March 19. Deputy Chief Justice Raymond Zondo gave the go-ahead for the grilling last November, although his ruling has come with a caveat – questions must relate to allegations made against Moyane.

Moyane is likely to get a rough ride too. Then president Jacob Zuma appointed him to the commissioner's seat at SARS in 2014. A long-time Zuma ally, Moyane came with no other more obvious qualifications that might have fitted him for the taxing job. He will forever be remembered for his tempestuous four-year reign, notably for bringing in Boston-based consulting firm Bain & Company for

a ruinous R204-million reworking of the tax collector's operating model and structure.

Retired judge Frank Nugent (who called for Moyane's dismissal in his Nugent Commission report) and Ramaphosa (who fired Moyane in November 2018) are two of Moyane's particular targets. His forthcoming cross-examination of Pravin Gordhan at the Zondo Commission promises to be a fiery face-off.

In our last issue (*nose243*) we told how, in 2015, then deputy president Ramaphosa and deputy finance minister Mcebisi Jonas secretly pressured SARS to secure multi-million-rand exit settlements for SARS's former deputy commissioner Ivan Pillay and its head of strategic planning and risk, Peter Richer. Both were facing serious internal disciplinary charges for their alleged roles in the "rogue" covert surveillance unit.

That, it emerges, was only the tip of the iceberg. According to *Noseweek's* sources, Jessie Duarte, deputy secretary-general of the African National Congress was also involved in the secret intervention. And the involvement of deputy finance minister Jonas was at the request of minister Gordhan, former SARS commissioner and Pillay's principal "protector" in

his battle for survival.

(Gordhan could hardly be seen to be directly involved in the intervention, since he had been replaced as finance minister by Nhlanhla Nene and was now Minister of Cooperative Governance and Traditional Affairs.)

As well as securing multi-million-rand pay-offs (and an escape from having to answer serious internal charges) for Pillay and Richer, the ministerial intervention team, it is alleged, demanded deletions and the "watering down" of the about-to-be released Sikhakhane Report, which found that the "rogue unit" had been unlawfully established.

There was also pressure on former SARS commissioner Moyane to appeal to then NPA boss Shaun Abrahams to drop charges against SARS executives over the 2007 bugging of the offices of the National Prosecuting Authority.

These secret ministerial interventions raise serious questions of legality, the separation of powers and even of conspiracy, as the government's revenue-collecting agency SARS was established as an administratively autonomous organ of the state, outside the public service but within the public administration.

Appointed by the president, the commissioner is responsible for all

agency functions and the exercise of its powers, but exercises these under the policy control of the finance minister.

But whether the president, the minister of finance or his deputy minister – let alone the deputy secretary-general of the ANC – can properly seek to influence decisions relating to internal disciplinary or criminal matters at SARS is open to question.

This, according to *Noseweek's* sources, was the build-up to the alleged intervention.

In the early months of 2015 Ivan Pillay had been blowing hot and cold over whether he wanted to resign from SARS or stay on and fight the 10 internal charges that he faced, both over the “rogue unit” as well as his controversial early retirement on full pension and immediate reinstatement as deputy commissioner. (See *nose242* for the pension saga and the online edition of *nose242* for Pillay’s original charge sheet).

Suspended, then reinstated by order of the Labour Court, Pillay’s disciplinary hearing had originally been set for 26 February 2015. But it was postponed while negotiations dragged on. In *nose243* we reported on how a meeting in the chambers of advocate Nazeer Cassim SC in January to “facilitate” his departure had failed. And on 2 February, when Pillay met with then commissioner Tom Moyane at the Kgosi Mampuru II Correctional Centre, Pillay refused to shift on his demands.

In late April 2015, former Chief Justice Sandile Ngcobo, who had agreed to preside over Pillay’s internal hearing, told SARS that he would be available between 22 and 29 April (for a fee of R30,000-a-day). And a final date of 22 April was set for Pillay’s hearing to begin.

It was then that Ramaphosa and his intervention team are said to have stepped in, wielding the big stick of government and ANC. One meeting was held at Luthuli House, headquarters of the ANC, just days before Pillay’s scheduled disciplinary hearing. Those present, according to *Noseweek* sources, were then deputy president Ramaphosa; ANC deputy secretary-general Jessie Duarte; SARS’s then commissioner Moyane; and Ivan Pillay.

Ramaphosa instructed Moyane not to proceed with Pillay’s hearing, but to settle the matter.

“Moyane told Ramaphosa that the charges were serious, with criminal elements, and he implored the deputy president to let the disciplinary proceedings against Pillay continue,” says a *Noseweek* source.

“Pillay said at this meeting that they should also do a deal with his colleagues Peter Richer and Yolisa Piekie [*his R900,000-a-year special adviser who resigned after facing charges for faking his academic qualifications*]. A R4m settlement, which was based on 18 months’ salary, was agreed upon for Pillay, and a slightly lesser amount for Richer.”

Several days later the pressure was piled on at a meeting at the National

Pillay said at this meeting that they should also do a deal with his colleagues Peter Richer and Yolisa Piekie

Treasury offices in Pretoria, say our sources. Those present were finance minister Nhlanhla Nene (who had replaced Pravin Gordhan in Finance the previous May); deputy finance minister Mcebisi Jonas; SARS commissioner Tom Moyane; and two members of the SARS Advisory Board who produced the Kroon Report, Judge Frank Kroon himself and Bonga Mokoena (who hailed from Alexander Forbes, where he was managing executive).

Deputy minister Jonas’s concern was the Sikhakhane Report, with its unfavourable findings about the SARS rogue unit. The report, with advocate Muzi Sikhakhane SC’s finding that the unit was established unlawfully, had been circulating within SARS for months. It was also leaked to the *Sunday Times*, which published extracts in its issue of 12 October 2014. Now it was about to be released for public consumption.

“Deputy minister Jonas told Judge Kroon and Tom Moyane that before Sikhakhane was released to the public

they must water it down and remove some parts,” says *Noseweek's* source.

“Minister Nene made no comment about this instruction, but Judge Kroon was outraged. He made it clear to deputy minister Jonas that what he was asking was completely against the law and could get him struck off the roll of judges. Mr Moyane supported Judge Kroon and said he disagreed with any tampering.”

Within days, on 28 April 2015 Judge Kroon took it upon himself to hold a press conference and announced the public release of Sikhakhane. The judge’s press release stated that “a secret unit was established within SARS in 2007, which among others had the purpose of the covert collection of intelligence.”

The Advisory Board had satisfied itself that “the establishment of such a unit is unlawful” as SARS “does not have the statutory authority to covertly gather intelligence”, and that crimes may have been committed that SARS should report to the police.

Eight days later, on 6 May 2015, deputy finance minister Jonas summoned commissioner Moyane to Cape Town for a meeting at his offices in Parliament. Ivan Pillay was present. “Jonas confirmed he had received instructions from Cyril Ramaphosa regarding Pillay’s settlement amount of 18 months’ salary, and Richer’s settlement as well,” says our source.

“The settlement documents were there and Pillay signed his [*under the name of Visvanathan Pillay*]. Richer signed his at a meeting with Luther Lebelo (SARS group employment head) at Johannesburg’s OR Tambo International Airport the following morning. That same day, 7 May 2015, Pillay and Richer resigned from SARS and all disciplinary charges against them were withdrawn. A statement issued by SARS confirmed that the parting of the ways was amicable. Luther Lebelo said that all charges and related investigations against the pair had been withdrawn.

Lebelo is a controversial character in the “rogue unit” saga and as SARS’s head of labour relations has endured much venom and vitriol in the media, being described as Moyane’s enforcer and hitman. In his book *The President’s Keepers*, Jacques Pauw describes him as “head of suspensions” and “adept at changing his loyalties as the winds blow”.

Others see him more realistically for what he is: an ambitious but well-intentioned 42-year-old who tried to do his job under Moyane's tempestuous sway. Highly intelligent, he holds a bundle of degrees, including a Master's in Business Leadership. Lebelo arrived at SARS in 2006 from Telkom, where he was a manager in the accounts department. At SARS he worked his way up from a grade 7 specialist in employment relations to senior executive grade 9b, two levels before commissioner. A former chairman of the ANC's famous Liliesleaf Farm branch, he is a declared supporter of Cyril Ramaphosa.

Nine days after the Pillay/Richer resignations, on 16 May 2015, commissioner Moyane lodged a complaint (CAS 427/5/2015) at Brooklyn, Pretoria, relating to the "rogue unit's" alleged bugging of the NPA offices and Project Sunday Evenings.

The final meeting of the government's ministerial interventionists, as far as we know, was held on a Sunday afternoon in July 2015, just weeks after the appointment of Shaun Abrahams as national director of the NPA. It took place at Hilton House, SARS's satellite offices next to the Revenue's headquarters in Brooklyn, Pretoria. Present were deputy finance minister Jonas, SARS commissioner Moyane, the Revenue's then chief operating officer Jonas Makwakwa, and employment head Luther Lebelo.

"Deputy minister Jonas said he had met with Ivan Pillay, Johann van Loggerenberg and Yolisa Pikie at the request of Pravin Gordhan," says our source. "They had asked him to meet with Mr Moyane and his team to persuade Moyane to drop criminal charges against them.

"Deputy minister Jonas said he had

already spoken to (NPA prosecutions boss) Shaun Abrahams, who agreed to cooperate. But Moyane refused this request, saying the charges were serious. Deputy minister Jonas gave up insisting, but asked Moyane to think about it."

The Hawks proceeded with their investigation into the "rogue unit," as well as Pillay's early pension, and in October 2016 Abrahams announced that Gordhan, Pillay and former SARS commissioner Oupa Magashula would face charges of fraud relating to Pillay's early pension.

As recounted in *nose242*, the summonses were withdrawn after the fortuitous emergence of the Symington Memorandum, authored by the SARS legal department's Vlok Symington, that declared Pillay's early retirement, the waiver of the early retirement penalty and his request to be reappointed on contract were all "technically possible".

Judge Kroon suddenly changed his tune on the legality of the SARS surveillance unit in his testimony to Judge Nugent's Commission of Inquiry into Tax Administration and Governance by SARS on 28 September 2018. He now declared he had made a mistake when he found the unit had been established unlawfully.

Kroon told the commission that in March 2016 he had been summoned to a meeting with Pravin Gordhan (by then reinstated as finance minister) to discuss "the aspect of the wording" of his bombshell press release the previous year.

"As Mr Gordhan was the commissioner at the time of the establishment of the unit I thought that he was entitled to an apology and I tendered it," went Kroon's testimony. "We should not have made that statement. We



Judge Nugent

should have restricted our comments to the members of the unit having engaged in unlawful activities."

Judge Nugent, appointed by President Ramaphosa to head the Commission of Inquiry into Tax Administration and Governance by SARS, pounced on this. "As you sit here today would you perhaps withdraw that conclusion too?"

Kroon: "I'm sure it would have been better if we had ventured into an investigation of the allegations and requested persons who were implicated in the allegations to appear before us and give us their version."

Today Ivan Pillay, Johann van Loggerenberg and Andries "Skollie" van Rensburg are waiting to hear whether they must face trial over the activities of the SARS covert surveillance unit. Last October *City Press*

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NEWS YOU'RE NOT SUPPOSED TO KNOW

reported that a review panel of prosecutors at the NPA had recommended that NPA national director Shamila Batohi should abandon the case against them since “there is no prospect of a positive prosecution”.

It is widely expected that Batohi, appointed to the top prosecutor’s post by President Ramaphosa in December 2018, will toe the line and announce the abandonment of charges any day.

Readers may peruse the following documents free of charge on *Noseweek’s* website:

1. Confidential Separation and Settlement agreement between SARS and “Visvanathan” Pillay in deputy finance minister Mcebisi Jonas’s office in Parliament on 6 May 2015.

2. Correspondence between Ivan Pillay, SARS Commissioner Tom Moyane and both parties’ attorneys.

3. At the 2018 Nugent Commission Judge Frank Nugent concluded – apparently wrongly – that a memo written by Martin Brassey SC to SARS recommended that disciplinary charges against Ivan Pillay in connection with the “rogue unit” should be

dropped.

Nugent, appointed by President Ramaphosa to head the 2018 commission of inquiry into tax administration and governance by SARS, clung to his questionable interpretation, which assisted him to declare in his final judgment: “Why such a unit was considered to be unlawful is not clear to me.” Although members of the unit might at times have acted unlawfully, said the judge, “I see no reason why SARS was and is not entitled to establish and operate a unit to gather intelligence on the illicit trades, even covertly, within limits.”

Brassey was retained by SARS to investigate, formulate the charge sheet and prosecute at Pillay’s disciplinary hearing before former Chief Justice Sandile Ngcobo. And Nugent considered that in an opinion by Brassey, dated 11 November 2014, the advocate considered he had a winnable case.

In fact, all that Brassey said about the rogue unit in that opinion was that his prima facie view was that undercover activities of the nature

undertaken by the unit were the province of the SA Police Service and not of SARS. The Revenue’s interest, he suggested, might better be “confined to exacting tax on trading activities, whether lawful or unlawful, rather than actually combatting the activities themselves”.

And in the subsequent memo dated five months later on 29 April 2015, there is nothing to indicate a change of mind. The advocate merely recorded his recommendation made the previous day to SARS employment executive Luther Lebelo that the set of charges relating to the rogue unit should be “held in abeyance”.

Lebelo’s response, says the memo, was that the rogue unit charges should remain with the two other sets of charges: Pillay’s early retirement and the R3m goodbye settlement to rogue unit leader Andries “Skollie” van Rensburg. “We happily submit to such instructions,” said Brassey in his memo.

Signed by Brassey and his juniors, advocates Michael van As and Nadine Fourie, the memo says the team was

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ploughing through a large collection of emails, statements and evidence compiled for advocate Muzi Sikhakhane's earlier internal investigation, as well as 4,000 documents received from KPMG (busy at the time with its own forensic investigation). But they add: "The documentary evidence on the activities of the rogue unit is as presently advised thoroughly unsatisfactory. All we really have are the 'dashboard' reports that were made by the unit from time to time to SARS top management". Witnesses were proving to be uncooperative.

Brassey did not give testimony at the Nugent Commission, but in his public grilling of Luther Lebelo the judge said: "I've spoken to Mr Brassey, I've seen his opinions, and I remember that Mr Brassey said there is not a strong enough case to go on with... The witnesses are uncooperative and the case is by no means conclusive."

Nugent added: "Advocate Brassey drew [up] the charge sheet – it wasn't only the rogue unit, of course. I accept it, because Brassey is a reputable advocate and I practised with him.

I accept that he felt he had a basis for that. But the point is, when it came to preparation for the trial, for the disciplinary hearing, he then had second thoughts. He said this is not enough to prove the case. The witnesses are not co-operating and the documents are not satisfactory."

Lebelo attempted to give testimony about Cyril Ramaphosa's intervention, but Judge Nugent quickly knocked that one on the head. "Let's get through that quickly," said Nugent. "There were some discussions, even the current president..."

Lebelo: "Yes."

Nugent: "...got involved in some of the discussions. He was the deputy president at the time. A resolution was being sought. I want to now go to the disciplinary proceedings.

"As I understand it there were discussions about (Pillay) resigning at quite an early stage?"

Lebelo: "Yes, when this discussion happened it stopped, because big people were getting involved in the discussion and the last one was when there was a meeting in Cape Town with the former deputy minister [Mcebisi Jonas] where the resignation [of Pillay] happened and I was asked to do the media thing and stuff like that."

Nugent did not include Brassey's opinion and his subsequent memo for public scrutiny on the commission's website. When *Noseweek* asked Brassey for the documents he was unable to assist.

After *Noseweek* secured copies of both his opinion and the later memo, we asked Brassey – who was now retired to Plettenberg Bay – about Judge Nugent's view that he had had second thoughts about the rogue unit charges.

"No, there was no change of mind," said Brassey. "The issue of the rogue unit was a live one. Our job was to marshal the evidence and we did what we could. In the light of what we received, we

provided our opinion on whether the charge was actionable or not.

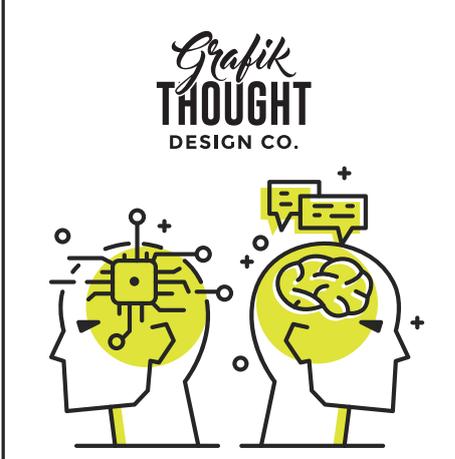
"Our job was not to decide whether the charges should be pressed or not. This is the enduring prerogative of the employer – in this case, SARS – as our client. That said, it would be inconsistent with our professional code of ethics to pursue a charge that we considered legally untenable, and we would not have done so.

"When the matter settled, or at least when settlement was mooted, I vaguely recall being surprised at the development. I had recently drafted a comprehensive set of charges and was preparing to prosecute them."

● Other documents available to read, free, on *Noseweek's* website are:

1. Advocate Martin Brassey SC's Opinion of 11 November 2014 to SARS re Potential Misconduct within SARS.
2. Memorandum from Advocates Martin Brassey SC, Michael van As and Nadine Fourie, to SARS re Disciplinary Action against Deputy Commissioner Ivan Pillay, 29 April 2015. ■

...the set of charges relating to the rogue unit should be 'held in abeyance'



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What became of Tannenbaum's loot?

Barry Tannenbaum's spectacular billionaire Ponzi fraud was first exposed by *Noseweek* in 2009. Since then, what has happened to the billions invested? Are Barry and his co-conspirators in jail yet? *Noseweek* investigates.

THE PONZI SCHEME RUN BY BARRY Tannenbaum and his main accomplice Dean Rees started to come unstuck in late 2008 and early 2009. The two men hurriedly made plans to move their loot out of sight.

So, what have the trustees of Tannenbaum's insolvent estate – who were faced with the task of unravelling one of the biggest and logistically most complex frauds in local history – been doing since then? One thing they did was blow R5.5 million on an

Australian trip that turned out to be a largely fruitless attempt to extract information from Tannenbaum, who by then was resident in Runaway Bay in Queensland.

They insist it was useful when local creditors demanded to know what they had done about tracking Tannenbaum's worldwide assets.

A brief recap:

On a Friday in May 2009, Johannesburg businessman Christopher Leppan applied to the South Gauteng High Court to have Barry Tannenbaum, the mega-rich, famously pious son of Harold Tannenbaum, a founder of Adcock Ingram, South Africa's second-largest pharmaceutical company, declared bankrupt.

Leppan told the court he had been persuaded to invest in what was supposed to be a hugely profitable scheme devised by Tannenbaum junior to finance the importation of raw materials required for the local manufacture of anti-retroviral drugs for HIV/Aids patients – so profitable that Leppan was promised a 20% return on his money every 12 weeks.

Barry Tannenbaum said he had advance orders from various major drug manufacturers, so there was no risk. The deal seemed so good that Leppan invested nearly R3m.

But when in May 2009 he asked for

his capital and interest – by now totaling R5m – Tannenbaum's cheques, drawn on his personal account at RMB Private Bank in Pretoria, bounced. The bank informed Leppan that Tannenbaum, who emigrated to Australia shortly beforehand, had closed the account.

The court made an order placing Barry Tannenbaum's estate under provisional sequestration.

Nothing too remarkable there – until we learned that Leppan is one of hundreds of South Africa's millionaires who were caught out by Barry Tannenbaum and his representatives in the country's biggest-ever cash pyramid or Ponzi scheme.

Clearly many rich South Africans had no scruples about profiteering off the Aids epidemic afflicting the country. (Unless, of course, they knew it was just a ruse to cover an illegal gambling game in which they were happy to take their chances, maybe even to collect their payout offshore.)

Leppan knew of one man who had invested R30m. *Noseweek* identified many others: one of them former Pick n Pay CEO Sean Summers, who invested over R50m and claimed he was by then owed over R100m if you included the profits he was owed.

Just so he shouldn't feel too bad about it, the former CEO of OK Bazaars,



Barry Tannenbaum



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Mervyn Serebro, invested R25m and believed he was owed over R50m.

Between them, an estimated 400 investors are believed to have lost R3bn or more. Much of it simply disappeared via a Hong Kong bank account, to – well, only Tannenbaum and two or three of his local recruiting agents know where.

That was June 2009. So what has happened since?

In a court filing dated December 17, 2014, Elle-Sarah Rossato, a SARS manager, wrote that she failed to understand why one of the trustees, Gavin Gainsford, who worked for KPMG at the time, said he could not justify a cost of R500,000 to interview Tannenbaum and his wife in Australia, yet according to SARS's calculations, the trustees proceeded eventually to spend more than R5.5m on just such a trip.

The three joint Tannenbaum insolvency trustees are Gainsford, Vincent Matsepe of Matsepe Inc and Shirish Kalianjee of Shirish Kalian Attorneys.

The news broke in June 2009 that the Ponzi scheme, as was inevitable, had failed. By then Tannenbaum and Rees, knowing with their inside information that the end was approaching, had moved offshore with their fortune. Rees and family live the good life in Switzerland, which has no extradition treaty with South Africa.

A high court judge placed Tannenbaum's local estate in provisional sequestration in June 2009. The order was made final in August.

The three trustees reported in 2014 that Tannenbaum and Rees ran their scheme using a complex structure of local and offshore bank accounts, companies, trusts and individuals.

"[The scheme] attracted investors from all over the world: South Africa, the United Kingdom, Europe, North and South America, the United Arab Emirates, Australia, China and Hong Kong," they wrote.

In America (where it historically originated) a Ponzi scheme – named after Charles Ponzi – which in its purest form is simply a cash pyramid, is a prohibited form of gambling. The scheme pays temptingly inflated returns to earlier investors, using the money of the growing number of later investors who join up as the news spreads about those fabulous returns, creating a pyramid with an ever-widening base.

The scheme instantly collapses when the number of new recruits does not grow at a rate sufficient to cover the

returns/profits promised to the earlier tiers of investors. Early investors can make huge profits, while the last investors tend to lose all they have invested. Claims by the operator that the outlay is supposedly an investment in a genuine economically productive enterprise is simply a ruse to provide cover for the illegal scheme.

The Tannenbaum trustees' trip to Australia took place in October 2012. They met Tannenbaum and his wife Debra in Brisbane.

SARS manager Rossato comments: "I have studied the transcripts of the Australian inquiry, and in my opinion, little of value for the estate was achieved." She was sceptical of the trustees' claim that their trip "bore useful and important fruits".

In a notice of motion dated September 2014, the three trustees explained: "We first made contact with his attorney in South Africa, who confirmed that Tannenbaum would not return to meet with us here. His attorney advised that we could meet with him in Australia if the estate paid the fees and disbursements for his South African attorney and senior counsel to travel to Australia (business class) and attend the meeting. The estate was also required to pay for his Australian attorney's attendance.

"We estimated that this would cost approximately R500,000, which we could not justify. Thereafter all communication with Tannenbaum's legal team broke down," the trustees said.

As explained, the key reason why the trustees wanted to interview Tannenbaum was to counter charges that they had not accounted for all of Tannenbaum's assets and liabilities worldwide. On July 4, 2014, the trustees filed a response to John Martin who had lodged two claims of R108,500 and R573,500.

They revealed that the seven-day trip to Australia had included the estate's attorney, junior counsel, the forensic accountant, a trustee and a trustee's representative and that they had planned to interrogate Tannenbaum for three days about his worldwide assets.

The delegation to Australia included lawyer Alec Brooks of Brooks & Brand Attorneys Inc, (now Brooks & Braatvedt). The firm specialises in insolvency and business rescue matters.

MD of Computer Forensic Services Steve Harcourt-Cooke was on the trip, as were Kalianjee and James Galloway, who at the time worked for

Gainsford, according to a source.

The trustees of the insolvent Tannenbaum estate organised Australian visas for Kalianjee and Galloway, documents show.

"Although the trip to Australia and the appointment of Australian attorneys and counsel was a costly exercise... we are satisfied that it had borne useful and important fruits.

"Primarily, we were now confident that we could meet the inevitable attacks from the defendants that we had not accounted for Tannenbaum's worldwide assets and liabilities," the trustees said.

In a letter dated July 10, 2014, addressed to the Master of the High Court, Galloway stated: "Following the examination of Mr and Mrs Tannenbaum and the obtaining of documents from the liquidator of Bartan (Tannenbaum's Australian company used to run the scheme) in Sydney, our forensic accountants were in a position to supplement their expert reports to provide for Tannenbaum's worldwide assets," he wrote.

But *Noseweek* could find no mention of that key Hong Kong bank account.

"Having obtained this information and documentation in regard to Tannenbaum's worldwide assets and liabilities, it eventually led to the settlement of various actions and, in particular, the Jawmend Rossi action for R35m and the judgment against Rees for approximately R160m," Galloway said.

"Tannenbaum disclosed to us that he owned an investment in Stanlib, which was not previously known to us, which we then realised for R180,503.81.

"The aforesaid indicates that the examination of Tannenbaum in Australia was essential and that the Tannenbaum estate derived a substantial benefit therefrom," Galloway added.

The three trustees also said: "An additional benefit was that Tannenbaum confirmed he had gambled away approximately R65m of investor funds. On the basis of the advice from our tax attorneys, we were able to bring those losses into account which assisted us in obtaining a reduction in SARS's assessment of Tannenbaum's outstanding tax liability from approximately R120m (originally around R747m) to an agreed amount of approximately R32m."

● For more background to this story see *noses* 116, 117, 18, 121, 122 & 217.

To be continued. – By Justin Brown ■

Binary options scam operators jailed in US

Scamster 'cost investors their homes, savings and even marriages'

IN DECEMBER 2016 *NOSEWEEK* reported extensively on the flood of binary options scamsters, most based in Israel and Cyprus, who were targeting the South African market on social media and via internet news channels (*nose206*). A damning follow-up article appeared in February 2017 (*nose 208*).

Despite the scale and brazenness of the frauds, we noted the absence of action from any regulatory authority and law enforcement agency. Even in the UK, where the fraudulent sale of binary options was by then the country's biggest scam, there had been no successful prosecutions. The official explanation: the fraudsters are usually located abroad.

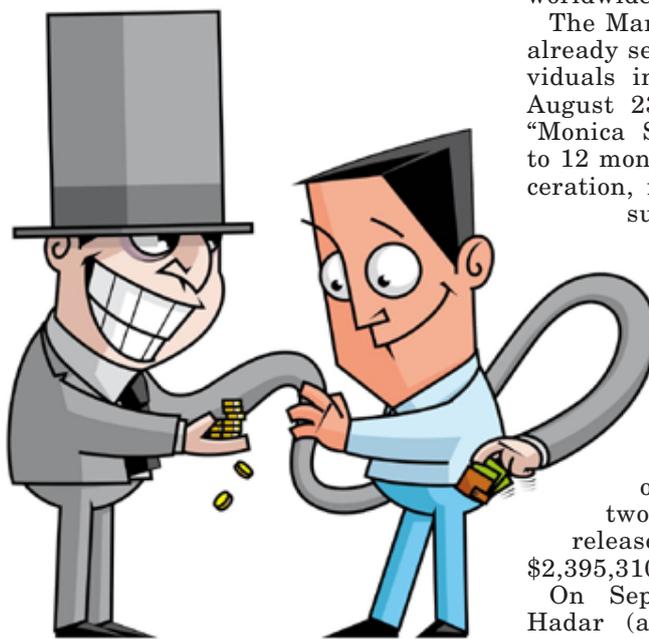
The UK National Fraud Intelligence Bureau's deputy director and financial crime specialist, Detective Chief Inspector Andy Fyfe, said that on an average two reports are made to police in Britain each day and the average investor loses £20,000 (more than R300,000).

Most people there were not bothering to report their experience in the knowledge there was little that police could do. The business was also not overseen by the Financial Conduct Authority (FCA) because it is classed as gambling. And the UK Gambling Commission only regulates operators that have equipment based in Britain.

But, it now emerges, things are different in the USA, where a Maryland court has found that Israel-based Yukom Communications, which provided investor "retention" services for two websites, known as *BinaryBook* and *BigOption*, was fraudulently promoting and marketing binary

options. An employee and binary options sales agent for the company, Israeli citizen Lee Elbaz was sentenced to 22 years in prison in December. She operated from a call centre.

US District Judge Theodore Chuang told Elbaz, 38, that her actions had cost vulnerable (mostly elderly) US investors their life savings, their homes and even their marriages. "This was a very significant crime with significant harm to victims," the judge said.



In his order Judge Chuang noted that the internet fraud conspiracy revolving around Israeli-based Yukom Communications was an extensive international conspiracy. It involved companies based in Israel and Mauritius that engaged in fraudulent telephone, email and social media communications

designed to cause individuals to invest in purportedly legitimate financial instruments under false pretenses.

Elbaz, as the CEO of Yukom, instructed numerous retention agents to lie to potential investors in order to procure such investments. Elbaz also had a role in the work of retention agents working for another company, Numaris, located in Tel Aviv, Israel, and with yet another company, Linkopia, based in Mauritius. Evidence in the trial indicated that victims of the fraud worldwide lost over \$140 million.

The Maryland District Court had already sentenced three other individuals involved in the scam: on August 23, 2019, Lissa Mel (aka "Monica Sanders") was sentenced to 12 months and one day of incarceration, followed by two years of supervised release, and was ordered to pay \$288,024 in restitution.

On September 20, 2019, Liora Welles (aka "Lindsay Cole," "Lindsay Wells," and "Lindsay Taylor") was sentenced to 14 months of imprisonment, followed by two years of supervised release, and was ordered to pay \$2,395,310 in restitution.

On September 23, 2019, Yair Hadar (aka "Steven Gold") was sentenced to eight months of imprisonment, followed by two years of supervised release, and was ordered to pay \$1,200,000 in restitution.

Elbaz's lawyer tried to persuade the judge that she was "middle management" and that her bosses Yossi Herzog and Kobi Cohen were the heads of the conspiracy. Herzog and Cohen, who have both been indicted, are still at large.

Binary options fraud flourished in

Israel for about a decade before the entire industry was outlawed via Knesset legislation in October 2017, largely as a result of investigative reporting by *The Times of Israel* that began with a March 2016 article entitled “The wolves of Tel Aviv”.

At its height, hundreds of companies in Israel were engaged in the widely fraudulent industry, employing thousands of Israelis, allegedly fleecing billions out of victims worldwide.

Many of the fraudulent operatives have since moved their operations abroad, or switched to other scams, though Israeli law-enforcement authorities have proved unwilling or unable to prosecute more than a handful of

alleged offenders. By contrast, the US government is ratcheting up efforts to bring Israeli offenders to justice.

‘I estimate that hundreds if not thousands of Israelis were engaged in the same conduct’

was convicted and sentenced. Their fate is different only because they did not target Americans, or haven’t been caught.

“If Israeli law enforcement authorities had done their job, we wouldn’t have come to this sad day.” – *Times of Israel* and AP ■

Nimrod Assif, an Israeli lawyer who has sued several binary options companies on behalf of the victims, said in response to Elbaz’s sentencing: “I estimate that hundreds, if not thousands, of Israelis were engaged in pretty much the same conduct for which Elbaz



Lee Elbaz

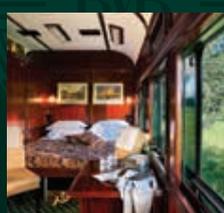


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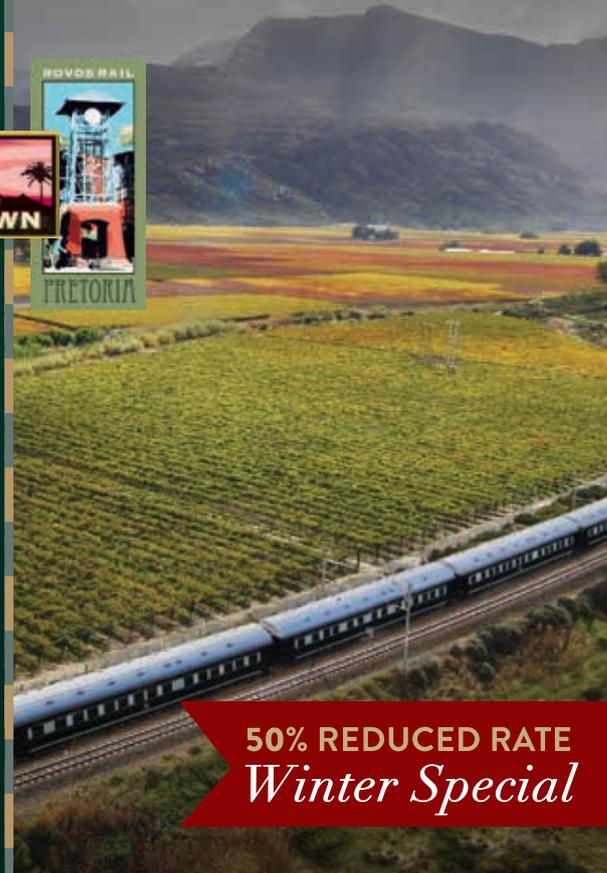
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Pollution from the Milnerton Estuary enters the sea – Pic by Jean Tresfon

We won't take this sh!t anymore, says Milnerton

WHEN HE THINKS BACK 25 YEARS Richard Allen, chairman of the Milnerton Canoe Club, remembers Cape Town's Milnerton Lagoon as a little paradise where you would see children jumping off the wood bridge into the clear, deep water. "There were prawn holes, fish jumping everywhere – sometimes into our canoes – and people fished in the lagoon. Today, there are no prawns left, we haven't seen a fish in years and the stench of the lagoon is disgusting. The water is black and putrid. The deterioration has been like a slow cancer."

Allen is part of a fast-growing local movement ramping up plans to force the City of Cape Town to act on the environmental mess they've systematically failed to address. Several rate-payers' organisations from areas near the lagoon have joined the fray. They've become so desperate at the city's ineptitude and habit of putting "band aids on open wounds" that they've asked the Organisation Undoing Tax Abuse (Outa) to get involved. Outa is ready to take up the challenge, probably via the legal route.

The civic associations are also outraged at the city's lack of transparency in providing water-quality

data, which they only received after putting up a fight and then, it was on a non-disclosure basis. "I'm convinced they're hiding something," said Allen.

The Zimbabwe-born Allen moved to Cape Town when he was ten. Today, a marketing manager for a medical supply company and father of two, he's "obsessed with water": he competes in Western Province canoeing and surf-skiing events and for years has been involved in development of the sports. But even that has taken a nosedive because of the polluted water.

"We had a huge canoeing club, about 300-strong, with Springboks and big groups of paddlers arriving for time trials. In years gone by, we didn't worry about pollution and didn't think twice about whether or not to paddle.

"These days, the different paddling groups have WhatsApp groups to discuss the state of the lagoon. Often, the message is 'don't come near, the lagoon's disgusting'," Allen told *Noseweek*. "We have names for every corner of the river as you go upstream. There's Longdrop Corner, Poo Corner, and another spot that's named after a woman who fell in and was hospitalised for two months with serious E. coli-related cystitis."

Allen, who describes himself as a

water warrior, is in the water "six times a week" either paddling, swimming, surfskiing, surfing or coaching.

"Water gives me peace. At the moment the lagoon is not giving me peace. If you came for a paddle and went upstream, you'd not just get physically ill, you'd get mentally ill. It worries me that some people don't give a continental when it comes to nature."

Promotional blurbs for the Milnerton area include descriptions of its most identifiable feature – the lagoon – "formed where the Diep River enters the sea" with palm trees adorning its banks; a vital part of a living environment that plays a critical role in community life; a haven for bird watchers (173 species); canoeists; cyclists; walkers; joggers and photographers. The "spectacularly scenic lagoon" boasts numerous "stunning viewing points".

"The Diep River meets the Milnerton Lagoon as it reaches the wood bridge to the island after flowing through the Rietvlei Wetland Reserve... which forms part of the 880ha Table Bay Nature Reserve," says one blurb.

On 10 December, the planned grand opening of the restored 227-year-old wooden bridge, a provincial heritage

site, was scuppered when angry, placard-bearing locals arrived to demand the city clean up the lagoon.

Invitations had been sent out for the event by Mayoral Committee Member for Transport, Alderman Felicity Purchase. The bridge had been closed since 2007 for safety reasons. The restoration cost more than R20 million – money from a government grant to promote non-motorised transport.

The protestors, besides calling for an urgent clean-up of the lagoon, demanded that the city release the results of their monthly water tests.

The lagoon's pollution levels are worse than they have ever been. November's E. coli count at the canoe club was 210,000 colony forming units (CFUs) per 100ml; the CFU count for October was 1,000,000 at Bayside Canal and 920,000 at Theo Marais Canal sections of the water.

National guidelines recommend a count of 1,000 or less. E. coli is used as a bacteriological indicator for pollution levels.

The guidelines, called target water quality values, are specified for "full contact" or "intermediate contact". The full contact value is set at 130 E. coli per 100ml and intermediate value, at 1,000 E. coli per 100ml water. These are old (1996) guidelines and the Department of Water and Sanitation has been revising them for the past 20 years without producing a firm, published result.

The results for Milnerton Lagoon show that the pollution goes into the estuary via stormwater channels and from the Potsdam Wastewater Treatment Works which also releases treated effluent into the Diep River.

For years Allen has felt the issue "was the canoe club's fight". But on 10 December, at the public protest he realised it was "now no longer just our fight, it has become a huge community fight and that's given me strength".

He said one resident had arrived at the lagoon with a veil over her face and a fly-swatter, saying that the houses in the area had been taken over by midges.

"They have infested the whole of Woodbridge Island. She said she couldn't sleep from the stench and the insects. She was crying."

Other protesters carried placards saying "Save Our Lagoon", "Bridge Over Filthy Water" and "Fish, Otter, Prawn, Gone". Some protesters were

in canoes.

"I don't think I've ever been that nervous leading up to the protest, but once we got out there and took the officials by surprise, it all fell into place."

Allen and fellow ratepayers groups from Milnerton Central Camps Bay, Milnerton, Summer Greens, Milnerton Ridge and Table View say they are sick of the city's "rehashed nonsense" and unkept promises, despite having known for years about the pollution of the lagoon.

"They blame the pollution on backyard dwellers, overflows, cable theft and other nonsense, but fail to touch on the main issue causing the stink – which is that the sewerage works at Potsdam is not functioning properly ...there has been no maintenance of the wastewater works. They've been pumping out raw sewage and dumping it into our rivers without pretreating it and without letting us know," he told *Noseweek*.

"It's criminal that they've not, in a year, informed us that Potsdam was not functioning correctly and that they've been pumping raw sewage into the system we've been happily paddling on."

Allen painted a picture of a city whose key water officials "don't seem to talk to each other" on issues such as budgets and inaction and who resort to internal finger pointing – "always at the person who's not present, so we get nowhere".

Civic associations wanting information on the water quality have to go through the rigmarole of formally requesting the figures from the city, which will (illegally) only release them to the ratepayers' associations and then, will only do so subject to a non-disclosure agreement.

What is known is that the pollution of the lagoon is a result of what's going on in the other water bodies feeding into the lagoon. Allen first started noticing serious changes to the lagoon's water quality around 2003.

"I realised I was paddling in raw sewage; I couldn't move forward or backward in the sludge that had come from Potsdam." Much of the problem, he learnt, was that the wastewater works weren't coping with the inflow from new developments upstream.

Allen took a break from serious paddling for a few years when he became a dad but resumed about six years ago, which was when he found

the pollution had become "really bad".

He became chairman of the Milnerton Canoe Club in 2015 and started ramping up his questions to the City of Cape Town.

"Even before I became chair, we'd run development programmes. We had one for about 25 kids from Dunoon and Joe Slovo Park. We managed to get a grant from the Lotto to run them. As chairman, one of my priorities was to grow the sport and get the development going again. The lifesaving and canoe clubs have a symbiotic relationship – lifesaving is the summer sport and canoeing is for winter.

"In 2015 we invited the people from the lifesaving club to bring their nippers across to the canoeing club. I was amazed. I walked 30 kids and their parents. I really thought it would take off but within a month or two, I was left with three kids. The rest of the parents had decided they didn't want their children in the smelly lagoon. One by one they left. The ones who get sick are the new ones who fall in. Luckily we older guys are all pretty good paddlers so we spit the water out. We still gag when paddling towards the Milky Way, a stormwater exit where the grey water from Joe Slovo comes down in force.

"A lot of people moved to the Century City Canoe Club to paddle on the canals there instead."

Allen says the water quality improves in the rainy winter months when the sludge is diluted. Summer is when the real problem sets in. He continues to coach whichever children stick it out, "but my biggest worry at the moment is that, when the weather is warm, hundreds of kids swim near the mouth of the lagoon. The city puts up signs and thinks their job is done."

A few weeks back the city council opened the mouth of the lagoon to enable the sea to flush the dirty water, but some residents said this "just allows more shit into the sea".

Fully aware of the situation, the city has made various promises through the years, particularly since 2011, but has not followed through, despite the Water and Sanitation department only having spent 65% of its budget.

A 2011 report compiled by the city, *Improving the Quality of Storm Water Discharging into the Diep River*, cited seven projects aimed at tackling the pollution, but the city has still not allocated funds for any of them. And



Richard Allen and nipper canoeists

just over two years ago there were murmurs of a big lagoon clean-up.

Ward Councillor Fabian Ah-Sing recently said the council's investigations into the situation show there are a number of sources of pollution, which it will address. These relate to three main stormwater channels. One of the projects he cited was to divert stormwater to the sewer in the Dunoon/Doornback area. Other projects included installing litter traps and treatment of the wetland as well as "low-flow diversions to the wastewater treatment works" and "stormwater diversion-to-sewer by means of a diversion structure and separator".

Other key players in the saga are Caroline Marx of the Milnerton Central Residents' Association and Mandy da Matta, Table Bay Residents' Association chair, who recently called on the city to urgently set aside money to fix the lagoon.

Mayco member for Water and Waste, Alderman Xanthea Limberg, recently said the city had implemented multiple infrastructure projects to improve the lagoon's water quality and insisted the city had provided communities with water quality test results as often as possible.

Limberg said several sites, including the lagoon, had shown higher E. coli results because of "ongoing challenges related to informal settlements, backyard dwelling and overflows and blockages in the sewerage reticulation system, as well as cable theft, vandalism at pump stations and load-shedding".

In October 2018, the city announced that it would embark on a six-year project to "more-than double" the capacity of the Potsdam Wastewater

Treatment Plant from 47 million litres per day to a total of 100m litres.

At the time, Limberg said that a R350m tender for the engineering designs had been awarded and was in the public participation process. She also cited several completed projects, including the rehabilitation of the Sanddrift Bulk Sewer; an upgrade of the bulk sewer in the Joe Slovo/Phoenix area; the raising of sewerage manholes in the Dunoon sewer outfall to stop overflows going into the estuary, as well as diverting stormwater from Joe Slovo to sewerage systems feeding Potsdam, due for completion by December. Other bulk sewerage rehabilitation projects in the area were also planned, she added.

An inland water quality report compiled by consultants was due to be completed by March this year, while a coastal water quality report, which Limberg's department last year stated would be available early this year, has yet to be released.

The Milnerton Lagoon saga highlights a more generalised looming problem: the rampant neglect of South Africa's waste water infrastructure. So bad is Cape Town's general waste water infrastructure that in 2018, the city took out an €80m loan (R1,3 billion) with Germany's Development Bank KfW with the aim of modernising, expanding and rehabilitating Cape Town's 26 wastewater treatment plants, most of which were built in the 1950s and '60s and are outdated and poorly maintained, leading to untreated wastewater polluting the coasts and beaches with faeces and antibiotic residues.

Allen, bolstered by the turnout at the protest and by ever-growing

support from the communities around the lagoon, said he and his fellow activists from the neighbouring ratepayers' organisations will, with Outa's support, be driving harder questions to the city.

The new Facebook page called #SaveOurPollutedEstuary has been posting relevant information to keep everyone informed.

Professor Lesley Green, deputy director of UCT's Environmental Humanities South and an outspoken critic of Cape Town's handling of water pollution data, said that visual evidence and the range of anecdotal accounts made it clear that the Milnerton Lagoon and infrastructure needed thorough, systemic investigation and community dialogue to understand where and why the problems are arising and how they can be properly researched and resolved.

"It's absolutely unacceptable for City of Cape Town Water and Sanitation to put ratepayers' association leaders in a situation of legal risk by releasing water quality results to them that are subject to non-disclosure agreements. Ratepayers' associations are voluntary commitments made by citizens who work in the interests of local communities.

"Where there is a public health risk, they must be able to engage in dialogue with anyone they choose. They are not the enemies of the city! They are working towards what the Constitution guarantees: living in environments that are not harmful, using freedom of speech to do so, and working with independent scientists



Young activists in action

when they feel it is needed – since the Constitution guarantees freedom of scientific research.

“Cape Town’s Water Strategy document, released in mid-2019, made much of transparency, accountability and partnerships with the public. If the City of Cape Town was treating ratepayers’ associations and community organisations who challenge their data according to the standards they set for themselves, the situation would be on the way to being resolved. Transparency and accountability in governance is not limited to those who agree with you.

“Restricting discussion of water quality data is an exceptionally poor governance strategy. People who are desperate to live without water, air and soil-pollution have no option but to go to court, even though they know they will be opposed by teams of lawyers who will be paid by their own rates and water tariffs.

“Stopping the free flow of information wastes not only the money but also the goodwill that could be turned to resolving the problem.”

Meanwhile, the collaboration with Outa will kick off early this year. Outa boss Wayne Duvenage and his team – known for their strategies on issues like e-tolls – are committed to helping residents’ associations around the country “challenge the shortcomings of local government”. It looks like Milnerton Lagoon will be a priority.

Mayco’s Limberg told *Noseweek* that Cape Town liked to limit “raw” information on water-quality because “meaningful interpretation requires specialised knowledge, and there is limited capacity within the city to deal with fallout should a member of the public or media misinterpret the data, as is very common”. Water quality changes in the Milnerton Lagoon, she said, “are communicated to numerous interested and affected parties”. And, if the city’s Scientific Services branch identified health risks, signs were put up to advise the public, and over the holidays, “city staff were on site warning visitors of the risk of swimming there”.

“Please also note,” said Limberg, “the terms of use agreement only requires that the data not be distributed or published without the city’s consent.” She said the Milnerton Central Residents’ Association was “permitted to share results with their



Protesters and news crews swarm city councillor

members” and added that the city was ISO9001 accredited (SABS certified). “In terms of that system, there is an internal procedure for the provision of data to external parties.”

The city had found that there were “various sources” of pollution which were hard to identify or trace to a single source. “But we do know that among the sources are the following:

- Irresponsible use of the sewerage system by local residents and businesses leading to blockages and overflows which can contaminate the lagoon.

- Landscaping/agricultural activities upstream (fertilizer)

- Illegal informal development which blocks the city’s access to its sewerage infrastructure and obstructs efforts to minimise the impacts of blockages.

- Backyard tenants who are not provided with toilets by their landlords, which leads to human waste being disposed into the stormwater system, which flows into rivers and eventually the ocean.

To address these, the city had “a number of projects at various stages of implementation/completion,” she said.

“Furthermore, the Potsdam Wastewater Treatment Works is being extended at a cost of R800m. However, this work will not be effective in preventing pollution. Residents have to play their part. It is illegal to dispose of feminine hygiene products, rags, wet-wipes, general litter, food scraps and cooking fat/oil into the sewerage system, as these cause blockages/overflows.”

Limberg also blamed “the challenge of urbanisation and informal development” which the city could not meet

on its own. In trying to help the lagoon cope with the high levels of pollutants, one of the best things they could do was to try to get as much sea water into the system as possible. To this end the city had been using “honey suckers” (tankers) to pump contaminated water from the Theo Marais canal back into the sewerage system for treatment at the wastewater treatment plant, she said.

“The Theo Marais Canal runs through densely populated areas which have experienced high numbers of unplanned informal settlements. This represents a significant contribution to the overall water quality challenges.”

Asked for an update on the inland water quality report due to be completed by March 2020, Limberg said the city had advertised twice, late in 2019, but had no response so they would re-advertise in the coming weeks – “thus the report will not be ready by March.”

Would it be made public and which consultants would be doing the work?

Limberg responded: “The report will be a public report for all interested parties to access.”

Gregg Oelofse of the city’s Coastal Management section responded to *Noseweek*’s question about the coastal quality report that had been due early last year and which included the results of all the testing sites over a period of 12 months.

He said it had been completed and the Council for Scientific and Industrial Research (CSIR) was producing the summary. The city intended to make these reports public by February/March 2020, he said.

– By Sue Segar ■

Making a meal of it

Mossel Bay fishmeal company put in its place by fearless local journalist

IN A VICTORY FOR PRESS FREEDOM, JUDGE Siraj Desai of the Western Cape High Court has dismissed with costs the urgent application to gag the website *mosselbayontheline.co.za* and its owner, veteran journalist Elsa Wessels. The Angolan-based South African businessman Johannes Breed and his Mossel Bay company Afro Fishing applied for the interdict early in December last year.

At the time *Noseweek* reported on Breed's desperate effort to stop all Wessels's publications from reporting on the alleged ties between Afro Fishing and Namibia's Fishrot Scandal. Wessels also owns *weskusontheline.co.za* and has an active Facebook page that gets thousands of hits daily.

The fishing industry worldwide was shocked when WikiLeaks started to download 30,000 confidential documents on the internet on 11 November. The bombshell was followed by a television documentary broadcast by the Doha-based news channel *Al Jazeera* that exposed bribery, fraud, money laundering and state capture in Namibia. It showed that high-ranking political figures in the country were receiving millions of dollars from foreign companies in return for profitable rights in the local fishing industry.

But even before the broadcast, Thorsteinn Már Baldvinsson, the CEO of Iceland's largest fishing and fish

processing conglomerate, Samherji, had stepped aside pending the outcome of an internal investigation into the company's business in Namibia.

The Namibian Minister of Justice Sacky Shanghala and the Minister of Fisheries and Marine Resources, Bernhard Esau, as well as ex-Investec Asset Management Namibia managing director James Hatuikulipi, the chairman of state-owned Fishcor, resigned and were subsequently arrested, while Fishcor's CEO, Mike Nghipunya, was suspended.

Hatuikulipi and Nghipunya represented Fishcor on the board of Seaflower Pelagic Processors (Pty) Ltd, a joint venture between Fishcor and African Selection Fishing (ASF), the Namibian arm of the Angolan based company, African Selection Trust (AST). Johannes Breed of Afro Fishing in Mossel Bay is a director of both ASF and AST.

Breed was unhappy when Wessels reported these facts, especially since Afro Fishing's public participation process to establish a fishmeal processing plant in Mossel Bay was in its final stages. He rushed off to the Western Cape High Court to stop her.

Wessels was only able to obtain legal representation the day before the case was heard, but Judge Desai agreed with her legal team and postponed the matter for three days to enable them to compile a supplementary answering affidavit.

"Nothing I said in any of my online publications that the applicants rely on in their founding papers, carry the message or implications or innuendo that the applicants attempt to ascribe to it in their melodramatic 'interpretation' thereof," Wessels states in the answering affidavit. "The whole application is very untoward bullying and an abuse of the process of court by a financially very strong company bearing down on an individual investigative journalist," says Wessels.

She also referred to the *Noseweek* "breaking news" article, "Fishrot stink wafts into South Africa," saying there was no urgency in the matter as the



Journalist Elsa Wessels

link between Breed and the Angolan company had been in the public domain, published in many other publications long before *Mosselbayontheline* wrote about it in articles about Afro Fishing's planned fishmeal factory in Mossel Bay.

The affidavit says the articles the applicants refer to carried very little of Wessels's own creation or writing and consisted of links to earlier stories in other publications, written by other journalists about the Fishrot Scandal and Namibia's fishing industry in general.

Wessels also disputes that parts of one of the articles were defamatory as alleged by Afro Fishing's Deon van Zyl in an affidavit before court.

"None of the underlined portions, considered individually or together as a whole, can by any stretch of the imagination be stated as defamatory. Alternatively it is true and in the public interest for it to be published. I have nowhere in any of the articles I wrote made the astonishing and hyperbolic statements or accusations or imputations ascribed to my articles by the applicants or any innuendo to that effect."

The full judgment will be released later. – Susan Puren ■



Fish factory in Mossel Bay



Beetlejuice, Betelgeuse, Betelgeuse

HERE'S A FUN IDEA: IF YOU DO A headstand tonight and look towards the east, you can see Betelgeuse (colloquially pronounced Beetlejuice, like the 1988 Tim Burton comedy-horror classic), the left shoulder of the Orion constellation. The star glows red, is fairly bright and if its recent behaviour is anything to go by, it might explode tonight... or in half a million years.

Over the past few months, this red star has been reducing in brightness to the point that avid stargazers can now notice it dimming with the naked eye, like a candle sizzling at the end of its wick. A lot of stars die a dramatic death in the form of a supernova, some of the most powerful explosions in the universe, and Betelgeuse might be well on its way to giving us a good light show.

At a hefty 15-times the mass of our sun, the "Juice" is the James Dean of stars: its excessive use of its fuel gives it a very short lifespan no more than 10 million years. Our sun, Sol, which is halfway through its 10-billion-year lifespan, is far more frugal with its fuel spend.

Stars resist death by cooking hydrogen and helium to produce a tug-of-war between gravity contracting it, and heat pressure expanding it. From earth we see only a warm glow or twinkle of a giant ball of flaming plasma.

Betelgeuse is also quite large, over a thousand times bigger than the Sun. It is a red supergiant that would almost engulf the orbit of Jupiter if it were ever transported to our solar system.

If it were to go supernova soon, as many hope, the resulting explosion would be the brightest object in the night sky. From the safety of earth, we would enjoy the spectacle as it becomes so bright at night that it would cast shadows much like the full moon, and still be visible during the day. And this beautiful sight would go on for several weeks, up to a few

months, astronomers speculate.

But to dash the excitement for those of us who like a good detonation, the star is probably just dimming due to the weird physics of variable stars, which change their brightness periodically. In fact, variable stars are sometimes referred to as "standard candles" – the milestones used by astronomers to measure large distances in the universe.

To further drive the point home with the candle metaphor, it is as if Betelgeuse is a candle taking a little breather, with a flickering of the flame before the candle brightens up the room again.

This sudden dimming is a great opportunity to see astrophysics in action, processes that usually take hundreds of thousands of a typical human lifetime.

A similar explosion occurred in the year 1054 AD, which resulted in the formation of the Crab Nebula, a fantastic sight that you should look up in the Hubble Telescope images

right now. The resulting explosion was not as spectacular for the people alive then, as astronomers expect Betelgeuse's death will be for us or future stargazers.

While the Crab Nebula supernova occurred over 6,000 lightyears away, Betelgeuse is a mere 600 lightyears from Earth, which means if we see it explode tonight, it would have exploded over 600 years ago and took that time to reach us.

Even if Betelgeuse does not explode in our lifetimes, it is still an incredible sight, glowing red, expanding and contracting, flickering into dimness and flaring up in brightness.

No matter how long this tug-of-war between life and death continues, it is inevitable that Betelgeuse will go kaboom and when it does, I hope there will still be intelligent life on earth to see and appreciate it.

For now, our best hope of seeing it do its thing, is for us to look up, make a wish and say its name three times. ■





Find Me by André Aciman (Faber)

DOES TRUE LOVE EVER DIE? – the back cover inquires, and replies ringingly: “One of the great contemporary romances continues.”

We can take that for a no, then, and expect Elio and Oliver, the multi-talented young gods from the 2007 novel *Call Me By Your Name*, to get it on together again, after their heart-rending separation in the earlier novel (and of course in the ultra-gorgeous 2017 movie).

Somewhat unexpectedly, then, at the start of this novel we find ourselves sharing a train compartment in Italy, not with one or both of the lads, but with a middle-aged man and a young woman.

The man, who is the narrator of this section, is Samuel, Elio’s wordy father, whom we only tolerated in the previous novel because he was so understanding about his graduate student, Oliver, banging his son, Elio, on the premises – that is, the family’s photogenic holiday retreat on the Italian coast.

Actually, that romance worked as a novel, because Aciman conveyed the hesitations and presumptions of first love touchingly and convincingly. We believed in the young Elio and Oliver as we never believe in Samuel and Miranda (the young woman on the train), or in the older Elio and his new, much older lover, Michel, or in the now married-with-two-children Oliver.

The problem, I think, is that Aciman aims to expand Samuel’s famous closing peroration in *Call Me By Your Name* into a book-length *Compendium of Profound Thoughts*. The characters prose endlessly and platitudinously about Life and Fate and Time, while smiling obsessively (after the first five pages I stopped counting the number of times they smile) and telling each other how wonderful they are. (“You could just be the dearest person I’ve ever known,” Michel tells Elio, and much more in this vein.)

Father and son share the ability to fall in love totally, hopelessly, eternally with someone within five minutes of meeting them, and having the other person fall

in love with them equally totally, hopelessly, etc. They also have a common penchant for age difference, Samuel being twice Miranda’s age, and Michel twice Elio’s.

Samuel (whom Miranda addresses as Sami, though it’s not clear how her pronunciation differentiates this from ordinary old Sammy) and Miranda, upon descending from the train, go shopping, burdened with his jacket, her leather jacket (“Prada, most likely”), his duffel bag, her backpack, a box containing a birthday cake (which, magically, started its journey in Florence as profiteroles) and her dog on a lead.

They proceed to add to this a whole fish, some scallops, a bunch of spinach, a bunch of gladioli, two bottles of wine and four persimmons. Sweaty as this burden must render them, they end up bathing in each other’s bodily fluids within hours of their meeting (“No shower, no brushing of teeth, no mouth-wash, no deodorant, no anything”, Miranda insists).

By contrast, the more hygienic Michel, upon the consummation of his whirlwind meeting with Elio, orders the young man to, “Shut your eyes and trust me. [...] I want to make you happy”, then soaps and shampoos him with chamomile: “he palmed my face gently with soap and then asked if he could shampoo my hair, to which I said of course he could”. Of course. Happiness is chamomile shampoo.

There is, apart from all the talk, a tremendous amount of touching of each other in both relationships, usually tagged with “I liked it that...” or “I loved it that...” – an obsessive repetitiousness, like the manic smiling, that probably owes more to bad editing

than to a desire to reassure the reader that the characters are enjoying themselves. But then, the talk is generally so gloomily portentous that the author may feel the need to lighten things up.

This being Aciman territory, that is, an American snob’s Europe, the settings are gorgeous and expensive. Sami and Miranda cavort in cosy little restaurants in Rome, Elio and Michel frequent a little Parisian bistro of Michel’s choosing: “The place was indeed small, just as he had said, but it also looked very exclusive. I should have known. His navy Forestière jacket, the large, flowing printed scarf, and the Corthay shoes were dead giveaways.” Of course, Elio’s brandname-savvy is equally a dead giveaway. (According to Google, Corthay shoes cost anything from R20,000 to R32,000.)

In the bistro the new lovers share another epiphany: “Then I did something that came to me totally impulsively. ‘Order for me,’ I said. I loved the idea, and it seemed he loved it too.” Perhaps a foody version of call me by your name? At least this time we are spared a peach-penetration.

The third section of the novel is narrated by Oliver, now living temporarily in New York with his wife. He lusts after two guests at a party, one male, one female, but he knows, and we know, that they are really stand-ins for Elio; after all, as the cover asks, “Does true love ever die?”

I won’t spoil such suspense as this novel offers by divulging the ending. I could mention, though, that it was apparently an after-thought, added after proof copies had been circulated to reviewers.

In fact, the whole novel, with its editing lapses, its glib profundity and its shallow characterisation, speaks of haste. It was published on 29 October. No doubt author and publisher wanted to catch the Christmas market. ■



FIND ME
by André Aciman
(Faber)



The street quacks may be right

YES WE LAUGH AT THEM AND CALL them religious nut jobs, Bible thumpers or just plain crack-heads or alcoholics. But ponder this for a moment: these people can be found in nearly every city from Jozi to New York and they all have one message: The End is Near.

And why do we laugh?

Well because the average Joe – you know, the most of us who still claim to have our wits, common sense and all that would describe us as fairly sane – cannot fathom the thought of the world coming to an end or a catastrophe virtually wiping out mankind. After all, we reason, life's daily grind is more than enough to worry about.

Hey! I'm afraid we all have to take another look, rethink whether these so-called quacks, messengers of doom, are really unemployed extras from the classic movie *"One Flew Over the Cuckoo's Nest"* or maybe, just maybe, their street corner Bible-thumping "rhetoric" is actually upon us and the real quacks are the likes of US President Donald "the twit" Trump, who are in denial about climate change, which is as real as MTN's questionable business practices e.g. screwing the South African consumer on excessive data charges and "bankrolling terrorism".

Unless you have been in a coma for the past 10 years-or-so you will have noticed that we are not just facing climate change, we are facing what I would like to describe as climate "torture".

Man oh man! We are now facing record-breaking droughts, only to be compensated with flooding rain storms that are accompanied by winds so devastating they have left some of our communities resembling a tornado-stricken town in America's heartland.

And I have resorted to stop calling my province Mpumalanga (rising sun) and instead refer to it as Shisalanga

(burning sun). I used to get irritated by people complaining about the heat and shut them up with a snooty remark like, "you complain as if you grew up in Canada." No more – I complain along.

So, my question: why are we here in Mzansi seemingly quiet about this obvious impending doom whilst the rest of the world is up in arms and saying it loudly? Are we not the masters of constant protests?

So serious is this climate matter



it was the New Year's message from the Pacific Island nations – and that includes New Zealand – who were the first countries to ring in the New Year.

Now, clearly, with rising sea levels those Pacific Island nations could end up under water. Barring the Springbok rugby team, who else could possibly take pleasure in that? Okay, bad joke. The subject is too serious for that.

Here in Mzansi we are more concerned about load shedding than we are about the even bigger problem: our dependence on our coal-driven power plants.

We need to shed our dependence on the use of this heavy air pollutant and play our part by reducing

Mzansi's carbon footprint.

One would think that we would use the Eskom fiasco to be, by now, seriously looking into environmentally friendly alternative power sources.

Yes, we are talking about them but certainly not seriously looking into them. Heck, with the amount of money that is constantly being pumped into and stolen from Eskom, we could most probably afford to pump some of that into kick-starting the alternative energy development process.

And please, oh please, not some nuclear deal that could see some of our morally bankrupt politicians becoming honorary members of the Russian oligarchs' club.

Funnily enough, or I should rather say sadly, a promising programme that saw the government's RDP houses being fitted with solar-powered geysers, inexplicably faded away – at least that it is what this writer has observed in Barberton.

A simple inquiry through current RDP contractors as to what happened yielded no answers. But knowing how our tender process is treated like a full-cream cash cow the programme was probably milked like the infamous Eastern Cape Esidemeni Dairy Farm project.

But at least the programme was an indication that there is political will out there somewhere – something we should applaud and encourage.

Remember the warnings of the Bible thumpers!

● According to the World Economic Forum's recently published *Global Risks Report 2020*, economic confrontations and political polarisation will rise this year, as collaboration between world leaders, businesses and policy-makers is needed more than ever to stop severe threats to climate and the environment.

The African continent will be hardest hit by climate change as it is more vulnerable than any other region to changing weather patterns. – Ed. ■



Coins for the car guard

P IET STRUTS THE STREETS OF Germiston barefoot and with his shirt open, except for one button near the bottom which he closes up lopsided. This is the way he held sway over the beaches of Margate back in the day. Today, at 50, the strawberry blonde mane is gone, as is the gold tooth he lost in a bet, but his intelligence and cunning linguistics remain as ready to do service as when bevies of beach beauties kept him maintained in exchange for a taste of his skilful tongue. People always thought he would become a lawyer or a professor. Maybe he still will, but for now, he is the local handyman – when he feels like it.

“Buy me a drink, will you love?” Piet says to me; “I gave my last coins to a car guard.” The barman dutifully complies. “Whoa! Zama, stop!” I exclaim. “I am not paying for Piet’s drinks again today. Not happening!” Zama pours the vodka back into the bottle and shrugs: “Sorry Professor. I’m not allowed to give you any more till you have paid your tab.

“Car guard... really?” I say to Piet. He grunts and surveys the rest of the pub. The place is empty, except for a few voices I hear coming from the courtyard behind me. Piet gives them a quick once-over, decides I am the better prospect and takes the seat next to me.

“Yes, a car guard. You know the one,” says Piet. “He combs his Brylcreem side-part. Dresses like he is going to church in 1984, instead of hustling in the parking lot at the Pick n Pay. A bit heavy-handed on the Mum for Men.” I say I do know the guy and that I sometimes give car guards R20 at a time because they at least show up for 12 hours of work every day.

“Work?” snorts Piet: “He is basically a beggar with neon trimmings!”

Piet and I disagree on this point. To me, car guards or

window washers are like small businessmen, with public spaces as their offices. We should treat them with respect.

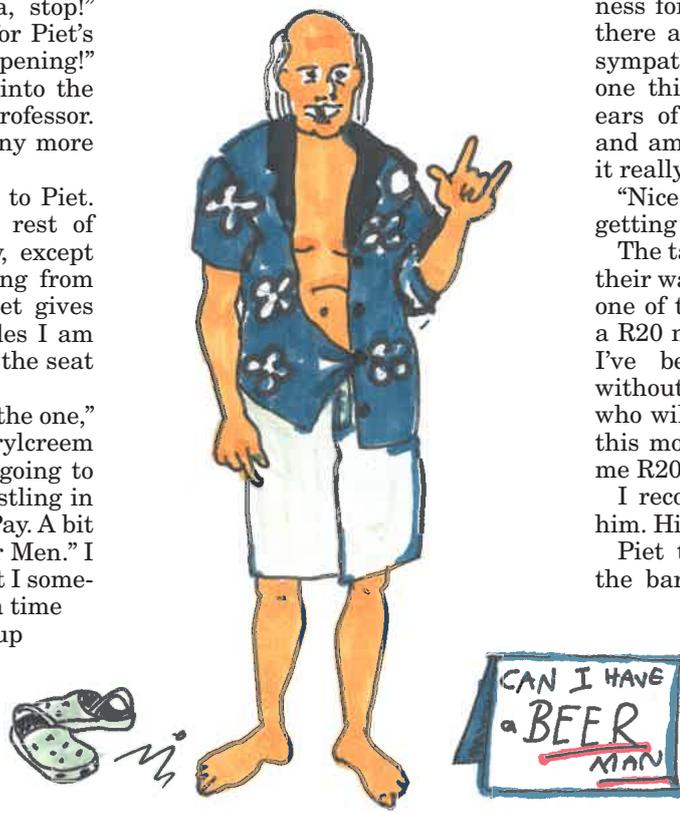
“Entrepreneurs, all right,” says Piet. “Guilt Entrepreneurs.”

“What does that mean?”

“He’s making you feel better about your own privilege. That is what he is really trading in – guilt assuagement. Do you know what he does with that money, sweetheart? He marches straight across the road, comes in here and buys a beer!”

“It’s his money, he can do with it what he wants,” I reply.

Piet swivels the barstool around, leans his back against the counter and spreads his arms to the sides, like Jesus.



“Let me get this straight,” says Piet: “You will give a random stranger enough money for a beer, but I, who have been providing you with fellowship facilities for many years, have to remain parched?”

“Ag please,” I retort. “You can’t now also open a Guilt Entrepreneur business here. The market is already flooded. Anyway, what you are doing is extortion.”

“Eliminate extortion – just say ‘yes’.” “No! It’s my money, I can do with it what I want.”

Piet jumps off his chair. He unfastens the crooked button and does it up again, straight. In a voice loud enough for the whole suburb to hear, Piet speaks to himself: “There are times in life when a man finds himself alone. When he does not ask for forgiveness for his sins, because God knows there are many. He does not ask for sympathy or salvation. He asks only one thing...” Piet knows he has the ears of the people in the courtyard and amps up the volume a notch: “Is it really too much to ask for a beer?!”

“Nice try,” I say, “but you are not getting a cent from me.”

The table from outside quietly make their way past us. Just before he exits, one of the men pauses. He gives Piet a R20 note. “Here you go, my brother. I’ve been where you are; alone, without shoes, without hope. No one who will listen. Take it. I was blessed this morning. One of my clients gave me R20.”

I recognised that guy before I saw him. His Mum for Men preceded him.

Piet thanks the man and motions the barman closer: “Zama, I believe I will have that drink now.”

He takes a deep draught, smacks his lips through his missing tooth and winks at me: “It’s nice to see trickle-down economics working so well in Germiston.” (Thanks to Rhodes Economics lecturer Ron Weissenberg). ■

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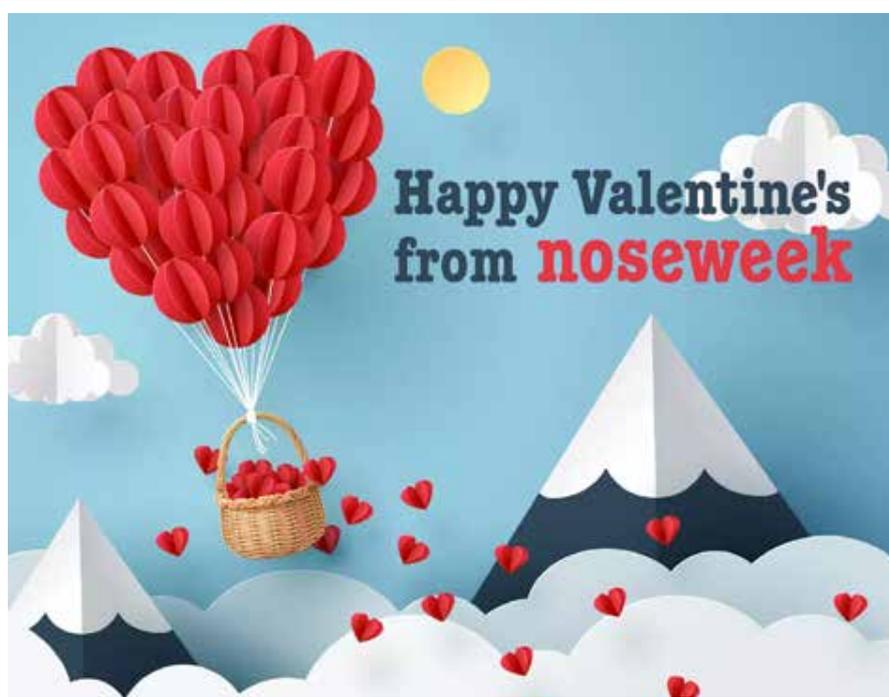
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