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TAX? MOI?
FAT CHANCE!

How come Brett Kebble never gets assessed for tax?



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DECEMBER 2004 JANUARY 2005

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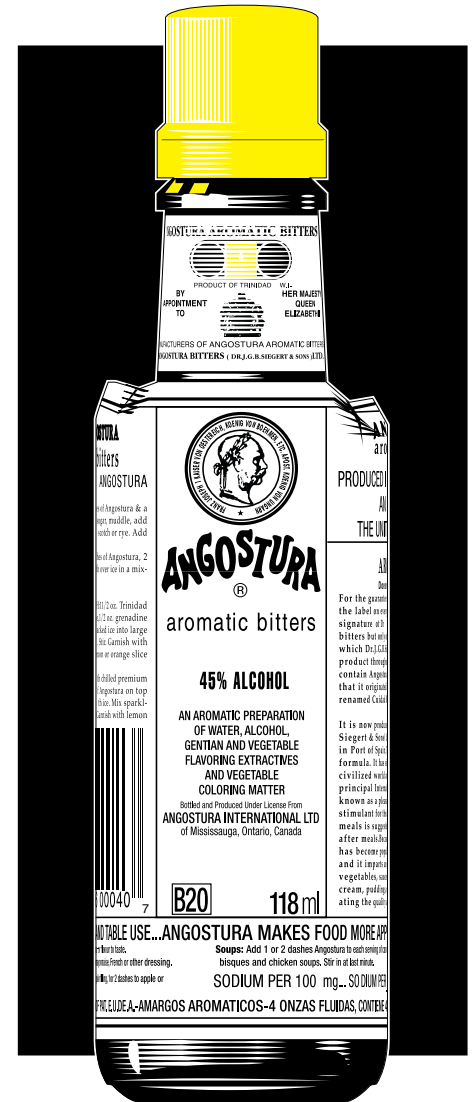


TAXES? MOI?
FAT CHANCE!

Tycoon and patron of the arts Brett Kebble has not paid income taxes for over a decade. What's up with Sars?

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NW/WM 01

Taco Kuiper

You are entitled to your opinions about Taco Kuiper's character; as his minister and one of his confidantes, I reckon I know more of his virtues and vices than you.

When it comes to facts: some 92 people signed the funeral register, not 60 as you reported, and each [therefore] received a gift of R11,000, not R16,000. I was interested to hear some say his action was immoral – on what ground I cannot imagine. No one knew about this gesture until after the funeral. Some

Bullshits and woolpullers

Thank you for the story of the Baron and Baroness von Bullshit (*nose62*). Why are so many so eager to grovel? However, to the true purpose of my letter: on going through Government Gazette 26915 of 29 October 2004, I noticed that the Registrar of Labour Relations proposes to cancel the registration of the South African Fellmongers and Woolpullers Employers' Association.

Surely, as a crusading journal you want to investigate the

an order entitling him to seize the Baroness' possessions in lieu of R454,865 in unpaid rent [Abe allowed the rent to go unpaid for eight months? What's up? – Ed]. The order was granted and the Sheriff set forth for Rhodes Drive, but Swersky – a most remarkably kind man – relented at the last minute and agreed to give the Baroness still more time to settle."

Had you called me, I would have been able to confirm that prior to circulation of your aforementioned publication the full sum due to me in respect

when *noseweek* arrives no one is allowed to disturb me.

I devote all my energies to advancing the cause of polio sufferers and survivors in Africa. I can only liken it to *noseweek's* obligation to the truth. Please never give up on the truth... there are so many of us who rely on it and through it realise we have not made a mistake in staying in the land of our birth.

Cilla Webster
Umkomaas

Nose in big cover-up

I've been a *noseweek* reader since issue 51. I have noted that in issues 53 to 58 Len Ashton appears as "Censor-in Chief". In 59 and 60 he becomes "Cover art direction", and in 61 he reverts to Censor-in Chief. Why?

I have also noted that in every issue (51-61) the ANC comes up in some less than meritorious way; they appear to be a bunch of self-serving, swindling scoundrels who don't give a stuff about the people they purport to serve.

But I have rarely seen any response; a bit of bluster but nothing of any substance. Why? I assume you send a complimentary copy to the president of the ANC so that he can attempt to keep his members in order?

Keep up the good work.

T A Cropper
North Riding

Cover art direction is the job Len Ashton does most of the time. The title Censor-in-chief better reflects our awe of his sense of good taste.

We are pleased to advise that The Presidency subscribes to noseweek. We suspect there might be more response to our reports than you imagine. But should President Mbeki have decided, as you suspect, to leave it to us to keep his – and his opposition's – wayward members in order, we shall continue to do our best. – Ed.

Exposé impact?

I have subscribed to *noseweek* from the very first issue in the 1980s. Of late this has led me to wonder: have all your exposés of corruption, cheating, stealing, lying, harassment, fraud, etc., ever made a difference, in the sense that the exposed wrongs have been righted? It seems to me that most South Africans have no shame or sense of "face" as it is known in the Far East.

Instead it seems it is regarded as manly to brazen it out when caught. In addition, there seem to be few prosecutions, especially

What do fellmongers and woolpullers do? Are they in parliament?

even said they were so disgusted they would send the cheques straight back. The trustees are still awaiting the first returned cheque. Funny that!

Dr Alan Maker

Senior Minister, St. Columba's Presbyterian Church, Parkview

With regard to your claim to superior knowledge of his virtues and vices, we trust, for the sake of his soul, that you are right. As for Taco Kuiper's unusual bequest to those prepared to sign a register at his funeral: it was undoubtedly in poor taste, but certainly not immoral. There is even a bit of wicked humour to the bequest – and what can be wrong with that! On the question of bookkeeping, we bow to your superior knowledge. – Ed.

wrong being done to fellmongers and woolpullers, whether they are barons or not? (What do fellmongers and woolpullers do? Are they in parliament?)

DR DL Craythorne

Oakridge, Cape Town

A fellmonger is a dealer in sheepskins, assisted by his associate the woolpuller, who knows how to separate the wool from the pelts. By the sound of it, we could indeed do with some of those in parliament! – Ed

Honestly, Abe!

In your report on the Baroness von Maltzahn you state: "Needless to say, something went wrong with Abe's curious deal, and last July our favourite attorney was in court, seeking

of outstanding rent and rental up to the end of November 2004 had been paid.

I trust that you will put the record straight.

Abe Swersky

Cape Town

All you quote us on is true. It seems that when she heard that noseweek was on the case Baroness von Maltzahn rushed to pay nearly 12 months arrear rent. A measure of gratitude to noseweek would not have come amiss, Mr Swersky. – Ed

Advertise!

Although a long-time supporter of *noseweek*, I thought we were taking a chance advertising in your publication. Imagine my surprise at the response to our ad in *nose62!* Stacks of phone calls – bods wanting to know who we were (that brought me down to earth with a bang!), men phoning ordering gift vouchers for their nearest and dearest and loads of totally new customers we have never seen before (quite a classy bunch actually) with one subject on their ruby lips: Had I been caught by the Von Bullshits? Certainly not – I'm a woman of quality; I don't serve riffraff.

Jenny Le Roux
Habits, Claremont

True Grit

I want to thank you for one of the finest magazines in the country. For some three-and-a-half years I was blind and received *noseweek* through Tape Aids for the Blind, then for some reason my sight came back.

When, more recently, I became bedridden I asked Tape Aids if I could start using their service again because I am bedridden through polio and my husband has hysterics because

GUS



"Memory is a fickle friend, Imagination's truer."

of politicians or civil servants, Yengeni excepted.

So-called investigations take forever, people forget and the investigations quietly die. You get caught, perhaps lose your job – but you walk away with the loot. Or am I wrong? What kind of scorecard is there?

Curious Kimberley

“Those who steal from private individuals spend their lives in stocks and chains: those who steal from the public treasure go dressed in gold and purple.” – Cato the Censor

Declining standards ...

As much as I am happy to receive *noseweek* on a more regular basis, please don't allow that to result in a lowering of standards: As much as I enjoy wine, a column devoted to it does not belong in *noseweek*.

Stories/investigations are initially published but are not always followed up (eg the one where the truck owners were diddled by Stannie).

Articles about fraud, etc. by government and companies far outweigh those of so-called celebs like the Von Maltzahns. These might be good skinner stories but could be summarised in a page.

Vic de Valdorf Muizenberg

*A one-string instrument is often called a drone; heaven forbid we should be. Variety is the spice of life – and we're all for it. More wine, women and song, we say! Our wine column is a pleasure to read and, as you would expect of *noseweek*, an eye-opener. As for skinner, not only do most of us love it; has it escaped your notice that there's more to our skinner than, maybe, immediately meets the eye? – Ed.*

SA Eagle

It is always with much amusement that I read your articles about South African companies doing the dirty on customers – but now after a few years of *noseweek* I am becoming alarmed that this seems to be a

disease afflicting a large number of our corporations.

As I read the SA Eagle article (*nose62*) I quickly checked that none of my insurance was with this less-than-august company. Here's my suggestion: print a monthly list of all the companies you have exposed committing dastardly deeds so that your readers can stay away from these guys forever. Expose and destroy!

Ed Goetsch Wilderness

It's nice to know that at least some of our readers get the drift! It's called democratic empowerment: when you know who the crooks are, you know who not to vote for – and who not to do business with. – Ed.

Flying colours

As a subscriber to *noseweek* and an Insurance Broker I feel that your campaign against S A Eagle is unjustified. My experience of over 40 years dealing with S A Eagle has been that they have looked for reasons to pay claims, unlike some other Insurers who do the opposite.

S A Eagle paid a claim of R1,200,000 that was not covered in terms of the policy wording, ex gratia, for a company where I was a consultant.

It is interesting to note that in your story when Hynek put in his claim, his broker “abruptly resigned”. This is the time that most clients need and use their broker [Quite! – Ed] and it must have been very serious for the broker to take such steps.

I and all my colleagues will continue to support S A Eagle. I will also continue my subscription to *noseweek*!

David Laing FCII, Illovo

We are talking about the last four years at Eagle. Our story suggests a possible reason for the broker's abrupt resignation: he was the son-in-law of Hynek's hostile former business partner – the one who stood to benefit from the closure of Hynek's business! While we respect your

sentiment about an old business relationship, our other readers will judge our stories on the facts. Now see page 14. – Ed.

Capricorn Beach

Thank you for your article on the Capricorn Beach development. This is not an isolated case of maltreatment by developers in the area. There are other adjacent housing projects which have suffered similar fate. Clearly there are a number of developers who are taking people for a ride and not providing services set out in the documentation.

What worries me particularly is the lack of intervention by the city officials. Muizenberg has a long experience of neglect by the building services officials at Plumstead who fail to inspect and to enforce standards.

The developer in one case signed contracts with purchasers that lay down seemingly satisfactory conditions for the creation of residents' powers, but the administration of the residence association remains with the developer.

I have intervened on several occasions but the developer seems to get away with manipulation.

I would like to encourage *noseweek* to look into these contracts in greater detail and to nail the officials who are not doing their jobs.

Ben Turok MP Parliament

Thanks

I would like to thank *noseweek* for its articles in August, September and October exposing the bankruptcy of our legal system. I received numerous messages of support including a call from a former attorney of mine who unfortunately is no longer in Cape Town but who sent me a gift of R5,000 to keep me going. I would also like to thank the kind reader who gave me a year's subscription to *noseweek* but whose contact details I do not have.

Richard Benson Fish Hoek

Write a limerick and win a Sonnet

Each month *noseweek*, with Pen & Art, is giving away a Parker Sonnet fountain pen worth about R1000!) for the best topical limerick submitted to the magazine.

Send your sanctimonious, scurrilous, rude, amusing or insightful scribbles by email to noseweek@iafrica.com; by post to Box 44538, Claremont 7700; or by fax to (021) 686 0573. Entries must be received by Friday 17 December and must be headed 'December Limerick Competition'

The winning entry will be published in the following month's edition of *noseweek*. The editor's decision is final.

And this month's winner is (da-da!)...

Said sartorially elegant Shaik

"It would be a quite grievous mistake

To credit the rumour

That big-spending Zuma

Slipped me part of the armaments cake".

Steve Driver Gardens



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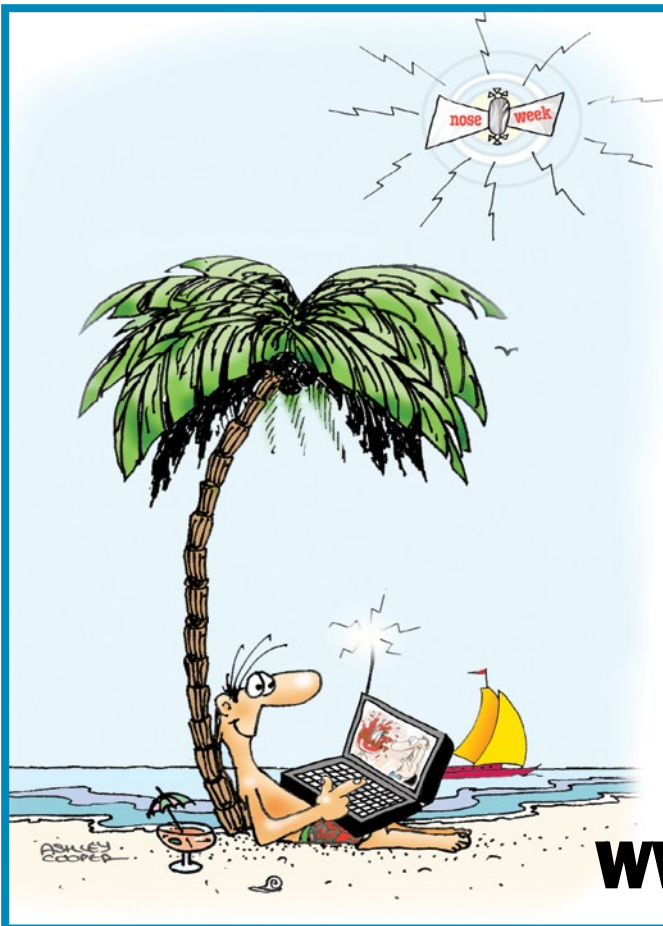
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Render unto Sars

High-profile businessman and mining magnate Brett Kebble makes much of his commitment to the new South Africa, the transformation of society, the need for greater equity, the upliftment of the previously disadvantaged... but he never pays his income tax.

Kebble could pay what he owes the taxman each year and still have plenty left over with which to make additions to his already somewhat alarming collection of gold and diamond watches. Not to mention his collection of expensive houses – 10 so far, and counting.

But he has not paid a cent in income tax since 1993. Instead, he has lied and schemed in order to evade what is a clear legal responsibility – and, surely, a moral responsibility too?

How is it possible for someone with such

a high income – not exactly shy of the limelight – to simply not pay income tax? That is the central question posed by our cover story this month. What's up at Sars? The problem appears to be at such a high level that a public explanation is called for – hence our exposé.

For Brett Kebble the question also remains – why? He is an intelligent man. There are some very real achievements on his business CV. He even has a sense of humour. So why not simply pay what he owes to the taxman? Has the thought ever occurred to him?

The answer is not simply a question of greed. It's also a reflection of a mania that grips our society in which the ruthless pursuit and pointless accumulation of money – often by those who, like Kebble, are already wealthy – is all too prevalent.

Joie de vivre

This is a good time to remind ourselves of that most human and Christmassy of values: *joie de vivre*. As JM Barrie – the British writer (author of Peter Pan) said – “If you have it you don't need anything else; and if you don't have it, it doesn't much matter what else you have.”

We've had plenty of *joie de vivre* in the

noseweek offices this year, thanks to our wonderful readers and supporters. It's been a great year; exhausting but interesting and rewarding.

There's lots exciting ahead. In the meantime we're going to have a very merry Christmas – and wish the same to you.

The Editor



“Season's Greetings' looks O.K. to me. Let's run it by the legal department.”

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HOW COME MR KEBBLE NEVER PAYS TAX?

Multi-millionaire, patron of the arts, fancy car-owner for all seasons and watch wearer of discernment, Brett Kebble mysteriously appears to have avoided handing over dosh to Sars for over a decade. So, what's cooking at the revenue service?

A curious document caught the eye of a Revenue Service inspector during a visit to a Southern Cape bank in April 2000.

Brett Kebble had handed a statement of his assets and liabilities, as at March 2000, to the bank in support of an application for finance for a project near Knysna. In the statement, Kebble claimed to have personal assets worth R88-million. They included:

- 10 houses in upmarket suburbs (two in Houghton, three in Bishopscourt, one in Sandton, one in Newlands, one in Claremont, and two in Boulders, near Simonstown), worth a total of R44-million (Today, they would, of course, be worth a great deal more.)

- Seven luxury motor vehicles, plus two boats, worth a total of R8,8m.

- Shares worth R26m

- Artworks valued at R5,1m

- Jewellery worth R2,6m and

- Furniture very conservatively valued at “plus-minus” R1-million. [So little, spread over so many mansions?]

His listed liabilities totalled a mere R30-million, giving him a net value, according to the submission made to the bank, of R55-million.

This intrigued the Sars official because, when Brett had last bothered to render an income tax return (for the year ended February 1993 – eight years earlier), he had claimed in that year to have earned only R64,803, and had valued his assets at a mere R240 000!

Yes, Brett Kebble hadn't submitted tax returns for seven years – and no-one from the Revenue Service had bothered him about this. Some people have friends in all the right places!

But, reckoned the now curious taxman, Kebble must in the meantime have been earning a helluva lot of money on which he ought to have been paying a helluva lot of tax.

All those shares Brett had listed in his application to the bank were mostly what one would have expected: JCI (180 million shares which he valued at R5,3m), Consolidated African Mines Ltd (2,9m shares valued at just on R4m) and Rand Lease Properties (2,8m shares valued at R1,7m). But then there were two less familiar holdings: he claimed to own 35% of something called BNC Investments (Pty) Ltd – he valued his stake in it at R14.4m – and an interest in “Kebble / Buitendag Investments” at R1m.

Back in Pretoria the taxman found that BNC Investments (Pty) Ltd had for years been rendering “nil” income tax returns,

claiming that the company was dormant. Investigation now revealed that BNC was, in fact, the vehicle through which the Kebble family held most, if not all, their major shareholdings and mining interests. (Brett's stake in BNC would be valued in a later statement of assets and liabilities at a whopping R180-million.) Tricky Mr Kebble!

Quite apart from what the list told the taxman, it also reveals Brett Kebble as a man with a taste for excess: easy come, easy go. His cars included a 1999 Land Cruiser Cygnus (listed at R540,000), a 1999 Mercedes SL600 (R1.2m), a 1997 Porsche 993 Turbo (R1.15m), a 1998 Ferrari 550 Maranello (R2m), a 1999 Ferrari 355 F1 Spyder (R1.88m), a “smoky silver” Mercedes S500 (R755,000), and a 1999 Maserati (for a mere R971,500).

His jewellery list included serious diamonds, but it is Brett's collection of men's fancy watches that flabbergasts: an Audemars Piguet perpetual calendar watch for R260,000, a Patek Philippe watch for R190,000, a Jaeger le Coultre watch for R140,000, a Vacheron Constantin diamond dress watch for R280 000 and a Pignet automatic for R85,000.

Inspired by his discovery, the taxman ensured that a demand was sent to Brett immediately to render all outstanding income tax returns. In response, Kebble's Cape Town tax consultant Mr Vine – in his customary lackadaisical manner – set about submitting the odd return. By the end of 2000, all had been submitted – but most were incomplete and unsigned.

Some of the returns were returned to Kebble with the request that he complete them properly and sign them personally. The revenue men were clearly planning to nail him on any incorrect information supplied. In addition, they insisted that he submit a complete and certified list of his assets and liabilities for each tax year.

And in October 2000 Brett was summonsed to appear in court on 27 November 2000 to answer specific questions about his tax affairs. He failed to appear at court and a warrant of arrest was issued.

By the end of February 2001 he had replied to all the queries and rendered his 2000 income tax return. The warrant was withdrawn.

The taxman followed up with demands for Kebble to provide detailed statements of assets and liabilities and a written declaration of interests in public or private companies, close corporations or trusts.

He also wanted a detailed analysis of Kebble's income. (Brett's tax consultant, Mr Vine, had filled in only a single

return.) Despite various reminders, by the end of September Kebble had still not responded. In October he provided the revenue office with a written declaration confirming that the statement of his assets and liabilities submitted was true and correct – but it was signed by his tax consultant, not by Brett. The taxman wasn't having any of that old trick. He demanded that Kebble sign it personally. He did finally sign it in November 2001.

The investigators were by now satisfied they were in a position to bring a variety of criminal charges against Brett Kebble.

Inter alia, there were conflicts in his own various declarations; the Revenue Service's own records revealed that he had interests in 75 businesses in his private capacity alone – but this was not reflected in his declaration of assets.

Curiously, while he claimed to have no interests in companies or share dealings, he did claim the deduction of substantial amounts in expenses relating to share dealings.

The income he declared for the years 1994 to 2000 amounted to only R 2.2m, yet his increase in asset value approached R200-million!

In that period he had been CEO of Western Areas Ltd and the entire JCI group.

A so-called Suspicious Activity Report was filed relating to Brett (R B) Kebble and his father, Roger (R A R) Kebble. At that stage Brett was suspected of owing no less than R40-million in outstanding taxes.

Investigation by the Revenue Service's Special Investigations Unit of RB Kebble commenced in January 2002, and was given case number 196/2002. It was to cover the tax years 1994 to 2001.

Kebble continued to display scant regard for the Revenue Service. They still had to issue summons for each tax return – and he would then render a haphazardly completed form which was, as often as not, unsigned. They not only stated that he had not earned taxable income – he actually appeared to be claiming all his personal expenditure as “expenses”, and these



Judge Willem Heath

To next page

Brett's tax break

From previous page often exceeded his declared income, so that he claimed a personal "assessed" tax loss!

In mid-2002 he once again was summonsed, under case number 5699, for failure to render an income tax return for the year ended February 2002. The trial date was set for 8 October 2002.

By now, the Revenue inspectors had a shrewd idea how Brett was disguising much of his income. He had taken "loans" – the inspectors traced about R25m-worth – out of all his many companies. He listed them in each year's trial balance submitted with his income tax returns. In the books of the companies, they were listed as directors' loan accounts. But he never repaid the loans. At a certain stage the companies were put into liquidation. No attempt was made to recover these "loans". Instead the liquidator would declare that the company had neither assets nor liabilities. The company income tax return, too, reflected no assets or liabilities, and was declared to have been "dormant". They had been routinely assessed as such by the Revenue Service in the past.

Another ruse: he would bill all the mining companies of which he was a director for substantial director's fees, adding 14% VAT. But he was not registered for VAT and did not pay the VAT over to the Revenue Service. He simply pocketed it.

In the first week of October 2002, SARS special investigators started serving notices in terms of section 74 of the Income Tax Act on various of the major Kebble-linked companies to provide documentation relating to their dealings with Brett and Roger Kebble. Within two days, such notices had been served on JCI, Durban Roodepoort Deep, Harmony and JCI Gold.

And then the inspectors received an urgent call from Ivan Pillay, the Deputy Commissioner for Inland Revenue, calling off the project immediately and summoning them for an urgent meeting in his office.

Brett Kebble had called to protest and was sending advocate (ex judge) Willem Heath to see the revenue boss.

When Brett Kebble calls, it seems, Mr Pillay jumps. Within no time at all, Mr Heath and Mr Pillay had engineered the collapse of the enquiry.

[To be continued. In our next issue: What the ex-judge, once famous for perceived bravery and moral integrity, was prepared to do for Brett Kebble in return for a fabulous fee. And we have a closer look at Mr Pillay, too.] ■

Who framed Roger?

In December 1999 Durban Roodepoort Deep Australasia, a subsidiary of JSE-listed gold mining company Durban Roodepoort Deep (DRD), paid A\$2.5 (then approximately R10m) as a non-refundable deposit on the purchase of a bauxite mine in Venezuela from a company called Bauxite Investments.

At least that's the way the payment was entered into the company's books.

On the 15th December Paul Main of Dayspring Holdings Ltd (a company with a close but not very clearly defined relationship to DRD) sent a fax to Charles Mostert, the financial director of DRD and CEO of DRD Australasia, reading: "Dear Charles, Enclosed, as per our agreement, is the signed Letter of Agreement with Bauxite Investments Ltd. Please sign this and fax back to me and send the funds to Union Bank of Switzerland, Attn C. Abplanalp, 7, Ave J-J Rousseau, CH – 2000 Neuchatel, Switzerland."

On December 17 Mostert instructed the Commonwealth bank to transfer the funds from DRD's call account with the bank to the UBS account named by Main.

On the face of it, this was all quite kosher.

But, in reality, there was no Letter of Agreement and no deal with Bauxite Investments, and the payment of the funds had nothing to do with the purchase of a bauxite mine.

The real purpose of that R10m payment was contained in another fax – this one dated 16 December – sent by Mostert to Main in London and headed as follows: "Dear Paul, herewith a signed copy of the agreement and distribution details"

The distribution details Mostert sup-



Former DRD chairman Roger Kebble

plied consisted of the bank accounts of five DRD directors – plus John Stratton, a consultant to DRD, and Main – and a breakdown of the amount that was to be paid to each account.

Top of the list: Roger Kebble, then chairman of DRD, who was down to receive a tidy R1.8m.

Mostert himself was on the list for R3.4m. The two non-directors, Stratton and Main, were down for R1.7m and R940,000 respectively.

Also on the list (for R400,000): one IL Murray.

Oh dear.

Ian Murray is the man recently appointed to the post of chief executive officer at DRD by Roger Kebble's successor as chairman, Mark Wellesley-Wood, who has made much of his determination to "clean up" DRD, and to recover money improperly taken, he says, by previous directors.

The phony bauxite investment followed hard on the heels of another questionable DRD transaction. In the previous month – November 1999 – Dayspring Holdings had issued three invoices to DRD, at the request of Mostert, for "corporate finance services", for A\$325,000, A\$752,000 and A\$343,000 (a total of about R5.5m). That request also came with special "distribution details". In this case Mostert and Stratton both received approximately R2.4m, and Main the remaining R800,000 or so.

During the following March, Mostert asked Main to issue another Dayspring

invoice to DRD – this one for “placement fees” of R900,000. Payment was again channelled through Dayspring to DRD directors. Murray and DRD chief executive Mike Prinsloo received R160,000 and R340,000 respectively, paid to offshore bank accounts in Perth. Roger Kebble’s cut was R400,000 – paid to account: RAR Kebble, Barclays Bank plc Personal Banking International (Jersey), Account No: 20449030533157. (What the taxman might think of all this we couldn’t possibly say.)

Main had to be content this time with just R90,000. Still, that’s not too shabby for sending a couple of faxes.

close corporation called Skilled Labour Brokers. As the world now knows, SLB turned out to be owned by Roger Kebble, and he is facing criminal charges of fraud and contravention of the companies act relating to those payments. (Kebble denies any wrongdoing saying that he did not personally benefit from the payments.)

In May 2000 Wellesley-Wood joined the board of DRD from the UK as non-executive chairman, at the behest of a major UK-based shareholder. Immediately he launched an investigation into



New DRD chairman Mark Wellesley-Wood

In a circular to shareholders in April 2003 Wellesley-Wood reported that the company had identified R22.8m in wrongful payments to “certain of its officers and others” that “occurred or originated before the end of the 2000 financial year”.

DRD seems to have adopted the old boy approach to its errant directors: “Pay up quietly like gentlemen, and we’ll let bygones be bygones”. Hence, we presume, Murray’s redemption. (We wanted to ask Mr Murray if he had repaid any money to DRD, and if so how much, but he was away on leave. We’ll keep trying.)

Obviously, however, DRD has been unable to make nice with the Kebbles, Charles Mostert and John Stratton, and is suing all three in connection with payments the company considers to have been improper.

Brett Kebble has accused Wellesley-Wood of trying to frame Roger, and of being “a ‘profoundly unpleas-

To page 28

An Australian judge sent the case to trial, describing the transaction as **‘strange’**

There were many other similar payments by DRD at this time - ostensibly for business and professional services of various kinds - where the money found its way into personal bank accounts belonging to the directors or their associates. The most notorious is the series of monthly payments totalling R6m to a

rumoured improprieties. Shortly thereafter Mostert resigned. Roger Kebble stepped down as chairman in mid-2000 and in early March 2002 his executive role was suspended by the board, and he was barred from company premises. Later that month the board accepted his resignation.

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Dana Lazerson was livid to find she'd been bumped down to SAA's cattle class to make way for the airline's acting CEO

Voyager: more hot airways

Dana Lazerson prefers to fly Business Class. In fact, she can't remember when she last took an international flight in economy class – that is, until she took SAA flight 204 from New York to Johannesburg on October 17.

Lazerson, daughter of the late Ivor Lazerson, Johannesburg attorney who made divorce his business (see *noses* 46, 47, 56) owns her own clothing design label, Dana L Designs. "I only use the finest fabrics from overseas, which means I land up travelling at least six times a year," her powerful husky voice booms across the office. She's been loyal to SAA for hundreds of thousands of miles.

Lazerson was off to Los Angeles for her sister Lindy's wedding at the beginning of October. She was happy to use 60,000 of her Voyager Miles to upgrade to Business Class "which, on the new Boeing 737-800, is quite luxurious" she says.

It was easy to confirm the upgrade from Johannesburg to Atlanta, but confirmation for the return portion from New York proved harder to obtain.

Calls to Voyager in South Africa were to no avail. She was told that once she got to the US she should call the Atlanta office for confirmation. She did, from Los Angeles, and was told there were nine available seats in Business Class and she was second on the Voyager waiting list, so she was sure to get on.

But SAA Atlanta couldn't give her confirmation as priority was given to "full paying customers". From Los Angeles she went to New York and phoned again. She was told the same story: nine empty seats, second on the list and they were sure she'd get on.

Flight 204 was scheduled to depart at 17h55 on Sunday October 17. That

morning Lazerson called SAA Atlanta. She was told to go to the airport and all would be fine, but they couldn't give her confirmation. The yellow cab dropped her off at JFK International well ahead of the flight. She spoke to the duty controller at the SAA check-in counter and stressed that she wanted Business Class confirmation before checking her bags through.

Rather than travel in that dreadfully cramped economy class she'd wait a few days in New York. Again, the same story. In the meantime they'd give her a pass to the Business Class lounge. She checked her bags in, went through the security check and passport control, and headed for the SAA lounge.

Fifteen minutes before departure Lazerson was given a boarding pass to Business Class, seat 1F. Oh the relief, she got her seat!

But then, less than five minutes later she heard her name being called, she'd been bumped off her perch. She was given an Economy Class boarding pass and there was no going back. SAA staff explained that two full-paying customers had booked at the last minute and she and Mr Rush, also a Voyager upgrader, had been relegated to join the riffraff at the back of the plane.

There are no words to describe Lazerson's fury, except that for 15 hours everyone, from the passengers to the crew, and even the captain, got to hear about this. There was, however, one gentleman who didn't, and that was the man sitting in seat 1F – SAA's acting President and CEO Oyama Mabandla and his female travelling companion. According to the flight crew Lazerson had been pushed down the ladder for this so-called "full paying passenger" who apparently, at the



FLYING INTO A RAGE: Dana Lazerson

last minute, decided to return to South Africa. The crew said Mabandla was well known for these ad hoc plans and they were sick of it. They were the ones who had to put up with irate passengers when SAA dignitaries decided to hijack seats on a whim.

While Mabandla slept peacefully in seat 1F, with nine empty Business Class seats around him, Lazerson paced the economy class aisles. Some kind soul drew her attention to the in-flight magazine, *Sawubona*, with Mabandla's face on page 4. Sure enough it was him in her seat. She grabbed the magazine, wrote wild and furious notes on it, planning to give it to the CEO when the plane had landed in Johannesburg.

Surprisingly, Lazerson was able to keep her anger in check, and did not approach Mabandla on the flight. She'd once witnessed a drunk passenger being dragged off a flight in handcuffs by armed guards and wasn't having any of that. She would confront him on the airport bus from the plane to the arrivals terminal. But Mabandla and his lady companion were met by a private car as they stepped on the tarmac.

She'd catch him at luggage collection, she thought. With article and unused Business Class boarding ticket in hand,

her voice in full throttle, Lazerson finally cornered him at Customs. "Did you have a nice flight?" she asked. "Yes thank you", he said. "Well you should have - you were sitting in my seat!" she spat back. Confronted by an apparently unhappy SAA client, Mabandla could come up with only two words of comfort for Lazerson: "Bugger off!"

And you thought it ended there, in the arrivals hall. Hell no, there was more humiliation in store for Lazerson. She complained to SAA about their service, and quite rea-

ner? They were mum on that. And why was Lazerson bumped off? Mum on that point too. Why could she not get confirmation of her upgrade and what was SAA's policy concerning Voyager upgrades? Mum, mum, mum. What is SAA's policy concerning its dignitaries taking flights? How about some information on how they allocate Voyager seats? Their official response - despite its many words - amounted to something very similar to Mabandla's two:

"According to aviation laws governed by the International Air Transport Association (IATA), all airlines must respect passenger confidentiality. As the custodians of IATA policies, SAA cannot be seen to be violating its policies. We are therefore unable to discuss any issues pertaining to our customers. If passengers decide to go public regarding their flight details, it is their prerogative and freedom of choice, but SAA will forever respect passenger confidentiality."

So read the statement that came to us from Onkgopotse JJ Tabane, SAA Vice President for Communications and Government Liaison, in reply to our questions. Oyama Mabandla resigned mid-November. He had this to say in his farewell to staff: "I will be pursuing my own business interests to take advantage of the economic tide that is sweeping our country as a result of the success of our democracy. I believe that I have played my part in raising the flag of our airline above many others in the world. I am confident that SAA is moving in the right direction ..."

SAA acting CEO Mabandla could come up with only two words of comfort for Lazerson: 'Bugger off!'

sonably demanded they give back half of the 60,000 miles she'd paid for her upgrade. Their faxed reply, fudged in schmaltzy PR words, was this: "Regrettably we are unable to reimburse you with the miles for the unused portion of the upgrade. The Voyager Programme Guide clearly states on page 61 that miles will not be credited if a return award is issued and only one way utilised".

noseweek asked SAA if their acting CEO sat in seat 1F. No, he and his companion were allocated seats 3D and 3G, they said. Witnesses saw him in 1F. And who was his travelling part-

It's nice to know someone up there really cares

noseweek knows that Mr Mabandla is a very important and very busy man. We realise that he may not have had time to write the message that appeared under his name in the October edition of *Sawubona*, SAA's in-flight magazine, but did he even read it? Had he done so, he would have learned some interesting things about SAA's marvellous attitude to customer care.

"Dear valued customer," Mr Mabandla (or his ghost-writer) begins in the piece, which goes on to explain that the folk at SAA "appreciate your business and sup-



Ex-air head
Oyama Mabandla

port and want to make sure that every experience that you have with us will please you".

"We are working hard to create a customer-centric culture and focus," he assures passengers who have been summarily bumped out of business class, while promising that he and

his team at the national carrier "recommit ourselves to provide you with a safe, warm and nurturing experience".

"Our aim," the touchy-feely ex-boss tells us, "is to exceed customer expectations", which *noseweek* feels shouldn't be too hard, given the 'esteem' in which the airline is presently held.

Says caring Mr Mabandla: "Unless we partner with you, the public, we have no way of rooting out those who often give our otherwise committed and award-winning staff a bad name."

Who could he possibly be referring to?

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SA Eagle gets landed

South African Eagle Insurance Co Ltd (SA Eagle) has failed in its bid to persuade the Appeal Court to adopt a doctrine of British insurance law that allows an insurer to refuse to pay out on an otherwise valid claim if it can prove the insured to have been dishonest in any earlier claim.

This means that SA Eagle must finally pay out on the R450,000 insurance claim of Marc Soulet, whose l'Orange Bleue restaurant in the foothills of the Waterberg was gutted by fire nearly five years ago – despite the fact that he may have been dishonest in two earlier motor claims.

The insurer will also have to pay a large chunk of the Belgian immigrant's legal costs, which by now total more than the claim amount.

In a judgment handed down in November, the appeal judges upheld the existing South African law, which provides that each insurance claim must be judged on its own merits.

The British law clearly amounts to a penalty for the insured's previous misconduct [and a handy bonus for the not-always-so-honest-either insurance industry – Ed.]. In South African law, said the judges, penal provisions are recognised only in criminal law.

It was in 1997 that Soulet, his wife Nathalie and their three children embarked on their African dream: they bought Thabi Pitsi farm near Warmbaths in Limpopo, establishing a luxury lodge complete with zebra and other game on its lofty plateau and the exotic l'Orange Bleue restaurant in the valley below. Their dream went up in flames on 6 February 2000 when a sated guest fell asleep in the room above the restaurant, dropping his smouldering cigarette butt on the floor.

SA Eagle refused to pay Soulet's fire claim after investigators unearthed evi-

After five years battling against his insurance company, Belgian chef Marc Soulet has finally won a claim for compensation for his burned-down restaurant – but he's been defeated by the punishing process

dence that he and his family had lied over two previous claims (*nose53*).

Here's the history: on 4 September 1999 the bonnet of Soulet's Toyota Landcruiser flew open as he drove the 18km from Thaba Pitsi to Warmbaths. The panel beater, who made some emergency repairs, warned him that the fault could happen again. It did, the following day, when the Landcruiser was being driven by Soulet's game ranger, Martin Klopper, on the public dirt road. Klopper had not converted his military driving licence to a civilian one, so he was an unlicensed driver.

Soulet submitted his claim to NTK, stating that he had been the driver when the bonnet fault first materialized. He made no mention of Klopper. NTK paid the panel beater's bill of R4402. That was "fraudulent" claim number one.

Three months later, on 30 December, there was another, more serious accident. It was raining when the Sou-



GETTING OUT THE KITCHEN: Marc Soulet still cooks in the French style at l'Orange Bleue, but his heart is no longer in it

let's Land Rover overturned on the dirt road outside Thaba Pitsi. Soulet's claim stated that his wife Nathalie was driving. The claim was approved and the same panel beater was instructed to do the repairs.

Then came the night of 6 February 2000 and the gutting of l'Orange Bleue by fire. Within days, Eagle's assessor Willem Vorster arrived from Pretoria to investigate and two local enemies of the Soulets stepped forward to tell the investigator their stories – about the two earlier vehicle claims.

Carel Vos, an angry former employee, told assessor Vorster that Marc Soulet had not been driving the Landcruiser when the bonnet flew up – it was the unlicensed Martin Klopper.

And Frikkie van der Merwe, a retired and somewhat disgruntled police brigadier in his 70s, who lives next door to Thabi Pitsi, came forward to tell Vorster that Nathalie had not been driving the Land Rover when it overturned. The driver, said Van der Merwe, was the Soulet's 16-year-old unlicensed son Maxime.

Armed with these damning statements, SA Eagle wrote to Soulet on 18 February 2000 saying it would not pay

out on the latest fire claim, due to “misrepresentation”.

Adjudicating on the matter in 2003, Judge Ponnann accepted – on SA Eagle’s evidence – that for the period 4 September 1999 to 31 August 2000 there was in force a contract of insurance between Soulet’s company KRS Investments and SA Eagle.

Soulet had maintained that he was “set up” by hostile neighbours who gave evidence against him, and that his previous claims were honestly made. But in 2003 Judge VM Ponnann ruled in Johannesburg High Court that the Soulets had lied and that their “fraudulent conduct was reprehensible”.

However, ruled the judge, in South African law that did not mean that SA Eagle could avoid liability on the subsequent valid restaurant fire claim.

SA Eagle was granted leave to appeal against Judge Ponnann’s interpretation of the law.

Last month Judge Ponnann’s judgment was confirmed by Judges Nugent, Van Heerden and Erasmus in the Supreme Court of Appeal.

“SA Eagle’s contention was that an insurer against whom a fraudulent claim is made has an election to terminate the contract and, moreover, to do so with effect from the date that the fraudulent claim was made,” reads Judge Nugent’s judgment. [According to Eagle this would have entitled them to terminate their contract of insurance with Soulet retrospectively to a date prior to when the restaurant fire occurred, letting them off the hook for the fire damages.]

The appeal judges dismissed SA Eagle’s application, with costs. Now, unless SA Eagle settles, the Johannesburg High Court will next year consider the amount that SA Eagle must pay out. With interest and costs it could come to as much as R1m.

But did the Soulets lie in their earlier motor accident claims? Marc Soulet still insists no. But that has become academic (see box story).

Much more importantly: did SA Eagle tell the truth, and nothing but the truth, in their court papers? Maybe not.

Marc Soulet recounts how, after receiving the drubbing by Judge Ponnann over his “fraudulent” conduct, he turned detective and managed to dig up documents that SA Eagle had not disclosed in the case – and that directly contradict the evidence given by SA Eagle in Judge Ponnann’s court.

Soulet has told *noseweek* how he drove to the Nylstroom offices of his insurance brokers, NTK, waited until lunchtime and demanded that the only woman on

duty dig his file out of the archives and photocopy it for him.

The papers he recovered in it undoubtedly suggest that documents submitted in court to “prove” that SA Eagle had been Soulet’s insurer at the time of the earlier “dishonest” claims, had been altered for the occasion. “Eagle was not my insurer at the time of those claims. The broker and SA Eagle conspired to backdate my insurance cover, to create false evidence to enable them to refuse to pay the big fire claim,” he says.

For example: his original handwritten claim form for the Land Rover mishap, recovered from his file at NTK brokers, bears the claim number NTK99/78 and has a blank where the insurer’s name and policy number should be.

SA Eagle submitted the identical piece of paper in evidence to court. But on this document the claim number had been changed to NTK99/22 and SA Eagle’s name inserted as the insurer.

Curiously, the small print heading on both versions bears the name of a different and unconnected insurer – Nasionale Versekerers (National Insurers).

Soulet says he signed up with NTK brokers in mid-1999 when they offered him cover for all his assets at a monthly premium that was R1000 less than he had previously been paying. He was not told with which insurance company the brokers had placed his insurance.

But now, in his broker’s file he found further evidence to suggest that it was, in fact, with National Insurers: on 17 November 1999 they had written a letter to NTK explaining why they were refusing to pay out on the Land Rover claim that NTK had submitted to National Insurers on Soulet’s behalf! The premiums were not up to date, said the letter, “therefore we cannot be held accountable for the claim. We are closing our file.”

Soulet now recalled that, on 22 October 1999, NTK had written him a letter that stated “...as your broker, one of our duties is to obtain the best insurance package. As from 1 November 1999 your portfolio is being transferred to SA Eagle.” That suggested that, in October 1999, NTK were in the process of changing from one insurer, National, to another: Eagle.

But, says Soulet – with a fair amount of evidence to support him – the true inception date of his policy with SA Eagle was only in January 2000, the month before the restaurant fire – and after the motor accidents. SA Eagle’s own computerized and numerically consecutive policy records confirm this.

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Just in it for the scoop

FRIKKIE VAN DER MERWE, the Soulets' elderly, hostile neighbour, provided the damning evidence that it was young, unlicensed Maxime Soulet driving the Land Rover at the time of the accident, not his mother. *noseweek* learns that at the time of the 19-day court hearing before Judge Ponnann, Soulet's then attorney in Warmbaths, Etienne Fourie, called on Van der Merwe. Fourie was carrying a concealed tape recorder. During their conversation, claims Soulet, the old policeman admitted to the attorney that he did not in fact know who had been driving the Land Rover.

If that is indeed what Van der Merwe said, this was a major breakthrough for Soulet. However Fourie, it appears, has gone cold on the entire episode. "There was a tape and I can't really remember what was on it," the attorney says now. "There was a certain discrepancy, but because the tape was obtained basically illegally – because it was concealed – I couldn't use it. I can't precisely remember what the discrepancy was.

"I don't want to get involved further with the matter."

Neither does Frikkie van der Merwe. "We are not prepared to speak to your people again," says the brigadier's wife. "It's just a scoop you want."

They show the inception date of policy number 4210027 as 1 January 2000; that of policy number 4210036 as 16 January. Therefore, Soulet deduces, his own policy – number 4210035 – must have been "incepted" on or shortly before 16 January 2000.

He does not need to rely on deduction alone: the next letter Soulet discovered in the file, was from NTK to SA Eagle. Dated 23 May 2000 (nearly four months

ing process. In the meantime Eagle had undertaken to reimburse NTK for any claims from clients for whom it had not yet managed to issue policies.

Soulet explains: "We paid the insurance premiums to NTK, but for some reason they were not passed on to any insurance company. I certainly had no contract of insurance with SA Eagle at the time of the Land Rover claim that Eagle might have cancelled." At best,

Marc Soulet has managed to rebuild l'Orange Bleue. But **four years of battle with SA Eagle** have taken their toll

after the restaurant fire), it also relates to the Land Rover claim and states: "As there was no policy in existence [at the time of the accident], Willem [who he? Ed] agreed that if NTK paid the repairer, SA Eagle will reimburse us."

That suggests that Eagle were in the process of issuing policies in favour of each of NTK's clients – a time-consum-

Soulet had a claim on his brokers. By their own written admission, he did not have a contract of insurance in place on the day of the accident.

Armed with the above – and a great many more – documents that he believed supported his theory that SA Eagle had backdated two earlier claims to avoid paying out on the restaurant

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fire, he sent the evidence with an application to the Court of Appeal for special leave to appeal Judge Ponnan's judgment. That application was dismissed on 24 February this year, with, as is usual, no reasons given.

The reason might have been as simple as, since the court was granting him his fire claim anyway, there was no need to canvass these issues.

But the 35-page answering affidavit countering Soulet's new allegations, filed by Wynand van Vuuren, SA Eagle's group claims manager is worth a closer look from a wider, public interest point of view.

He deplored Soulet's action in "attacking the integrity of the judge" [Ponnan] and stated that the "extraneous issues raised" were groundless. [Note SA Eagle's style: suck up to the judge and alienate him from your opponent at the same time! – Ed.] The argument that SA Eagle was not at risk "and more specifically that it fraudulently, in order to defeat the fire claim, alleged that it was, was without any foundation," he said. [Judge for yourself, dear reader! Soulet had not alleged that SA Eagle was "not at risk", he had simply said it was not his insurer. – Ed.]

In his affidavit Van Vuuren said further that to deal with "every single allegation made by Soulet ... would make the papers unnecessarily prolix" [ie tediously wordy]. There was a policy in force and the premiums had been paid, he said. [That contradicts what NTK's letter had said – but what a neat way of sidestepping that and all the other damning evidence! – Ed.]

Van Vuuren did, however, confirm that in October 1999 negotiations started for SA Eagle to take over the insurance of 180 of NTK's clients that had previously been insured with National Insurance. It was agreed with NTK, the Eagle claims manager told the court, that the inception date of the 180 new SA Eagle policies would be 1 September 1999 [three days before Soulet's Landcruiser claim].

[Remember, on 22 October 1999 – more than a month after the date claimed by Van Vuuren – NTK still wrote to its clients telling them that Eagle would take over as from 1 November – two months later! – Ed.]

Would you buy an insurance policy from this company?

And what of the Soulets, now that the Appeal Court has ruled in their favour on the fire claim?

Marc Soulet has managed to rebuild l'Orange Bleue, thanks to R645,000 stumped up by his mother-in-law. But four years of legal battle with SA Eagle has taken its toll on the family.

Young Maxime, now 21 and fingered in court as the real driver in the Land Rover accident, has left South Africa to pursue a promising car racing career in Belgium. "He couldn't take any more, what has happened here," says his father.

Nathalie Soulet, whose claims that she was driving the Land Rover were not believed by Judge Ponnan, is still to be found at the restored l'Orange Bleue with her husband. But her heart isn't in it; she's a shadow of her former self, weepy and on medication for depression. She declares that her African dream is dead.

They'll probably sell up, says Marc. He's been appointed southern Africa and Arabian peninsula agent to market the Dylani H2 Belgian helicopter, and pins his future on this. **W**



BURNT OUT: Nathalie Soulet's African dream is dead

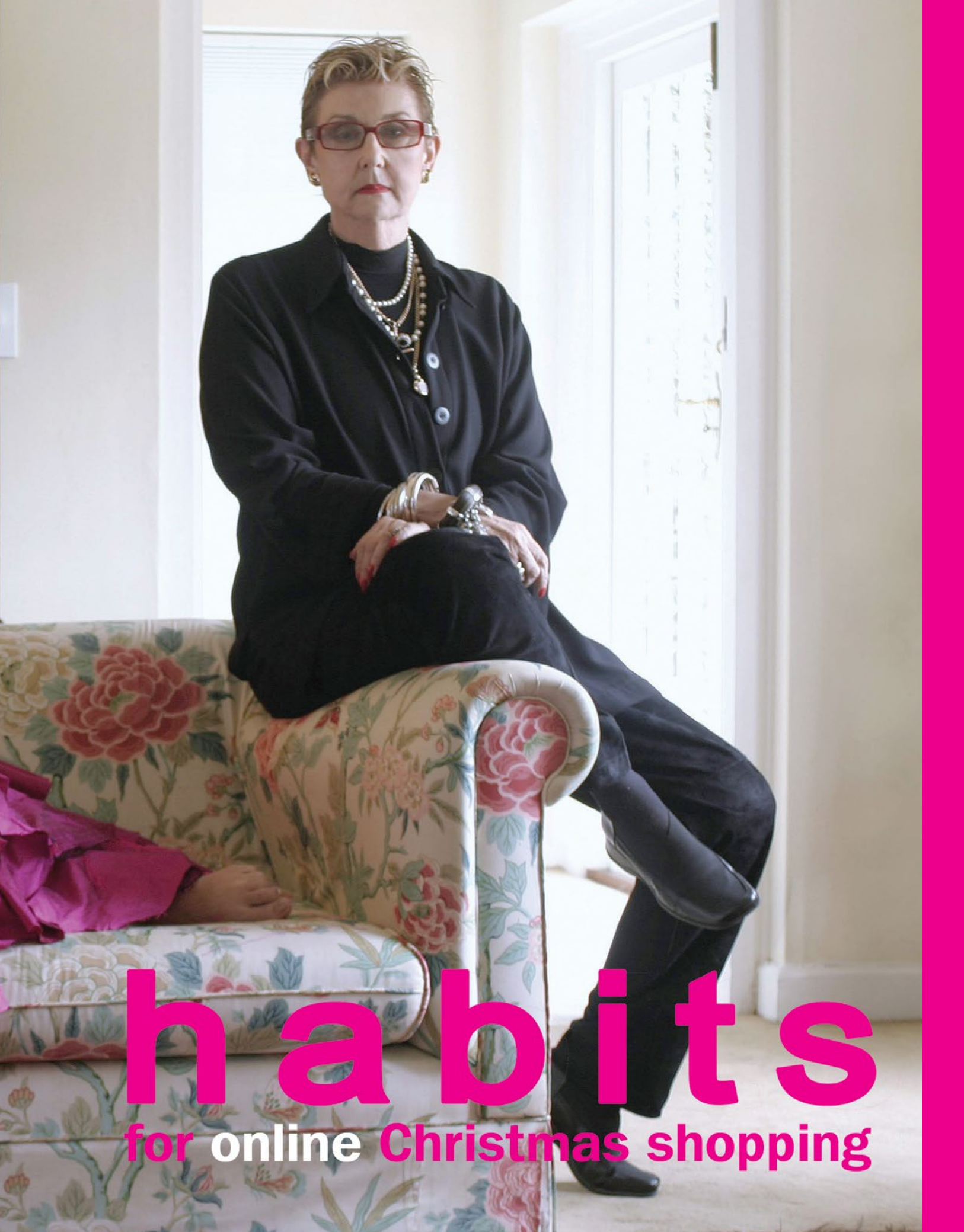


"Just remember, son, it doesn't matter whether you win or lose—unless you want Daddy's love."

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Sue-Ann Lazerson 'homeless' after having to sell house

Sue-Ann Lazerson's epic battle (*noses* 46, 47 and 56) against her stepdaughters Dana and Lindy for a slice of the estate of her late husband, divorce attorney Ivor Lazerson, grinds on.

The estate's administrator, Lazerson's former law partner Kim Meikle, has still to file the liquidation and distribution account showing how much the flamboyant attorney was worth – estimates range from R6m to R10m. The L&D account should have been lodged with the Master of the High Court within six months of Lazerson's death. More than two years have passed since Lazerson's demise on 24 June 2002, but no filing has been forthcoming.

The master has given the errant Meikle a deadline of 18 January 2005 to do her job and file the long overdue account.

Sue-Ann sees the delay as a deliberate tactic to inconvenience her. Certainly, it has forced her to sell her cottage in the Johannesburg suburb of Orchards before it could be repossessed by Nedbank – there was R789,000 owing on the bond.

The widow is reluctant to disclose how much she got for her home, but confides that the proceeds will just cover the outstanding bond, pay her lawyer ("he didn't want to continue without his fees being paid") and settle up the "enormous amount" owing on her credit cards.

Life is apparently a struggle on the R5000-a-month interim settlement Sue-Ann has been receiving from Lazerson's estate for the last 14 months. In November she turned down the latest final settlement offer from Meikle. "I'm not allowed to say what it was, but it was a kick in the arse, an insult."

To say there is bad blood between Sue-Ann and her stepdaughters is to put it mildly. Readers will recall how Sue-Ann served a divorce summons on her critically ill – and psychologically unstable – husband in a desperate bid to establish a claim for maintenance against his estate before he died. Lazerson responded with a codicil to his will, stating that she should receive no monies from his estate. He died less than a month later, aged 64.

As we went to press, a tearful Sue-Ann, now 53, was vacating her Orchards cottage for more modest quarters in Westdene, where a cousin has offered her a bed until the end of January. "After that I'm homeless," she gulps. Her five companions – a 17-year-old cat and four Jack Russells – also face futures of varying uncertainty. "Kitty will be put down before Christmas," says Sue-Ann sadly. The dogs? "Jaci and Oscar, whom Ivor adored, are now 12 years old. They will be put down in January. Sugar and Spike, who are about four, are going to a



HAPPIER DAYS: Ivor and Sue-Ann Lazerson getting hitched

friend in Cape Town."

Sue-Ann's plan to bring a high court action against Lazerson's estate under the new Maintenance of the Surviving Spouse Act is as far away as ever. "My application for legal aid has been turned down and my lawyer says that unless I can finance the case myself, which I can't, I must accept a settlement offer."

Sars closes in on Absa forex scamster

There are some pleasing signs of life in the long-stagnant investigation by the Scorpions and SA Revenue Service into the great R2bn forex scam, as recounted by crime syndicate member Michael Addinall in *noses* 56 & 59.

Addinall, present resident of C Section, Pretoria Central prison, is 27 months into a five-year sentence for money-laundering. Recently he received a visit from SARS investigators, who took a detailed statement from him about Donovan Smart.

Smart, readers will recall, was an Absa forex official who, according to Addinall, shunted millions of rands offshore for the syndicate. "He needed no documentation other than a client's name and banking details, and 3% commission per transaction paid into his Nedbank Credit Card," read Addinall's remarkable whistle-blowing dossier.

Smart had developed amnesia when *noseweek* asked him about these innovative forex deals. But it seems his memory revived when investigators arrived on his Cape Town doorstep. "Smart sang like a canary," reports the well-informed Addinall. "He confirmed every single thing that I've been trying to get them to investigate for 29 months – and then some."

Investigators have told Addinall that Smart has been given state witness status, and immunity from prosecution.

So what about the syndicate bosses – for example, Kobus Dreyer, who according to Addinall imported more than R100m worth of goods on which no customs duty, VAT or income tax was paid? This is delicate ground for Paul Louw, the Scorpions' prosecuting advocate who is heading the investigation into The Syndicate and its operations.

It seems that Louw's wife and Dreyer's wife are bosom buddies who worked together for years. Louw has, we are told, assured his wife that if "fate" decrees that Dreyer be arrested, he will recuse himself from prosecuting dear old Kobus. [Maybe the reluctant investigator should recuse himself now, rather than wait for fate and eternity? – Ed.]

■ After the horrors of a mass cell crammed with 80 hardened criminals, Addinall tells us that these days he is living "in much better circumstances" at Pretoria Central. His new abode is a sparkling clean cell shared with only nine other prisoners – "all civilized types".

The vastly improved accommodation comes with his new role as an official prison teacher. Subject of the Addinall in-house lectures? Entrepreneurial Business Skills.

How to succeed at white collar crime: shop the boss

It's not surprising that white collar crime is becoming ever more popular. A well tried formula is now firmly in place that allows you to defraud and divert as many millions as you wish, yet ensure that the punishment you receive is no more than a slap on the wrist.

The formula goes like this: Commit the crime, but make sure there's at least one kingpin above you giving the orders – and keep the detailed evidence that could convict him. When the cops come knocking at your door, have your attorney briefed to let it be known that you will confess all, especially the boss's role, in return for a generous plea bargain.

Thus it was with Grant Ramsay, auditor and managing director of Galahad Business Solutions. He was arrested on 1 April 2003 for tax fraud totalling R177m, and released on bail the following day after providing the State with a guarantee for R1m.

Ramsay proceeded to lift the lid on smart book-keeping as practised by many high-powered South African businessmen. He told investigators that up to 400 businesses had defrauded the taxman of multi-millions, with the help of auditors and SA Revenue Service officials.

Ramsay blew the whistle on Jack Milne's PSC Guaranteed Growth scam, which duped more than 4000 investors into pouring R250m into the fund in 2000. Those arrested in the round-up included Gary Porritt, who headed JSE-listed financial services company Tigon



LESS HAPPY DAYS: Grant Ramsay on his way to the cooler

and Shawcell. Porritt faces criminal charges relating to the collapse of PSCGG. The hearing has been postponed to next April.

In return for his assistance, Ramsay's 10-year prison sentence was halved to five years. He started his stretch on 8 May last year, but was released recently after serving barely more than 14 months. The canny moneyman, rumoured to have once owned assets worth R300m, is now back in his favourite stamping ground outside Dullstroom, where he is said to be busy reclaiming his substantial number of farms from the Asset Forfeiture Unit.

Who says crime doesn't pay?

Anti-mining lawyer finds the price is right

As the sound of blasting echoes through the Mpumalanga grassveld paradise that was Tonteldoos, residents who for the past six years have been resisting the invasion by granite mining companies, have received a nasty shock: Hendrik Kruger, not only their neighbour but also the Johannesburg advocate who led the battle to keep Eagle Granite at bay (*nose48*) has sold his farm – to another granite mining company!

Readers will recall Kruger's disapproval after his former friend and fellow campaigner, advocate Hentie Joubert, accepted Eagle Granite's offer of US\$200,000 (R1.5m at the time) for his 85 hectares in the ecologically sensitive area – and then started campaigning on behalf of Eagle.

Now Kruger, who rejected a similar \$200,000 offer for his farm – because it was conditional on his action group withdrawing its opposition to Eagle – has accepted what he describes as a "market-related price" for his own 75 hectares from Eagle Granite's big rival Marlin Granite.

The Garden of Eden that was Tonteldoos – some 80 small farms northwest of Dullstroom – is home to red data endangered plants, 391 species of birds, and

rare butterflies. But it is fatefully blighted because its koppies contain generous quantities of gabbro-norite (granite) of a rare kind, a black stone that sparkles with blue iridescent specks and is much in demand by the building industry in the Far East.

As *noseweek* went to press, the annual celebration of the Yellow Arum Festival at Tonteldoos was threatened, as local residents prepared to divert to the Mapochs golf club in nearby Roosensiekal to debate Kruger's seemingly bizarre intention to apply to the Department of Minerals and Energy to "undertake prospecting activities" on his farm.

Eagle Granite, the South African subsidiary of Swiss-registered Multi-stone AG, moved into Tonteldoos in 1998. Kruger and Joubert formed the Mapochsgronde Action Group in an attempt to keep the mining company and its noisy and dirty operations out. But these days Tonteldoos echoes with the sounds of Eagle Granite's blasting operations.

Kruger shrugs off his sell-out to Marlin Granite. "The action group's constitution doesn't say we fight mining *per se*," he insists. "It says we will oppose mining companies that do not mine in accordance with the law and in recognition of the unique character of the area."

"Marlin Granite bought a property adjoining the mine two years ago and the koppie they want to mine is about 100 metres from my house. They've applied for prospecting rights there and if they then obtain a mining licence my property will lose its value entirely.

"I would lose every cent that I've put into the property – the R300,000 or R400,000 that I paid to build a house and for the land."

"I've sold the farm to Marlin, yes, but for far less than R1m. I've received a market-related price and I can stay there for at least another year, at a nominal rental."

Kruger's present application to undertake prospecting activities doesn't mean that the advocate will scale his koppie with pick and shovel in a hunt for the precious black granite. It is simply, he explains, that in terms of the new Minerals and Petroleum Resources Development Act, the person who was the registered owner of the land on 1 May 2004 must apply for prospecting rights within 12 months – or lose them by default to the state.

Once he has the prospecting rights, Kruger will sub-contract them to Marlin.

The smooth-talking advocate remains chairman of the Mapochsgronde action group, and says that he and it will continue to monitor Marlin's activities to ensure that the company complies with the law. Whether his fellow members will be as happy with this arrangement after the November 27 golf course meeting remains to be seen.

"There's a distinction between Marlin and Eagle Granite," says Kruger. "Eagle

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Granite is a renegade foreign company come to strip the Third World. Marlin Granite, most of the time, has attempted to apply the law as far as rehabilitation [of the area] is concerned.”

Maybe “most of the time” isn’t good enough.

Road Accident Fund says it does have leg to stand on

Our account of the trials of Rose Banda, elderly resident of Casa Mia old folks home in Johannesburg’s Berea, who lost both legs after an out-of-control car mounted the pavement and mowed her down as she walked home from church (*nose62*), has been tabled at a full meeting of the executive board of the Road Accident Fund.

Meanwhile several readers have also called and written in to express their outrage after we described how the fund had rejected Rose’s R2.9m claim for damages, claiming the accident had not been reported to the police (it was); that Rose had not taken reasonable steps to establish the identity of the driver of the car that crippled her (the police report has all those details); and that, anyway, the accident was Rose’s fault for “failing to keep a proper look-out”; and finally, and most outrageously, that she “disregarded the rights of other road users by causing the collision”.

A member of the RAF’s executive board contacted *noseweek* asking if we could let them have a copy of the four-page police report (which Rose’s attorney submitted to the fund in April). We obliged and were told that the executive had now instructed its top management to prepare a full report into the matter for the board’s consideration.

One of the fund’s executive directors promised *noseweek* that the fund would issue a statement on the situation by 4pm on our press day. No, it won’t be a repeat of the “it’s sub judice, no further comment” that we got last time, we were assured.

The RAF’s official statement duly arrived, as promised. It reads: “The Road Accident Fund has valid, lawful defences to the claim. The article that was published in the November 2004 edition of *noseweek* is factually incorrect. The RAF is, however, unable to comment further at this time as the matter is sub judice.”

Banda’s attorney, Anthony Millar, comments: “*noseweek*’s article was accurate in all respects and the RAF’s claim that it was inaccurate is disingenuous.”

Wine writer and Grape magazine kiss and make up

Mr Howe-to-drink-and-fly-for-free and *Grape* have – wisely, we think – called off their libel action that had already been scheduled for hearing in the Cape High Court.

Well known wine praise singer-for-hire and travel writer Graham Howe has withdrawn his claim for R100,000 in defamation damages against the editors of *Grape* magazine, standard bearers for purist (non-commercial) wine writing. The threatened court action arose from a less complimentary – and very funny – piece about Howe published in *Grape* last year. (See *nose52*.)

A quote: “Graham Howe is to the integrity and independence of wine writing what George Bush is to world peace.”

Tim James, co-editor of *Grape* (and also *noseweek*’s wine columnist) and Cathy van Zyl have issued an apologetic and conciliatory statement. “Frankly, some of our comments about the individual were a bit heavy,” they say. Howe and *Grape* will each pay their own legal costs.

Moral 1: If, today, prostitution is a legitimate way of earning a living, why shouldn’t wine writers slaver over a wine for a fee?

Moral 2: Wise writers don’t litigate – they write.

The Von Bullshits: this one will run and run



HAPPY DAZE: Baron and Baroness von Maltzahn when the good times rolled

After our story about her shopping and eating habits and her propensity to accumulate debts and antiques appeared in *nose62*, Baroness Alexandra von Maltzahn embarked on a telephone marathon, calling all her ex-staff members and ordering them not to talk to the press. She hasn’t paid most of them in over six months so we wondered why she thought they might obey. Then she rushed to her local Exclusive Books in Constantia (right next to her favourite Seattle Coffee shop), where she pleaded with staff to remove the magazine from its usual place on the front counter, stating that her husband says “*noseweek* is a cheap and trashy magazine”.

There was no putting out the fires. In London, the (presumably equally “cheap and trashy”) *Evening Standard* picked up on our story on November 17 with a

full page spread headlined: “Baron and Baroness von Bulls**t, betrayal and the 1.5m scam that stunned London society”. Germany’s best-known news magazine, *Der Spiegel* was set to follow suit as this issue of *noseweek* went to press.

Finally, for a feelgood moment, don’t miss Abe Swersky’s letter to *noseweek* (see Letters) about all that rent the baroness had owed him for year.

As the Harkens said to Bishops...

Of course it’s wrong to share in the spoils of a thief! we hear you say.

In November 1997 *noseweek* ran a four page story which declared in bold letters: “A battle royal has been raging in South Africa’s courts since 1994 between a fugitive German conman, Jurgen Harkens, and the trustees of his insolvent estate, briefed to find and seize the fortune he had managed to take off the rich and gullible of Europe – said to total over R1-billion – before fleeing to South Africa ahead of various court officials waving warrants for his arrest.”

Within the year the whole of literate South Africa had to have known that the officially insolvent Harkens were happily spending huge sums that undoubtedly came from the fortunes they had stolen.

Did all respectable South Africans rush to spurn them? Apparently not. Faced with those piles of lovely lolly, all they did was take the odd precaution, like insisting on taking cash up front.

Alan and Leslie Louw rented the Harkens their Constantia property, Brink House on Klaassens Road, in June 1999. Having read about Jurgen’s trail of destruction in Germany the Louw’s thought they’d be safe having the Harkens’ as tenants as the lease was in the name of the Jeanette Harksen Family Trust. The Harkens did, after all, pay a year’s rent up front (R212,000) and a deposit of R25,000!

But, in papers lodged at the Cape High Court in November, the liquidators of Harksen’s estate, Eileen Fey and Michael Lane, are claiming the rental and the deposit back – for repayment to the Harkens’ victims. C’mon, lets face it, where did anyone think Harksen’s pretty young spouse was getting all the money needed to keep the thieving couple in the style to which they were accustomed? The South African disease called flexible morality has spread to the most unlikely places. Cape Town’s Diocesan College (yes, ever so posh and pious Bishops) also succumbed to the temptation of sharing in the Harkens’ stolen loot – taking the standard line of “we’ll take it if it’s in cash, or not in your name”. From 2001 to 2003 Mrs Harksen paid in advance for the entire junior schooling of their two younger boys, and for the elder boy’s entire high schooling in advance: a cool

R396,723. Payments were made in cash, and from the Voyager Trust and Unitrade (Pty) Ltd, obvious Harksen fronts.

Confronted by the estate trustees with a demand for the return of the money, the school, represented by the principal, Mr Grant Nupen, and the chairman, James McGregor, have refused to return the school's share of the stolen loot. Summons has been issued.

"The matter is sub judice and I will not talk about it," McGregor told us. Which we find shocking in view of the moral issues at stake. But then, of course, we did not go to Bishops. Jeanette is facing charges of fraud and corruption in the Cape High Court after being given a two-year suspended sentence by a German court for complicity in her husband's fraud there. Jurgen, meanwhile, is languishing in a German prison for six years, having opted to face a German prison term rather than a South African one if found guilty in a South African court. (Is Jurgen a Bishops old boy, perhaps?)

Dr Dolittle could get off with R5000 fine

Chippy Hubbard (noses 53, 55) died on March 4, after months of suffering from complications arising from a stroke. Dr Peter Whitfield was the physician-on-call at Cape Town's Kingsbury Hospital the evening in August 2003 that Hubbard was brought in, disoriented but still conscious. Whitfield had already been called and briefed by telephone two hours earlier, but it took another 17 hours before he came to see his patient, by then in a coma. Thanks to Whitfield, it took a further 24 hours before Hubbard received any proactive care – from another doctor. Kingsbury nursing staff, too, sat back and watched their patient slowly deteriorate without calling Whitfield or any other doctor to attend him.

Hubbard's wife, Jeanette, laid a complaint with the Health Professionals Council about Whitfield's conduct. They have found prima facie evidence of professional misconduct and are drawing up a charge sheet. Once presented to him he can either ask for a formal inquiry hearing, or pay an admission of guilt fine of a mere R5000. Then it's back to business as usual. The blemish, however, will remain on record at the Health Professionals Council (012 338 9300 or go to www.hpcs.co.za) where anyone is free to inquire about any health professional's "record". But you'll have to put up with their extraordinarily bad switchboard service.

The Kingsbury Hospital still has Dr Whitfield on its on-call roster.

According to Hospital Manager Marius Lukhoff, each ward now has an algorithm on display which "shows various steps that should be followed under various circumstances". Apparently until now this hospital has been operating without such procedures in place.



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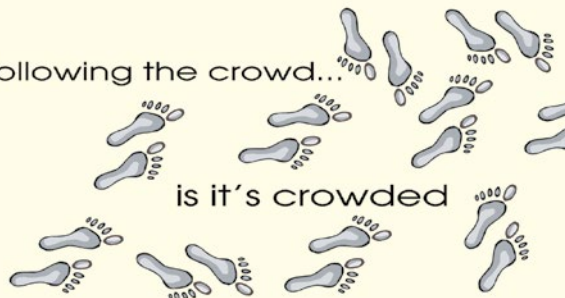
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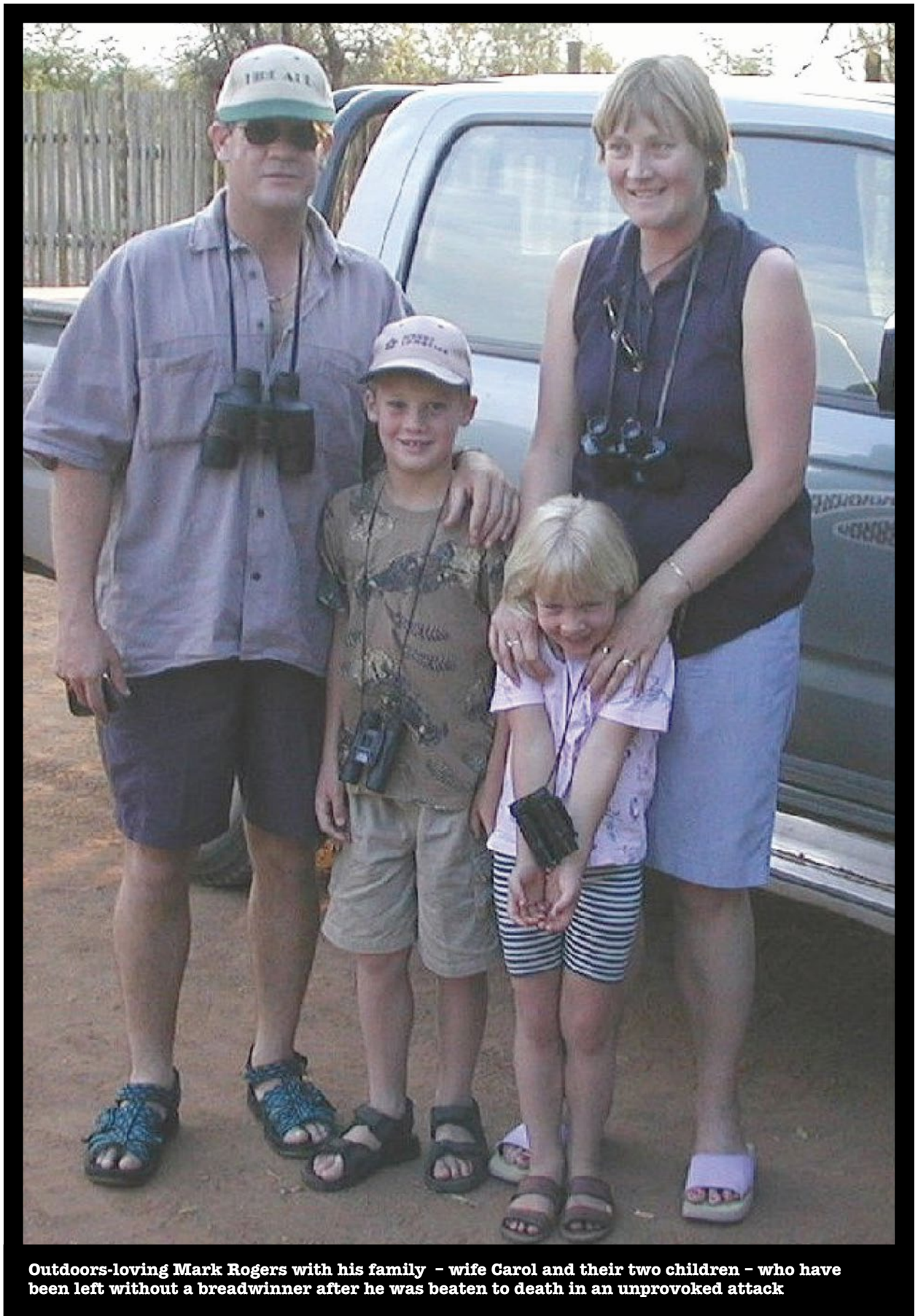


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Outdoors-loving Mark Rogers with his family - wife Carol and their two children - who have been left without a breadwinner after he was beaten to death in an unprovoked attack

KILLED OVER A FEW DRINKS

Betty and Mark were good friends. Both were happily married with two growing children apiece, but they met every Tuesday, drinking wine and chatting through the afternoon and into the evening.

But on the last Tuesday of October it all went horribly wrong. For it was then that they encountered Birthday Boy.

Betty Le Roux is 37, a property developer who lives with her husband Hentie and their two sons aged 13 and 15 on a farm at Kromdraai, outside Krugersdorp on the West Rand. Hentie has an auditing practice at Alberton, south of Johannesburg; Betty runs her business from the farm, buying plots of land and building town houses on them.

Mark Rogers, a year older than Betty at 38, was the vibrant sales director and part owner of a booming family firm called Hire All. An outdoors man who loved hiking, sailing and camping, he lived with his wife Carol at Dainfern, near Fourways, with their daughter aged seven and a son of 10.

Hire All rents out machinery to building contractors. Builders in the Krugersdorp area became Hire All's client base. Betty was one of them.

There was nothing improper in Mark and Betty's three-year friendship, let's get that clear. Mark was just one of

those warm, outgoing people who had time for anybody and everybody. "Anything you ever wanted to discuss with him, he would sit and listen to you," says Betty. "Mark listened; that was one of the most attractive things about him. We had a beautiful friendship."

Mark usually met Betty, sometimes with other clients, at the Ocean Basket restaurant in Krugersdorp. Often he would call in at Betty's farm, where they would sit on the stoep and drink wine into the evening.

Around lunchtime on Tuesday 26 October Mark phoned Betty and suggested he stopped off at the farm for a beer. But Betty was in Krugersdorp, so, fatefully, they arranged to meet at Big 5, a wedding and function village in Protea Ridge, outside the town. Mark was thinking about holding Hire All's end-of-year party there.

As Betty arrived at Big 5 in her Mercedes, Mark in his Toyota double cab 4x4 pulled into the car park. They settled at a table inside Big 5's thatched pub and ordered a bottle of dry white wine.

It had been a stressful day. Mark was upset because he'd just had to suspend a sales rep; Betty had learned that the wife of one of her friends had leukaemia. On the home front, Mark was peeved because his wife and daughter

When affable Mark Rogers bought a round of drinks for a group celebrating a birthday he could hardly have guessed that his friendly gesture would lead to his own violent death, leaving his young family without a father



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Betty Le Roux, Mark Rogers' friend, who witnessed the shocking attack

had bought a golden retriever puppy, which was messing on the new carpets. Betty wanted to discuss her pregnancy – she is expecting twins.

“Please don’t fight with Carol about a stupid little thing like a puppy,” Betty urged him. “Tomorrow she might not

was the tough-looking man at the bar.

Mark, being Mark, had to go over and offer his congratulations. More than that, he insisted on buying a tray of potent shooters for the birthday group. He paid cash for them at the bar and carried the tray to their table. He and

Birthday Boy walked past their table he suddenly spun around, his fist whistled past Betty’s head to connect with a massive blow on Mark’s jaw. Mark crashed back off the bench where he had been seated, and lay unconscious on the floor.

Betty was in shock. Why would someone commit an unprovoked attack like that? There had been no row. Nothing.

Two of his friends grabbed Birthday Boy and pushed him through sliding doors into the pub’s garden. “Why?” Betty appealed to everyone: “Why?” a woman with the birthday party, who we will call Mrs Trouble, screamed at her in Afrikaans: “Did you see what he did with our drinks?”

Was it those two shooters Mark had taken? Did Mrs Trouble – and Birthday Boy – not realize that Mark had bought them that tray of shooters?

As a waitress and the barman helped Betty raise a dazed Mark to his feet, Birthday Boy, flanked by two friends, reappeared from the garden. Birthday Boy extended his hand and said: “Let me say sorry to this guy – that’s all I want to do.”

They shook, but to Betty it didn’t feel right. She just wanted to get out of there. She went to the ladies, telling Mark she’d see him at their cars.

Dazed and groggy, Mark had left

Birthday Boy used the roof of Mark's Toyota to lever himself up and drop his whole bodyweight on Mark's body. Again and again he stomped with his feet

be here.” Mark’s reply: “Betty, for Pete’s sake, I might not be here tomorrow.”

It was at that moment that a formidably-built man walked into the bar and ordered himself a drink.

Two men arrived to join the newcomer and Mark and Betty moved to a table in the garden. When the wind blew up, they moved back inside. The stranger at the bar was now installed at the table next to theirs, with more arrivals including wives and children. It was a birthday celebration – and the Birthday Boy, now accompanied by his wife and two young children,

Birthday Boy downed one apiece and shook hands.

Mark then took two of the shooters back to his own table. Betty was sticking to her wine, so Mark drank both of them.

By now it was evening. Back home at Dainfern, Carol Rogers was getting impatient. Supper was waiting. She had phoned half an hour earlier and Mark told her he was out on the West Rand and would be a little late, but not much longer.

As Mark and Betty sat talking, the birthday party was leaving. And then it happened, right out of the blue. As

all his things at their table – wallet, cap with its Hire All logo, sunglasses, cigarettes and lighter, car keys. And, fatefully, his cellphone – and a second cellphone which he had earlier taken from the suspended sales rep.

Doris, their African waitress, collected all these things and scurried after them into the car park, where Betty emptied everything into her handbag. But Mrs Trouble saw this and started screaming: “And now you’re stealing my friend’s cellphone as well!” She grabbed the sales rep’s phone from Betty’s bag.

Birthday Boy stormed up and seized the cellphone from Mrs Trouble. He

spat into Betty's face as he screamed: "Are you the people that wants to steal my cellphone? I'll kick your car full of dents!"

He ran towards an old white car. Betty cried: "That's not my car. You see that blue Merc? Go and kick that full of dents!"

Birthday Boy looked at the Mercedes and saw Mark, still in a daze, standing between it and his silver Toyota.

"Are you the bastard who wants to steal my phone!" Birthday Boy screamed as he leapt at Mark. One massive punch knocked Mark to the ground, where he lay face down, unconscious again.

Then, unbelievably, Birthday Boy used the roof of Mark's Toyota to lever himself up and drop his whole bodyweight on Mark's body. Again and again he stomped hard with his feet. "I've never seen anything so vicious. He was in a total frenzy, totally out of control," says Betty.

"I was pushing, trying to get him away from Mark. Doris the waitress tried to help me. So did the car watch guy. But he was so massive: he pushed me away with the back of his hand, like swatting a fly.

Then he stopped that thing with the Toyota's roof and started kicking Mark: in the ribs, the back, his head. Mark couldn't do a thing; he was knocked out from the first shot."

"Someone come and help us! Somebody help here!" Betty was screaming. Eventually some of Birthday Boy's friends emerged. He was still kicking furiously at Mark when they dragged

him away.

Betty called the emergency number 107. As she did so Birthday Boy's wife – who with her children had seen the attack – pleaded with her: "Please don't phone the police. I don't know what's happened to my husband. I'm taking him away now!"

This she did. Two men attending a seminar at Big 5 carried the unconscious but still breathing Mark to a ramp at the edge of the carpark. Paramedics arrived. They set up a drip and then performed CPR. After 20 minutes they declared Mark dead.

For hours that night, as Mark's body remained on the ramp, Betty gave a succession of statements to the police. Carol phoned twice on Mark's cellphone, but Betty could not bring herself to answer her calls. Finally, at 1.30am, a police superintendent phoned Carol from the Big 5 car park and broke the news. "I'm sorry to tell you like this, but there was an assault here tonight and your husband is dead."

Charl van der Merwe, a state prosecutor in Krugersdorp, was having supper in the Big 5 pub with friends. "I just saw the punch inside the pub, it wasn't a pretty sight," he says. "Apparently it was all about a shooter." The following morning the prosecutor had to be rushed to hospital, suffering from delayed shock.

A 34-year-old former Flying Squad police officer has been charged with Mark Rogers' murder. He was granted bail of R5000 and was due to appear at Krugersdorp Regional Court on 10 December. **W**

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Who framed Roger?

From page 11

ant and dishonest man". Brett's antagonism is understandable given his papa's legal troubles. But his attitude is also no doubt influenced by Wellesley-Wood's determination to press ahead with massive claims - arising from Roger's period as chairman of DRD - against various parties, including the artful Roger personally and Kebble-controlled JCI.

The first of these involves a claim for R77m in South Africa, and another R80m in Australia, related to DRD's 1999 purchase of an Indonesian mine called Rawas, from a company that owed significant sums to JCI. That company was able to pay JCI what it owed consequent on the DRD purchase of Rawas. DRD, under the chairmanship of Roger, paid R120m for the mine, which turned out to be worthless, according to company spokesman Ilya Graulich.

The second major DRD claim is for R40m, based on the December 1999 purchase of shares in Australian gold miner Continental Goldfields, at a price that was allegedly seven times the then market value of the shares. According to Wellesley-Wood DRD was substituted as purchaser to get JCI out of a deal that had gone sour. He points out that at the time of the agreement Roger Kebble was a director of JCI, the holder of a substantial number of shares in JCI, and the executive chairman of DRD. In an update to shareholders, on legal matters, Wellesley-Wood reported that an Australian judge had sent the case to trial, describing the transaction as "strange".

In October this year, in another matter, DRD won a R36m judgment against JCI Gold Ltd and Consolidated African Mines. The award related to an undertaking Brett Kebble had given DRD over a holding fee for shares in various SA gold mining companies. In awarding the claim to DRD Judge Goldblatt described part of the evidence presented by JCI / CAM in that case as "nonsense" and "a deliberate lie".

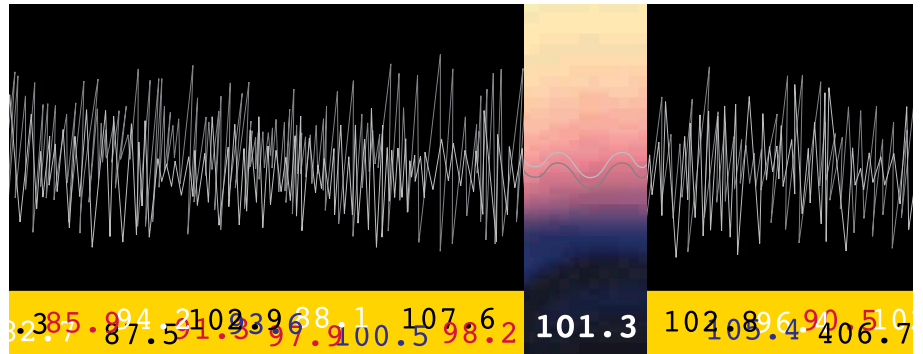
■ Just before going to press, we learn that, according to DRD filings required by the US Securities and Exchange Commission (DRD is also listed in New York), board members, other than Mostert, who received proceeds of the phony bauxite transaction, thought that these were "top-up" payments they believed they were owed on their restraint of trade agreements with the company. We're not convinced - for one thing the numbers don't add up. Watch this space. **W**

Gateau est arrive!

Gus Ferguson's latest collection of cartoons and drawings is now on sale at all good bookshops



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Pay up – or Foxtrot Oscar!

Bon voyage and buy, buy – again. Snap! We have a match for Toine Scholtz's prize holiday cruise story in *nose62*.

About six months ago, we – the Skeats of Flamwood near Klerksdorp – were using the internet when a large, flashing message box popped up, announcing that we had won an amazing vacation - absolutely free! – reference number 56555. All we had to do was to go to www.special-travel.com to claim the prize – but we had to do so *immediately* as we were one of only 300 winners of this once-in-a-lifetime opportunity!

So we log on at specialtravel.com and voila! We've won 14 nights in "resort accommodation" at five destinations for four people including an absolutely free rental car! The page lists a number for any of us foolish enough still to have questions. We call the number.

Each Day from Special Travel takes the call in half a ring. Yes it's true! We have won five days and four nights in Orlando, Florida; four days and three nights in Daytona Beach and a cruise to an island for four days and three nights! A cruise? Yes – six hours to an island! Which island? Grand Bahama, staying in Freeport! AND, even more exciting, for an additional \$698 we can have three days and two nights in Las Vegas plus a rental car!

This life-altering prize is valid for 18 months with a 60-day advance notice as long as we pay the \$800 "port and service fee" right now so we don't deprive another potential deserving lucky winner of a trip. When Day paused to draw breath we said we'd have to think about it as we would have to travel from Africa. (We didn't burden him with the "South" bit.)

Further, as we would have to run the gauntlet of US consular staff to obtain visas, could they supply some paperwork? After a pause, brought on no doubt by sheer disbelief at our ungrateful attitude, he imparted (in a tone which implied we were sniffing glue) that this was out of his jurisdiction and he would have to refer us to his superior. No call-backs on this trip, we were paying and holding on.

In not-quite-a-trice one Dell Vickers comes on the line. Yes, he has been passed our query, reference AA 041604. What can possibly be the problem? Yes, everything Day has told us is true! The

The Skeats of Flamwood, near Klerksdorp, opt to stay in their grass hut in Africa rather than fork out \$800 for a Bahamas 'cruise' they have just 'won'

prize is valid for two years and if we want a bit of variation, for an extra \$199 per person we can have an additional three days and two nights in Cancun, Mexico! OR Hawaii! How do we get to Mexico and Hawaii? It's included in the \$199 per person! Well that sounds interesting but we still need further information. His sigh lets us know we are now clogging the lines – and what kind of ingrate would want to ask still more questions?

Such as: what grade of accommodation in Mexico or Hawaii does \$199 buy for two nights? What happens to our \$800 if

we can't make the trip for some reason? Unfortunately all this detail will have to be dealt with another time on the US telephone number (321) 282 6985, Vickers says. But that's the number we are calling. Well then go online and email us all your queries. Perfect, we'll do that – is our prize reserved? Not if you don't pay now.

Would Vickers hand over \$800 without a contract? Vickers stopped short of stating the obvious: that he is a telesalespersonforchrissakes and in a long-suffering tone informed us that if we did not want to take advantage of this unbelievably generous offer, there are thousands of good people who do and would we now please either pay up or Foxtrot Oscar.

Could someone in authority from Special Travel call us and give this entire conversation some credibility? Not if we don't pay today, because without securing the prize with a paltry \$800 we are not on their system. But we ARE on their system; he has our email address, remember? At this point he put it bluntly – yes or no?

No, we told him, we'd rather stay in our grass hut in Africa. ■

Stephanie Skeat, Klerksdorp



Courting disaster

Hundreds of bail applicants and people who have been given minimum sentences in magistrates' courts from six provinces are spending extra months in jail – because of the slow pace at which court records are reaching the High Courts for review. And the quality of transcription is so appalling that when these records do eventually reach the courts, they are frequently incomprehensible.

The law requires reviews to be heard within a week of sentence.

The delays are being caused by the inordinately long time certain companies contracted by the government – all of them connected to a KwaZulu-Natal businessman well-connected in government circles – are taking to get the tape recordings of court proceedings transcribed. In six of the nine provinces of South Africa, tapes made in magistrates' courts are couriered to Durban for transcription. In October last year, Judge B M Griesel of the Cape High Court neatly summed up the situation following a review case from George that had taken no less than four months to reach him. Judge Griesel found that from June 1, 2003, the transcription contract for the Western Cape had been awarded to a company called Infotech, and that tape recordings made in court had from then on had to be sent to Durban for transcription. "In the first place, it is incomprehensible that taped recordings must be sent across the breadth of the continent to KwaZulu-Natal for transcription," the judge said. "Secondly, it is unpardonable that it takes four months for the record to be submitted for review. The law demands that review cases should be submitted to the High Court within a week of sentence. Thirdly, the quality of the transcriptions is shocking. They are teeming with spelling and grammatical mistakes."

The judge quoted from the record before him: "The Accused an adult male 37 years of age according to the judge, appearing before me on a charge of assault with intend to do previous bodily harm. All right. With (inaudible) of section 5 1, subsection 2(a), (inaudible) 97 the state alleges that on the 29th day of March 2003, an attorney (inaudible) popped in the district of George, the Accused did

Transcription of trial proceedings has been subcontracted to four KZN companies that employ semi-literates – with results that would be hilarious were the matter not so serious

wrongfully, harmfully and intentionally assault Jacoline Steyn."

"It is perhaps not surprising that the customary transcriber's certificate (which certifies the transcript as true and correct) is not only unsigned, but also anonymous," concluded Judge Griesel.

noseweek did a bit of digging. The problem, we found, lies with four companies – Infotech, Speedy Transcripts, Mugivhi and Company, and Vishnu Munilall and Associates – that between them have the transcription contracts for 97 magistrates' courts in the Western Cape, the Northern Cape, KwaZulu-Natal, the Free State, Limpopo and Mpumalanga. The four companies are all linked to one man: Durban-based businessman Vishnu Munilall.

The origins of the crisis date back to 1998 when the then minister of justice, the late Dullah Omar, decided (in the interests of

black economic empowerment) that some of the contracts held by the established legal transcription companies - Snellers and Lubbe Recordings - should be given to previously disadvantaged newcomers to the industry.

In 1998 a large number of the contracts were awarded to new companies, many run by women. But these contracts were only for two years. In 2000, when they were due for renewal, advertisements inviting tenders were placed. But these were withdrawn several times and contracts were temporarily extended.

Around this time "a chap called Vishnu Munilall from Durban" started corresponding with the other contractors, a director of one of the tendering companies told *noseweek*.

In a letter dated June 11, 2001, Munilall revealed that his firm, Vishnu Munilall and Associates, "had been investigating the matter and had recently gained access to relevant files held by both departments". (These were the Treasury's contract management, which calls for and awards tenders, and the Department of Justice, which makes recommendations.)

Munilall offered to "negotiate on your behalf for a broader selection of successful parties", and asked tenderers to "drop us a note authorising us to represent your interests at no cost".

The other tenderers were furious. "It was obvious that he had contacts in all the right places," said the director. "We kicked up hell and we were all called to meetings in the different regions with Raymond Ditsi (then chief director in charge of contract management at the State Tender Board). He asked for all our correspondence. That was the last we heard of it."

It was also the last they heard of Raymond Ditsi. Soon afterwards he resigned, reportedly just in time to escape a disciplinary hearing, and went to work for Hoxie's Seafoods in Pretoria.

In June, 2003, when the new tenders were eventually awarded, many of those who had won contracts in 1998 lost out. It was immediately clear that something strange was up. Some of those who got the new contracts were charging R11.91

a page, whereas those that lost the contracts were charging only R7.49 a page.

noseweek found that lawyers, magistrates and judges, were complaining countrywide about the poor quality, slowness and expense of work done by Munilall's four companies. Some comments:

■ A KwaZulu-Natal chief magistrate: "We have to pay R14 a page and the records are full of mistakes. It often happens that what appears in the record is not what was said in court – sometimes the exact opposite."

■ Attorney William Booth, Cape Law Society councillor and chairperson of the criminal law committees of the Cape Law Society and the Law Society of South Africa: "It is unacceptable that my clients have to pay for the courier service. My admin staff seem to spend half their days phoning, faxing and e-mailing to Durban. The records are often unintelligible, raising doubts whether they reflect what is actually on the tape. "If somebody doesn't get bail and we want to enter an appeal to

all tenderers in 2001, Munilall wrote: "As a previous contractor to the High Court, Thohoyandou, we have had the opportunity to take more than a passing interest in transcription tenders."

Munilall is still, by all accounts, taking more than "a passing interest". New tenders are to be called for next year, including tenders for contracts to transcribe all High Court records. *noseweek* was told that at a recent meeting of all contractors called by the Department of Justice "Mr Munilall held the floor. It's obvious he intends getting the lion's share of High Court contracts as well."

noseweek's telephone calls and e-mails to Simon Giyani, managing director of court services in the Department of Justice, remain unanswered, although a secretary confirmed they had been received. But the shenanigans of Munilall and his associates have not passed unnoticed. Petronella Mobija, chief registrar in the Cape High Court, told *noseweek* that the matter of the

The evidence in it's raw and uncouth outlook one wonders if could come out airvent...

Transcript of court proceedings


the High Court, he or she could spend months in jail before the record is available. The same applies to people who did not have legal representation and were given minimum sentences."

■ Khami Makhafola, an acting judge, was interviewed late in 2002 by the Judicial Service Commission for a permanent appointment to the bench in Thohoyandou, Limpopo. Commission members commented that some of his judgments shown to them were "incomprehensible". Makhafola said it all had to do with the poor quality of transcription. He showed the commission several excerpts from a transcribed record, one of which read: "The evidence in it's raw and uncouth outlook one wonders if could come out airvent..." Judges did not see their judgments after they were typed, he said. And who had the contract for producing court records in Thohoyandou at the time? None other than Vishnu Munilall and Associates. In fact, in his letter to

contracts was under review "at a national level".

The issue had been discussed at forums established in all divisions of the High Court, she said. These forums were chaired in each region by the judge president and attended by officials of the justice department, the Treasury and representatives of Bar Councils and Law Societies.

"We are monitoring the situation and have asked for a report-back at our next meeting in November," Mojiba told us.

In response to our questions, Munilall wrote to *noseweek* editor Martin Welz: "This is a profession that is newly opened to people of colour. There is a strong groundswell of resistance from [presumably white] transcribers who enjoyed the fruits of job reservation prior to the arrival of democracy ... I have not had the pleasure of reading your paper. Can you post me a back copy for my personal interest?" 

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Leaves much to the imagination

The French (still the world's greatest wine producers) have a phrase I like: *faute de mieux*. It means "for want of anything better" and is presumably used to explain why people occasionally read wine columns. They surely don't do so for advice. If I were to now recommend delicious Blankenberg Co-op Magnificencia, would you rush out to buy it? Even if it had a Veritas gold sticker and the *John Platter Wine Guide* approvingly credited it with the fragrance of a freshly fallen leaf?

As further inducement, the back label would almost certainly tell you that the grapes were picked at optimal ripeness, the wine was made with passion, matured for just the right length of time in the finest French oak, and "compliments" (back labels usually can't spell properly) pasta, vegetables and red meat. And sushi.

You probably wouldn't be sent rushing to the bottle store, and your unresponsiveness would be understandable, though a little hurtful to my professional pride. For a start, how do you know that my delicious is your delicious? I certainly try some wines that are highly regarded by some of my colleagues and think them ghastly – and I have no doubt my wine expert pals return the "complement" (some wine writers can't spell either).

I do prefer, though, the advice of individuals, because that gives a better chance of knowing if recommendations or excoriations emerge from tastes similar to my own. But frequently wine tasters tend to hunt in packs, leading to further problems. They often disagree amongst themselves, hence the averaging out that can characterise panel tastings.

Hence, too, the wildly differing ratings that the same wine might earn from different panels – or even quite similar panels at different times: when I was recently compiling a list of variations and similarities for selected wines across different competitions, the thing that struck me most was that a few of the wines had been rated on three different occasions by *Wine* magazine panels, and received radically different results each time.

Tim James hits the bottle



A bunch of tasters who seem to agree that, anyway, most local wines are pretty damn good, are those for the Veritas awards. The 2004 results were recently announced, presaging a rash of gold and silver stickers (some producers even seem proud of the bronze ones) attempting to beguile the wine buyer. All that glitters is not indubitably a great drink, however. More than 1500 wines were entered into the competition this year, and 80% emerged clutching variously coloured shiny discs to their glassy little chests. Credible? Really an "authoritative quality guideline for wine connoisseurs" as the organisers claim?

Perhaps the major problem with Veritas, though, is that too many of the judges are winemakers, not necessarily widely experienced, and too often judging their own wines. The worst example of this in 2004 is the Cap Classique sparkling wine category. Not many wines

are involved here, so it is that much easier to recognise one's own stuff. Of the 22 medal-winners (presumably out of about 26 entries), 18 were produced by one or other of the judges. Villiera, with three medals, had (as usual) two representatives on the panel. All charming people these judges, and doubtless packed with integrity – but that's not really the point, is it?

As for recording subtle fragrances, it must be said that the exquisite palates of some wine judges are not necessarily attuned to the sensibilities of mere mortals. Far be it from me to suggest whether the blame for the occasional opacity in offered wine descriptions should be ascribed to communication problems, preciosity, or the terrible mereness of the mortals.

The "freshly fallen leaf fragrance and flavour" mentioned above is not my invention. It is one of the entries in this year's Platter that I find most, er, challenging, and purports to describe a certain pinot noir; no particular bush or tree is mentioned as having shed the leaf. Humiliated by my own lack of discrimination, I determined to improve my range of experience. I roamed my small suburban garden, eyes peeled for a leaf fluttering to earth (or how else would I know that it hadn't been lying there for days acquiring who-knows-what misleading aromas and tastes?)

Unfortunately, early summer is not the best time for leaves to come crashing down freshly and obligingly. Of recent but uncertain vintage, a blighted oak leaf was disappointingly neutral, an avocado one similarly so. But then a gust of wind took pity on me, and dislodged a yellowish leaf from a lemon tree. Trembling with anticipatory pleasure, I pressed it to my nostrils, then chewed. I'm now pretty sure that pinot must have been either just rather green-tasting, or distinctly lemony.

A little reassured, I returned to Platter. To read, with something like despair, of a port that it "evokes images of smoking jackets, both cigar leaf and paisley". My connoisseurship still has a long way to go, clearly. I'm working on it. **W**

BY HAROLD STRACHAN

SHEEP

MAY SAFELY GRAZE

I SENSE A FACE PEERING ROUND

my left shoulder as I stand discreetly back from the ATM so as not to peep at anybody's PIN number. It's Jason in his gym gear. Aha Jason! I exclaim. Yes, I thought it was you, from the singing, says he. Oh was I? say I, well, it was pretty quiet, wasn't it? Oh yes, says he, but you are the only person I know who sings in public.

I think curiously about this. He may be right. Never mind the birds, even the Zulus have stopped singing. They used to have a nerve connecting feet to vocal chords, a triggering mechanism: start walking, start singing, reflexively. If you had a guitar the reflex was even quicker. But the small repetitive tune and the quiet personal little song on a fine walk on a fine quiet day have gone; gadoomp taxi music has made history of all that, forever. Taxi music has become chewing gum for the ears. Friends at the Tech tell me they have students who can't write an exam unless they have the gadoomp, however subdued.

Fine spring morning, I observe, that's why I'm singing. Jason has to go and look out the window to see such a fine spring thing, though he's just come in. Do your ATM business and join me on a walk to the Botanic Gardens, with maybe busting out in a small song en route, say I to Jason. O nonono, he exclaims in a moral sort of way, I have to go to the gym. Any birdsong at the gym? say I. Oh no, we have heavy bass rhythm on headphones to help with the exercising, says he. Taxi music? say I. Well I suppose you could call it that, he says with some reserve, taxis being rather low-class. Then a bit defensively: Well what music do you like, I mean what were you singing just now then? says he.

Sheep May Safely Graze, say I. HARHARHAR!! he guffaws, you can't have a song called that! I do have a song called that, say I, and I'm singing it. Who made it up? says he, straightening his mouth with some effort. A bloke called Johann Sebastian Almighty Bach,



Friends at
the Tech tell
me they have
students who
can't write an
exam unless
they have the
gadoomp

say I. Garn! says he, that's church music, man. I also sing synagogue music and the Devil's music, say I. And Arab jazz; would you like some? I hate jazz, says Jason. You and Hitler both, say I, he called it Jewish-Bolshevist-Negro Schragmusik.

You're bloody mad, says Jason. Yes, say I, but I'm happy and I'm off to Allah's great outdoor gym where the birds sing.

Well it's a bit late for the avian schragmusik, I realize on arrival at the Bot Gardens; they're all away hunting worms and things at this time of day. But it scarce matters, for as I pass the genteel tea-kiosk there a wave of curry-

vapour wafts out, not the sort you can actually eat, know what I mean, it's what the Brits made before the Indian Invasion of their island home: stew with 2 tblspnfls gunpowder and 2 of something called Curry Powder, and you consume this with chutney and raisins and grated coconut and sliced bananas, for fuck sake. This vapour-wave triggers a neural signal from nostril to foot, and I find myself impelled towards the Indian Market as the humming-bird is impelled

from Canada to Mexico when its gene-switches tell it a certain species of flowering creeper is making the right ambrosia down there.

SOMETHING TELLS ME, I JUST KNOW,

that Ma Gov is seething up a new cauldron of mutton curry and baking her special half-loaf bunny-chow-shape bread, not the usual spongy supermarket stuff which instantly soaks up the gravy and goes all soggy; I shoot straight past the orchid house and the hadedas hammering their beaks in the ground, and I'm off to Victoria Street.

Ah, Mrs Govender! I cry, I sniffed your mutton curry from afar and I want a bunny chow please! Wholewheat? says she. Yes yes, and some nice sambals on top, of your own expert recommendation.

Such a Five Star Bunny you should get at the Royal Hotel. *Mouchant du Lapin*, from a waiter with white gloves. I fidget around expectantly and continue my small song as she ladles the delights into the open half-loaf and nimbly wraps it in a sheet of newspaper. There you are, she says, and what are you singing? Hmmm? say I. Oh it's a small song I know called *Sheep May Safely Graze*. Hmmm? says she, and shakes her head against the general din of the Indian Market. What?

Sheep May Safely Graze, say I, and she blinks and opens her mouth a couple of times. Nooo problem, says she. Very safe graze, that lamb. Very fresh. ▣

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PERSONAL

It's great when good things happen to good people. Keep it up and going strong *noseweek*.

Hang in there Sally; you have a 'nose' on your side – from a Grandma.

Prince and Abeniza of the Citizens' Advice Bureau: Keep up the good work – Cecilia.

Shaik the nose I know nothing. Mr V. My arms are clean man!

Shana Tova and well over the fast to all our friends from the Adir family.

The ANC should make soccer available in all schools in Western Cape – Paul, Fish Hoek.

Wishing all participants in the 2005 cycle tour Godspeed - from Gary Bowden (74-year-old old participant).

Pretorius Family: Kim and Eric wish their family and friends a happy and safe festive season.

Noah: Welcome to the world – love Dirk and Di.

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Medical aid requirements: Phone Roy Kurland (021) 406 8015.

Are you a timeshare owner? Harry Bass offers advice to timeshare owners who are being fleeced and exploited. (011) 234 1790.

Attorneys: Havemann-Ferguson general practice, South Coast KZN. (039) 976 1375.

Grosvenor Pharmacy Bryanston, Johannesburg, for all your family health needs. (011) 706 1371/2, fax (011) 706 1372.

Capital gains tax: Ian Wyles Auctioneers will solve your problems – government appraisers and institute valuers on board. (031) 579 4403.

For all your legal requirements: Johnston & Partners (031) 303-6011.

Language and editing service: J M Deane tel/fax (033) 347 2090 or deanes@mweb.co.za.

Heating: MacD heating for warmer under-tile, under-wood and under-carpet heating. Floor-heating specialist for 30yrs. Andrew (021) 696 7930.

Cape Town's 24-hour pharmacy: M-Kem is open 365 days a year.

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Promotional button badges and key rings. Buy direct from manufacturer at low prices. Alphen Marketing (021) 794 5303 or info@alphenmarketing.co.za.

Mailroom service provider: Outsource and fulfillment services. (021) 511 0114.

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Salvage & stockfeed: Damage, reject, returns and insurance claims, we tender for all. (082) 888 3096.

Labour law: Shanta Reddy Attorneys, specialists in worker and trade union representation. (031) 301 5829.

Factory and warehouse: Sunset Industrial

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Trusts & wills: For advice and referral contact K Visagie (021) 919 6176 or (082) 873 2416.

Reliable renovations: Umhlanga Rocks. Contact Philip Payn (031) 569 2740 or (083) 775 2727.

Corporate & forensic investigations: Van Staden & Associates info@vanstaden.co.za.

Videotapes converted to DVD: R175 each. Cameraland, 68 Long St, Cape Town (021) 423 4150.

Sisters Act event company: It's not an event; it's an experience. Elanit (083) 655 5392.

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PUBLICATIONS

Tax Shock Horror: An irreverent newsletter designed to keep you up to date, by Costa Divaris. For your free e-mail subscription, e-mail: lesley@bsp-seminars.co.za

Creating the More: Balancing on the tightrope to prosperous existence by Pierre Lucouw. 192pp . R99,95 plus 10% handling. Tel: (016) 982 3255 or corals@worldonline.co.za

e-commerce in Practice: Interdisciplinary manual edited by Dr. John Carstens and Prof. Pierre Lucouw. pp 224. R169-95 plus 10% handling. (016) 982 3255 or corals@worldonline.co.za

Olives in Fact: Everything you need to know about olive processing. Linda Costa. (083) 300 4703.

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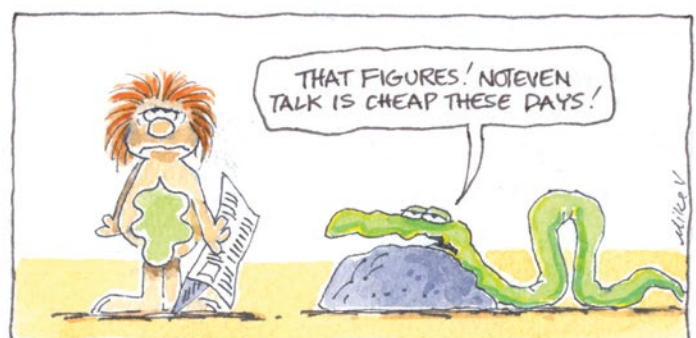
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