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# noseweek

# 72

OCTOBER 2005



**Did she REALLY expect to get something OUT?**



**St John's schemes to get boys off hook SA Cricket fields spindoctors  
Cape Town property overheats House of the rising kitchen tiles**





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# noseweek

OCTOBER 2005

ISSUE 72

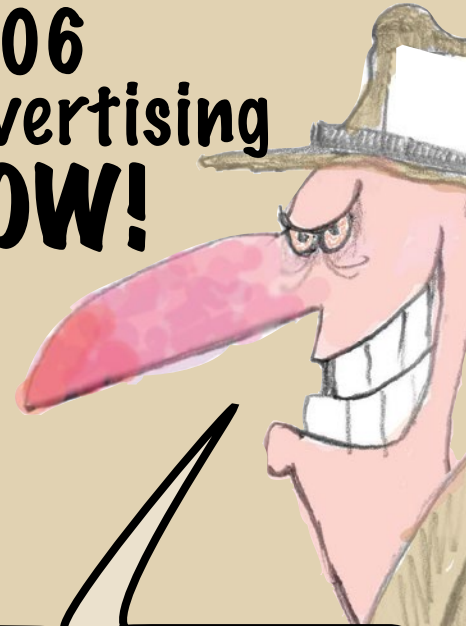


Cover illustration: Dr Jack

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**Uncool school**

Whilst thoroughly entertained by the goings on in the expensive Gauteng houses of learning as reported in *noseweek* of late, I cannot for the life of me see the mystery. Put any of those louts in a suit and behind his father's desk and you would not know the difference. Elitist schools have for decades been turning out arrogant jobs, well versed in whatever versions of the secret

just apologised. He should have fired Templeton. By saying he is not interested in the "misbehaviour of spoilt, selfish brats from Joburg's northern suburbs" etc, Templeton openly showed a bitter inferiority complex and his stupidity.

Regarding that story as a whole, is it only posh schools that hold in-house assault hearings, instead of having their boys tried in open court?

I'm sure those four Pretoria

"huge consequences in their personal lives".

My guess is that the private court is simply to keep the name of St John's College from being dragged through the mud. It ought to be dragged through the mud.

What Messrs Spicer and Cameron are really teaching the accused is that it is fine to be rich and connected to someone who is rich and connected, who can work the system to

me and then assaulted me while his lieutenants restrained me from defending myself. When satisfied, they left. The fact that they had got the wrong person did not appear to worry them, then or later.

So, you see, thuggery is an old tradition at St John's – older than water polo.

**A Clark**  
Scottburgh

**First National Bullshit**

I have only now seen your article "FNB's massive home loan scam" in *nose70*.

In your editorial you quoted the CEO of First National Bank, Mr Ed Grondel, as saying, "In closing it is incumbent on me to note that under FNB's tenure not a single affected former Saambou client has lost his or her home because the balances on their home loan mortgage has been incorrectly calculated."

I am astounded. As a former Saambou client my house was sold in execution on 16 July 2003 for R10. The buyer of my house was FirstRand Bank Ltd.

After the sale I instructed Emerald van Zyl to recalculate my mortgage account in accordance with the home loan agreement and the directives of the Usury Act. The calculation revealed that I had been overcharged R18,680.83. I was therefore not in arrears when my house was sold in execution.

Notwithstanding the fact that Emerald van Zyl informed Grondel personally, in writing, of the overcharge, the bank continued with an application in the Cape High Court to evict me and my family from our home. Their application was successful due to a technical error in the discovery of documentation by my legal representatives.

**André Brown**  
Ceres

**Greedy insurance fatcats**

Thanks for publishing the interview between Dr David Klatzow and the Life Offices Association (*nose70*), exposing the machinations of greedy life insurance fatcats. Stealing is stealing, and I applaud *noseweek* for being gutsy enough to tell the emperor he has no clothes on.

I've subscribed to *noseweek*

**Put any of those [St John's] louts in a suit and behind his father's desk and you would not know the difference**

handshake his circle dictates necessary to rise in the corporate jungle. Is it any wonder the lengths the schools themselves will go to, to keep their dirty linen private?

**Michael Webb**  
Rondebosch

**Spoilt, selfish brats**

*noseweek* attacks the editor of *The Star* (*nose69*) for making a "crawling apology," when his reporter Alameen Templeton let his "dying mining town" background show when he reported on a boy beaten up by others from St John's and Edenvale High.

The editor shouldn't have

boys, charged with serious racial assaults, would have much preferred their school to have dealt with the matter.

**Jon Abbott**  
Ballito

**Dragged through the mud**

Good on you for your report on the goings on at St John's College, the Hillbrow Magistrate's Court, and *The Star* (*nose69*).

The chilling part of your report is the statement by the headmaster, Roger Cameron, to the effect that the boys involved needed to take responsibility for their actions, but that a delay in the criminal proceedings would have

make your problems go away. If these youngsters went to court they would have to stand in the dock alone, but doing things the St John's way will mean in all probability that their mummies and daddies will really be the responsible ones.

I hope that the prosecutor at Hillbrow has the good sense to refuse to acquiesce to this bizarre arrangement.

*The Star* editor warned staff against bringing the paper into disrepute? *The Star* is such a lickspittle sycophant of the governing party that it is entirely doubtful that it could be brought into more disrepute.

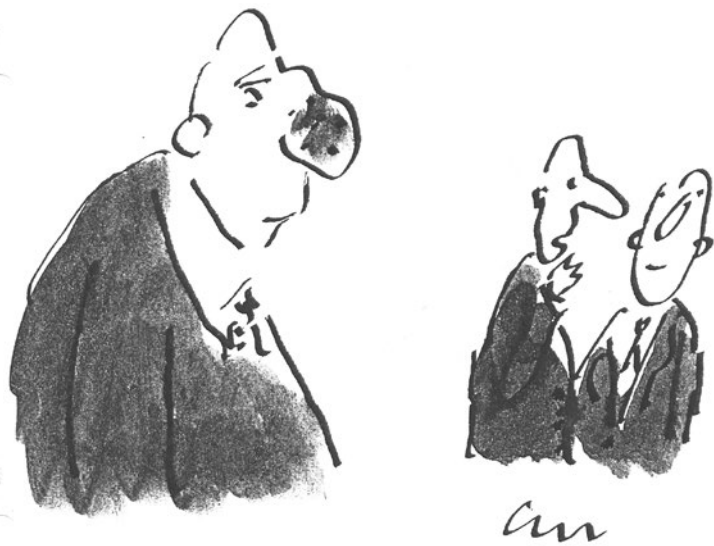
**Scroff from a government school**  
Muizenberg

**Long tradition of thuggery**

Your story on alleged thuggery by St John's pupils (*nose71*) brings back personal memories of a similar incident, long ago, also involving St John's pupils.

I was born and brought up in Rosebank, surrounded by the wealthier suburbs of Melrose and Dunkeld. In 1955 I was a student at Wits. One weekend friends and I attended a swimming party at the home of Duggie Rous in Dunkeld West. There one of my friends pulled the swimming costume off Duggie's sister. Some days later I was standing in the front garden of my Cradock Avenue house talking to my neighbour, Lawrence Rennie – a St John's old boy – when suddenly two cars and a motor bike arrived, disgorging eight St John's boys. Rous walked up

**Gus**



*He was a great wine taster until his nose got too bulbous to fit in the flute*



for my nephew – to reassure him that there are media who uphold the rules of integrity.

**Muriel Hau-Yoon**  
Cape Town

*I trust your nephew is as grateful as we are! – Ed.*

### Masked marauders

Mr Nose's latest bugging of the insurance industry, "Trust me, I'm a broker" (*nose71*) is right on the button.

I'm in the process of getting rid of each and every one of my SA assurance policies. I am extremely disappointed with their performance, and believe that I was deliberately misled by every single salesman who conned me into investing with them.

I believe there is a deliberate attempt to fleece the public and that the profits are there, but being skimmed off somehow. Perhaps invested overseas, beyond our reach? (Old Mutual have a lovely Thameside office which I pass whenever I am in London.)

When I queried the fact that my projected payout figures were getting smaller each year, in spite of the fact that I had an inflation-linked policy, I was told it was because the stock market was not performing well. So, I was investing more and more to get less and less? Correct, I was told.

I think these thieving bastards should be made to wear masks. Then at least it will be clearer who and what we are dealing with.

**Monty Paul**  
East London

### Lying and cheating

I always felt that the life insurance companies were ripping off their customers and that we were not always given all the facts! If they were prepared to cheat their own loyal employees ("Liberty Lies", *nose71*), then what do they do to their

policy holders? One has only to look at the ostentatious buildings that the life insurance industry continues to build and build and build, to guess.

**Pam Herr**  
Fish Hoek

### Why bother?

Just to add to your look at the life insurance industry: I have had a life insurance policy overseas for a number of years now. For a similar policy in South Africa the monthly rates are – depending on which company you talk to – between 250% and 300% more.

Why does anyone bother insuring in this country? We're being ripped off, but then you knew that already.

**CV**

Johannesburg

### Liberty fails to provide

I have read your article "Liberty Lies" (*nose71*) with great interest.

I bought a Liberty retirement policy in the 1970s and it matured in 1993; my pension in terms of the policy was then linked to an investment in Liberty's property portfolio.

For seven years I was told the portfolio was not performing and neither capital nor income had increased "very much". This year, in 2005, I was told the income on the portfolio had actually decreased and that my income from the policy may be reduced because of the alleged decline in income from their properties. Am I to believe this bullshit? Asked by the long-term insurance ombudsman for facts and figures, Liberty have failed to provide anything for over six months. My income from Liberty is so low I actually qualify for a state old age pension – the difference between the Liberty pension and the

R740 a month the state pays indigent pensioners.

But I can't get even that because, for over six months now, Liberty have failed to certify in writing, for the Social Welfare Department, what amount they paid me in April 2003, the date from which I qualified for an old age pension. Again, the ombudsman has been unable to extract the information from Liberty, as required by Social Welfare.

The time has come for a far-reaching commission of inquiry into the insurance industry in South Africa.

**Richard Benson**  
Fish Hoek

### Yard baboons of the press

Your article about an Afrikaans press without balls (*nose71*) makes interesting reading. I cannot agree more. The Afrikaans press has always been the lackey of the government or the powers that be.

The editors don't have the balls to stand up against anything, if it will disturb their comfort zone. Breyten Breytenbach has a name for the likes of them: "werfbobbejaan" (a tame or "yard-baboon"). While appearing to be a free wild animal, he is completely dependant on the owner of the yard.

Keep up the good work.

**Chris Erasmus**  
Faerie Glen, Tshwane

### Changing names

Reading *noseweek* serves as a useful reminder that all is not well in sunny SA, although, as The Beatles used to sing: "It's getting better all the time!"

Anyway, in a country where you have a courageous muck-raking press, busily uncovering abuses of power in places high places, as well as exposing the occasional con artists of the Von Bullshit variety, things can't be

all that bad. With Tim James and Harold Strachan to provide the appropriate after-tastes, your magazine continues to give us – your overseas subscribers – our money's worth!

A subject you haven't yet raised: according to a report in Norway's largest morning newspaper *Aftenposten* on 9 March 2005, the South African capital city – formerly known as Pretoria – has now changed its name to Tshwane.

Indeed? Don't get me wrong: re-naming of cities (and other place names) to reflect political changes has been known to occur even in the most unlikely places, and there should be no reason to expect post-apartheid South Africa to be different.

This particular name-change does, however, make one wonder what happened to the good ol' indigenous name of ePitoli, as the city used to be known among the majority of South Africa's citizens.

How should the new name be pronounced?

And, if other major SA cities are also about to undergo name changes, would those be the traditional (and phonetically easy and pleasing) ones, such as Igoli, iKapa, eTekweni and eBayi for Johannesburg, Cape Town, Durban and Port Elizabeth, or are the powers-that-be contemplating new and unfamiliar ones?

**Odd Gunnar Skagestad**

Oslo (formerly known as Kristiania),  
Norway

### Kebble goes down

Was it just coincidence that your recent revelations about Brett Kebble's various mutually satisfactory relationships featured so prominently on the cover of *nose69* (or *soixante-neuf*, as they say in Franschoek)?

**Steve Pain**  
Cape Town

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# Guilty until proved innocent

Recently we've had occasion to visit Outsurance's website – where we discovered the following encouraging item:

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*If you experienced what we have promised, then tell us. It encourages us to keep on doing it that way and to serve you better. If, however, we have not lived up to our commitment and your expectations, please tell us so that we can learn and do things differently.*

As you may have noticed, it was an invitation we could not resist. We trust that Outsurance will read pages 10 to 13 of this issue, learn from them – and do things differently. We must, however, warn them that, in the short term, doing things differently will probably reduce their currently spectacular profits. But, in the long term, it could be worth gold to them.

It is true that the number of drivers killed on South African roads who are

found to have been drunk at the time is distressingly high. But is it high enough to entitle insurers to secretly – and possibly illegally – presume that every driver killed in an insured car was guilty of drunken driving?

Certainly Outsurance appear to work on the assumption that the dead are guilty until proved innocent. Lest we forget, Outsurance appears determined to remind us that, as far as the insurance industry is concerned, there is only one class of victim that is easier to exploit than widows and orphans: the dead.

The upside to this questionable approach to the drunk driving problem might be that it conveniently (and profitably, no doubt earning an extravagant bonus for the executive who thought it up) lets the insurance company off the hook – at least until such time as the overworked South African Police Service happens to produce evidence that might prove the dead innocent.

But they would do well to think of the downside: dragging things out in this unpleasant and unjust way leaves the bereaved survivors with a very special sort of anger, an anger that will be shared and understood by many, many people – and that will not soon be forgotten.

## Mr Numbers' game

It is with great pleasure that we introduce to you Mr Numbers, whose brilliant forensic investigation into the financial state of South African cricket appears on page 19.

Modesty prevents Mr Numbers from revealing his true identity. Suffice to say that he is a legend in the world of high

finance. Corporate titans tremble when this accounting wizard arrives to dissect their balance sheets. No dodgy intangible asset, no convenient impairment, no inter-company sleight-of-hand escapes his remorseless scrutiny and withering conclusions.

Welcome aboard, Mr Numbers.

## Zuma's revenge?

Finally Mr Nose has asked me to accommodate a late PS to his column: he hears – from his usual dubious sources, no doubt – that President Mbeki might have been driven to his recent round of peace talks with former Deputy President Zuma by someone's misguided idea of revenge.

Apparently, in mid-September – so it is believed in Mr Nose's circles – there was a more-or-less successful break-in at

the Greenside home of President Mbeki's personal legal advisor, Ms Mojanku Gumbi. Only her laptop computer, which may or may not have contained notes of consultations with the president, is said to be missing.

But nobody, including the police, is saying a thing about it.

So neither are we.

– The Editor

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**Print:** SA only R220 for 10 issues. Neighbouring states (airmail) R355; Overseas (airmail) Europe, Americas and Australasia: R375 (for 10 issues). **Online:** R250 for 10 issues (visit [www.noseweek.co.za](http://www.noseweek.co.za)).

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# Mr Nose puts it about



## Arresting facts

**Mr Nose has** been slipped a copy of a stern six-page warning that national police commissioner Jackie Selebi has circulated to top brass across the country rebuking force commanders who issue “clearly unlawful instructions” relating to the arrest and detention of suspects.

Mr Nose cannot but share the Commissioner’s outrage on discovering that some commanders, including station commanders and area commissioners, are actually setting arrest targets, forcing their officers to arrest citizens for petty offences in order to achieve their targets. Others are ordering their guys to arrest and detain in the cells unfortunate citizens suspected of shoplifting “simply because the shop owner or security officer insists on the arrest”.

Where a suspect has a fixed address, is a learner or has a job, detention for up to 48 hours is just not on, he declares. Instead, particulars should be taken, the investigation should be completed and the docket referred to the public prosecutor for the issuing of a summons.

Selebi slams commanders who order their officers to wait until the middle of the night before making an arrest – “for no apparent reason other than to humiliate the suspect”. He could, of course, have got that bit wrong: the cynics at Special Assignment have actually suggested that arrests are made at midnight to facilitate the extortion of bribes from arrestees, under cover of darkness. Whatever the reason, the Commissioner believes midnight arrests are “alienating the public” and causing whole communities to lose their trust in the Police Service.

Then there’s the tendency which has developed in certain areas and stations to arrest suspects on Wednesday and Thursday evenings and then detain them until the following Monday before taking them to court. This, says the top cop, is “totally unacceptable” and must cease forthwith.

He warns that failure to put a stop to these unsavoury practices, along with other unlawful goings-on which lack of space and prudence prevent Mr Nose from mentioning, will be regarded as serious misconduct. Appropriate disciplinary steps will be taken.

And then the line which Mr Nose found most appealing: Commanders and their officers who persist will be held personally liable for any compensation the Service is ordered to pay for wrongful arrest or detention.

## Judge not, that ye be not judged

**People from abroad** are frequently astounded, even shocked at the robust way South Africans of Mr Nose’s acquaintance speak to one another, or refer to one another’s supposed ethnic origins, without intending – or taking – (much) offence. So, for instance, one or two of Mr Nose’s honky acquaintance, when in more jovial or reckless mood, address a friend of darker hue as *kaf-fertjie* (on the assumption, apparently, that the term has by now acquired a certain antique charm) and even to wish him a safe return to “Transkei-where-you-came-from”.

Or for those of darker hue to wish the *boertjie umlungu* across the table bon voyage for his return to Holland where *he* so regrettably came from. (A drowning along the way would clearly not cause too much heart-ache.)

What is supposed to redeem the crass lack of manners is the give and take on equal terms: this is Cape Town, you understand, where almost everyone comes from somewhere else – and no-one is going anywhere in a hurry. Tomorrow’s another day: hullo fuckface, are you still here?

If you’re having difficulty crediting this, Mr Nose wishes to point out that some of his most esteemed acquaintance, including judges and Judges President, have been known to indulge in such banter. Why, only three weeks ago the Cape’s judge president, John Hlope saw fit to indulge in this form of local culture. Being conservative by disposition, Judge Hlope stuck more or less to tradition: he summoned his colleague from the sidebar, Joshua Greeff, to his chambers in order to call him “a piece of white shit” – and to wish him well for his return to Holland where he’d (not) come from. Invited to witness this display of cultural finesse were Advocate Dirk Uijs SC and prosecutor Christenus van der Vijver – plus

two of Mr Nose’s friends who were passing in the passage.

It seems Judge President Hlope did it with only the most gentlemanly of motives: in defence of a young damsel in distress. Acting Judge Tandaswa Nditla had on August 31 found Moegamat Isaacs guilty of murdering his neighbour’s child, eight-year-old Sasha-Leigh Crook. Advocate Uijs was Isaacs’ defence counsel, Greeff his attorney – *pro bono*. (As unlikely as some *noseweek* readers might find it, they were not being paid to do the job; they had been instructed to act in this serious case by the Bar Council and the Law Society respectively – “for the good” of justice.)

Interviewed outside the court immediately after Isaacs’s conviction, attorney Greeff told the *Cape Argus* that the 27-year-old construction worker would seek leave to appeal against the conviction, which Greeff said was “based on circumstantial evidence”.

Dirk Uijs SC had earlier said he would not be presenting any evidence in mitigation of sentence as he agreed with the prosecutor that Sasha-Leigh’s murderer deserved a life sentence. (He just did not agree – as was his right – with Acting Judge Nditla’s finding that Isaacs was the murderer.)

Judge Nditla, new to the bench, is said to have been shaken by this apparent show of outrageous confidence by the defence team – prompting the JP to jump to her defence.

Mr Nose trusts that when this particular bit of shit hits the fan, we will not all be covered in a spray of piety from all sides – the only thing worse than bad manners. Now that the Judge President has toughened up a bit, he may even do the honourable thing and withdraw his tediously whining 40-page report about racism on the Cape High Court bench.



# Win fame and fortune in the noseweek flash fiction competition!

Enter your original work of 250 or fewer words in our ultra-short story competition and stand a chance of achieving accolades and riches. The best submission will be published in the noseweek Christmas edition and will win R500 in cash and, even better, a 10-issue subscription to noseweek. Two runners-up will each win R250 and a noseweek subscription. And so that all three can drink to their success, the trio will also each receive a gift pack of Ken Forrester wines. To give an idea of how it's done, here are two stories from the newly published collection 'Women Flashing'...

**Flash fiction** is a genre of very brief storytelling, usually defined as consisting of fewer than 1000 words, but for the purposes of this competition we are looking for pieces of less than 250 words.

The challenge is to weave an entire yarn in which every word counts. The story should have a well-defined character or characters, a definable plot, and it should drive home its point forcefully.

To give an idea of what we're talking about, we reproduce two stories from *Women Flashing*, a newly published collection of South African short stories, compiled by Maire Fisher and Anne Schuster, who is well-known for her writing workshops and will be one of the judges. The other judges will be poet and novelist Mike Cope, as well as the *noseweek* editorial board.

## Rules

1. Stories must be of no more than 250 words.
2. They must not have been published previously.
2. Entries must be received by Monday 7 November.
3. Submissions must be emailed to [noseweek@iafrica.com](mailto:noseweek@iafrica.com) with "Flash Fiction" in the subject field; or typed and faxed to (021) 686 0573 or posted to PO Box 44538, Claremont 7735.
4. The winning entries will be published in the December edition of *noseweek*.
4. The editor's decision is final.

## Vacuum Cleaner

Colleen Higgs

It's about five, evening is coming. We're sitting under the oak tree at the dam, the one off the Highland Road. Neal has his arm around me, my back is to him, it feels good and safe, and yet I'm filled with fear, anxiety and indecision.

"He just bought me a vacuum cleaner," I say. I want to weep, I feel so bereft. Of course if I leave Angus, I can't take the vacuum cleaner. No-one has ever bought me such a gift before. But I start to see that it's not really for me, it's for the house, it's for him. It's for whichever woman who might live with him in the future.

Why do I want a vacuum cleaner? What is it about the vacuum cleaner that holds me, enralls me? I don't even notice that Angus will never use it himself. It's an instrument of bondage, oppression and possession – in his case. My woman, my vacuum-cleaner. Yet it seduces me.

Neal is irritable and impatient. He is like a horse, snorting, pawing the ground; he clearly sees the paddock he wants to be in, with me. Yet I'm resisting, causing trouble, getting side-tracked by a vacuum cleaner, of all things.



## The Fall

Renate Scoble

The lady next door has a ten-year-old boy Luke. Tessa caught Luke once as he pulled out the legs of a fly one by one. From that moment she felt dread whenever she met the lad. Often, awful events could be traced to that small monster, such as a banana peel on the pathway where Aunt Zoe fell and broke her leg.

Why should she, Tessa, now fetch a rugby ball that Luke had thrown onto the roof of her house? Let the boy fret! Oh, how she would enjoy the brat's annoyance when he gets the same callous treatment that he makes others suf-

fer! But she wants peace between herself and the boy's parents. That may prove hopeless. Luke's mother has always been the problem because she dotes on her son. Tessa, nevertheless, ascends to the loft to remove the ball that has got stuck on the ledge before the turret.

The turret has lost the centre glass pane long ago. Tessa leans far out to push the ball off the ledge. She bends too far outward. She loses balance and follows the egg-round object down the roof. She rolls and cannot stop. She catches her breath. A moment later her scream makes the blood curdle.



## WOMEN FLASHING

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# How **OUT**surance gets **OUT** of paying

**4** I SAW YOU on TV in the Outsurance ad. We both know the importance of brands – and the value of your brand – so I just wanted to give you some background to my experience of Outsurance, a company you are giving your stamp of approval to,” *Top Billing* producer Patience Stevens wrote to her friend, TV celebrity Doreen Morris in a recent letter.

Stevens has had her agony at losing a son cruelly prolonged by Outsurance’s insensitive handling of an insurance claim that arose from the car crash in which he was killed.

“You always get something out!” declares the Outsurance ad. Missing from the ad, it transpires, are the words “eventually” and “unless we can help it”.

Stevens’ 20-year old son David was killed in a car accident on 21 April. He was driving his mother’s Polo on the N2 to Cape Town, after attending a party in Stellenbosch. It had started raining and the road was wet and slippery. Just past the Nyanga turnoff the car skidded, hit the concrete barriers – which had been moved in close, due to roadworks – flipped and burst into flames. David was so badly burned that his body had to be identified by means of DNA tests.

Stevens had decided to insure the car with Outsurance when her friend and business partner, Bassie Kumalo, told her what wonderful service she had received from Outsurance on burglary and lightning strike – so she did not go through her usual brokers. “I didn’t realise that Outsurance do not work through brokers, so if you have problems with claims you have to sort them out yourself and cannot just hand over to your broker,” she wrote to Morris.

And now Outsurance won’t pay out on her claim for the car that has been written off – just in case they can prove, somehow, that David’s blood showed

Imagine losing your 20-year-old child in a horrific car crash and then having the insurance company drag their heels over paying for the written-off car. Or your house burning down around you and then having to face the bullying and threats of prosecution from the claims manager if you don’t drop your R2-million claim. Welcome to the world of South Africa’s leading brand and one of our most profitable companies

he was over the alcohol limit. (Various friends who were at the party with him have made statements declaring that he had not been drinking.)

To speed up proceedings, Stevens offered to pay for the blood sample to be tested by a private laboratory, but Outsurance are insisting that it be done by the SA Police laboratory, where there is a six-month waiting period. She has since learned from experts in the field that, to be reliable, a test to measure alcohol in the blood of a dead person should be taken from behind the eye. “David’s head, arms and legs were so badly burned they no longer exist, so obviously such a blood sample could not exist,” she told Morris.

To add insult to injury, Stevens discovered that months after the accident, in which the insured vehicle was totally destroyed, the company was still deducting insurance premiums for the policy from her bank account. When she complained, they told her it “made it easier for their system” – and that they would give her a refund when the claim was settled – whenever that might be.

“When I have spoken to the guy they have dealing with claims, I have been made to feel that I am being a criminal trying to claim for this car – and that he has been instructed by management to make sure that claims on accidents are delayed as long as possible,” she told Morris.

Morris had known David since he was a toddler. “I am saddened that seeing me in the Outsurance ad brings your grief to the surface,” she wrote to Stevens. “Being in the industry yourself, I am sure you understand that one sometimes accepts work without being fully apprised of the policies of the other party. I have been insured through Outsurance myself and have never heard of problems until now.

“I will call them to let them know how I feel about the untenable situa-



tion you are in," Morris said. That was the end of July. To no effect.

When Stevens herself emailed the MD, William Roos, she got no response.

At the time of going to press, no further progress had been made with the claim.

Lest she be too optimistic about an early settlement, we thought Stevens – and our other readers, ought to be informed about the case of Collison versus Outsurance...

– and then brought back inside again.

At 10.30pm Michael cleaned and packed away his brushes, put the dog out, locked all the doors and went upstairs to bed.

Shortly after midnight Juliet was awakened by the sound of breaking glass. She immediately assumed there was a break-in in progress and shook Michael to wake him. He had great difficulty waking up and the room seemed particularly dark, so he went to the

## He realised for the first time that the incredible darkness was caused by smoke: there was a fire

**O**N THE evening of 22 January 2001 Michael Collison and Juliet Koeman were the sole occupants of the main house at 68a Blandford Road, Northriding in Gauteng. They had arrived home from work at approximately 6pm, had a swim and then cooked dinner. Juliet decided she needed an early night and went upstairs to bed shortly before 9pm.

Michael, a keen amateur artist, stayed up to paint in the downstairs playroom.

In the course of the evening the dog was extremely agitated; to stop her barking Michael brought her inside. A few times during the evening she started barking in the house, was let out

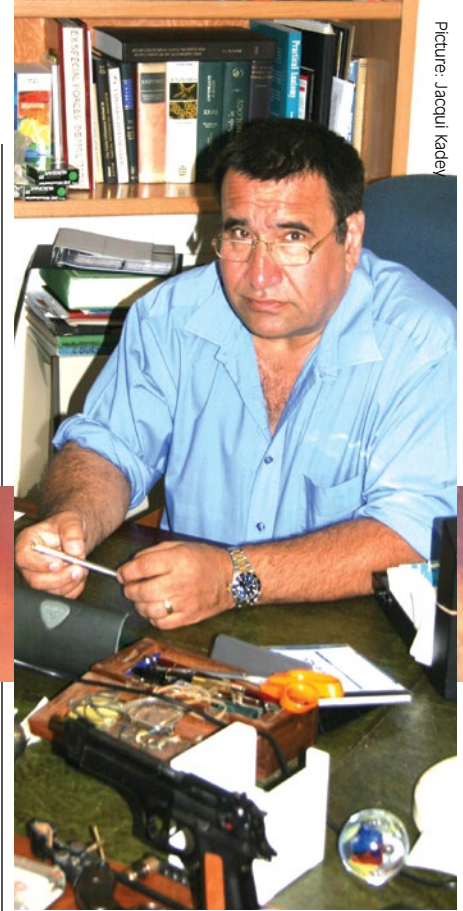
bathroom and stuck his head under the tap. Having cleared his head, he pulled on some tracksuit trousers and opened the bedroom door to investigate.

When he reached the landing at the top of the stairs he realised for the first time that the incredible darkness was caused by smoke: there was a fire in the house.

There were no flames at the head of the stairs, but the heat was intense.

Michael rushed back to the bedroom, told Juliet there was a fire and that they needed to get out of the house in a hurry. He wet a towel and a T-shirt in the bathroom, planning for them to escape down the stairs.

Back on the landing, however, Michael realised that the heat and



Picture: Jacqui Kadey

**ELEMENTARY, MY DEAR...** Forensic scientist Dr David Klatzow

smoke would overwhelm them on the stairs, so he went back to the bedroom where he told Juliet to put on shoes and go out onto the bedroom balcony.

With the wet T-shirt across his mouth he once more rushed back to the landing, this time to fetch the loft ladder that was kept there. The first time

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## Brand of the Year: Outsurance

Outsurance features on the ad industry website [www.biz-community.com](http://www.biz-community.com) as last year's brand of the year. This is what [biz-community.com](http://biz-community.com) has to say:

“Having practically doubled headline earnings per share for the last four years, Outsurance doesn't only look good from the outside, it reeks of the good stuff internally as well. There can be few South Africans who don't fully understand the Outsurance brand and everything it stands for. Thanks to a blizzard of refined, brand-centric advertising, Outsurance has made sure that we all know exactly what the brand is about. With a media profile that combines staff and customer testimonials around key differentiating elements such as customer service, cost, efficiency and a happy work place, Outsurance is riding the crest of a positive tidal wave. The major question, of course, is will the wave break? And if so, when?”

that he actually saw flames was when he looked up into the roof through the loft trapdoor. The top of the ladder was already hot. When he got to the balcony with the ladder, there were flames coming through the roof tiles on the south side. He put the ladder over the balcony rail. It was just long enough to reach the ground.

On reaching the ground, Juliet called 10111 on her cell phone. The time of the call was half past midnight. Michael followed down the ladder with a painting and a sculpture rescued from the bedroom.

Within what seemed like minutes of their escape, the entire roof collapsed.

They ran around to the front of the house, and found it in flames, with the cypress trees that grew close up to the dining room windows flashing and popping.

The police arrived, followed by the fire brigade. First they stopped the fire from spreading to the garden cottage, then they proceeded to douse the fire in the main house – until about 4am. The police assisted the couple in rescuing various items from the ground floor and putting all the salvaged items on the front lawn.

The house was effectively destroyed. It was insured for over R2 million.

Shortly after 8am Michael called his insurance broker to report the fire. On her instructions, he then also called Outsurance's help desk to do the same. Shortly afterwards, an Outsurance asses-

sor called and said he had arranged for a fire expert from the CSIR in Pretoria to inspect the site. He would only be able to come the next day. Later, while securing the house, Michael and Juliet noticed that a kitchen window had been broken into. The broken latch was lying in the kitchen courtyard. A crowbar with plaster marks was lying nearby. When he had last used the crowbar, Michael had left it in the garage. He called Outsurance to advise them of this disturbing discovery.

Next day the CSIR expert, Kim Yeats arrived with a sniffer dog and a team from Outsurance. While the CSIR man toured the house, a second assessor took Michael's statement. He asked if Michael minded if he recorded the conversation. Michael didn't.

A few days later Yeats called again, and showed Michael and Juliet where an arsonist had set the fire: in the dining room, at the foot of the stairs and up the stairs. He made the point that the arsonist's intention had been for them not to be able to escape from the house – and that he had used the turpentine Michael used for painting as an accelerant.

Suspicion immediately fell on a frequently drunk and belligerent gardener who Michael had employed for years. The gardener had last been seen when he went on leave on December 22, angrily complaining about his bonus.

There was much coming and going of assessors and building experts until 19 February, when Michael was summoned to a meeting at Outsurance's offices in Pretoria “to clear up some discrepancies”.

There to interview him was Outsurance's claims manager, Renee Otto himself. As the saying goes, from here on there was no more Mr Niceguy.

As is Outsurance's style, this conversation, too, was recorded. *noseweek* has a transcript.

Otto immediately set out to intimidate Michael with his own qualifications and status, and those of his CSIR consultant. Of the CSIR, Otto declared: “They're world-renowned for breakthroughs in fire investigation – they actually gave courses to the FBI in America.” (This was later denied by the CSIR expert.)

Otto continued: “The first thing the CSIR man says is, there's no way there could have been a fire in the roof without the fires from the stairs having ignited the roof. Secondly, if you saw flames coming from the roof while you were in the library area [the landing at the top of the stairs] you'd have been

toast – it would have been like an oven, 800°C plus.

After some debate about when the fire in the garage might have been set – it was extinguished without any damage having been done – the discussion reverted to how the fire got from the ground floor to the roof. According to Otto, his CSIR expert was certain it could only have got there up the stairs. How, then, had Collison managed to get through the blaze to the loft ladder kept on the landing at the top of the stairs?

☆☆☆

An extract:

**Otto:** You see the problem we have is that according to the fire expert, it is a physical impossibility for you to have managed to get to the ladder. A physical impossibility. You'd have been toast.

**Collison:** I promise you. Ask Juliet, I walked up and walked across there, I did ...

**Otto:** OK, so let's say there was a fire in the roof, but it was too far away from you to convect in that room so much. But how do you manage not to see the fire on the stairs?

**Collison:** I said to you there was no fire on the stairs. It was pitch, pitch black. Two of the walls going up the side of the stairwell are made of wood. If there were a fire on the stairs you would have seen it, it would have been right in your face. It wasn't. The only fire that I saw at that point was up in the roof.

**Otto:** Is there a possibility you can maybe request your cellphone statements of the night of the incident?

**Collison:** Absolutely. I don't have a problem with it at all ... What you're actually saying is that I didn't go and get the ladder and that ladder was actually carried down stairs. That's what you're actually saying. I swear ...

☆☆☆

Then the Outsurance man shifted into blackmail mode:

**Otto:** Let me explain to you the severity of the problem. Arson is a very serious offence. Now, just for what its worth, I practised law for five years as a state advocate. My credentials are against the wall there. Believe me, the courts view arson as a very serious offence.

**Collison:** It is a serious offence.

**Otto:** Arson linked to insurance fraud is viewed as a very, *very* serious offence. I know how the courts view the experts' reports. These are world-renowned experts.

**Collison:** [indistinct]...



**Otto:** I left the legal profession because I wanted to live and let live – and not to prosecute someone who got involved in arson. One of the last cases that I did involved someone who set his own car alight. His wife and three kids were at court – standing outside because they were too young. It's devastating. The guy was a first offender and he was sent to jail.

**Collison:** Should be.

**Otto:** Now, as I said to you before, I prefer not to go down that road. But believe me, if I have to I will.

**Collison:** What are you actually saying? That you don't believe me?

**Otto:** I'm saying give me the truth. I want to assure you – I'll give it to you in writing – if you give me the truth, I'll walk away from this. Do you understand what I'm saying?

**Collison:** Yes, absolutely.

**Otto:** With what we have at the moment, there's no doubt in my mind

two experts, Klatzow and the CSIR's Kim Yeats, met to compare notes. They agreed that the fire had been started in various places "by deliberate human agency".

Contrary to what Otto had so categorically claimed in his bludgeoning interview with Collison, the CSIR man agreed with Klatzow that the fire on the stairs had been a "low intensity" one – there were only low burn marks on the skirting on one side of the stairs and there was minimal damage to varnish and paint on the balustrade.

As Collison had claimed all along, the fire had not reached the roof via the stairs. So how *had* the fire got to the roof? Simple, my dear Watson, Klatzow might have said: the fire set in the dining room had taken off most vigorously, generating extreme heat that had exploded the windows – Juliet had heard glass breaking, remember? – and, the experts agreed, "there

**I don't believe you want this to go the full 15 rounds, because there can be only one loser**

**Otsurance claims manager Renee Otto**

I can ... please believe me, I have a master's degree in law, I know what evidence will be accepted in a court case. ... Now, I want to strike a bargain with you. I don't believe you want this thing to go the full 15 rounds, because there can be only one loser. It's not only going to be you, it's you and the people close to you. I want us to compare notes and see if we can get an agreement.

☆☆☆

Michael Collison refused to be blackmailed into withdrawing his insurance claim against Otsurance. A week later he received a letter from Otsurance not only repudiating his claim, but denying that he was insured with Otsurance at all – a legal trick to ensure that in any civil court case, he would bear the onus of proof.

He issued summons against Otsurance – and hired the intrepid Dr David Klatzow as a forensic expert to independently establish the cause and course of the fire.

The case came to court 18 months later. On the day the trial began, the

was egress of fire from the windows". Outside the windows, Klatzow noted, the cypress trees and dead ivy had caught fire, rapidly taking the fire up ... into the overhanging wooden eaves of the roof. Yeats agreed.

Otsurance's expert witness would support Collison's account of what had happened. Otsurance had no case.

On the second day of the trial Otsurance conceded that Collison had a claim.

Collison had assumed that settling the amount of his claim would be simple; Otsurance's own valuer had valued his burnt out house at R2.2 million. But no. Otsurance obviously thought that, having been without a house for 18 months and having to fund a court case that had already cost close on R350,000, Collison would be desperate enough to accept a mere R650,000. He wasn't, but after another six months of haggling he was weary enough to accept only R1.2 million. He has since sold the property – as a vacant plot.

Renee Otto is no longer claims manager at Otsurance, but, as Patience Stevens has learnt, his spirit lives on in the claims department. **W**

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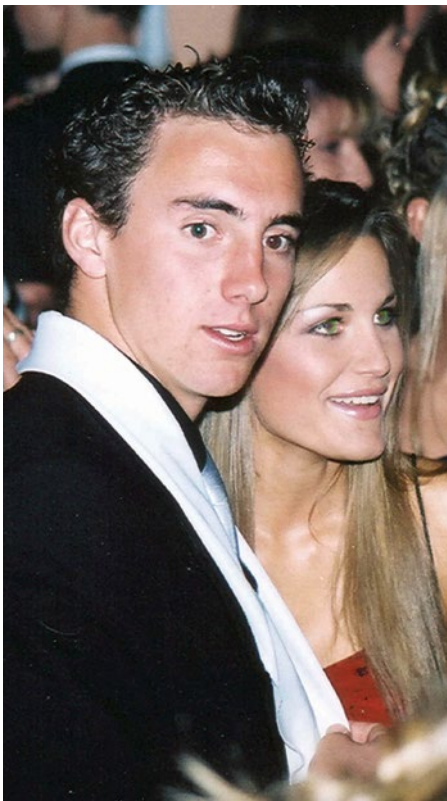
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# St John's schemes to get its boys off the hook



Last year advocate Gilbert Marcus SC sat on a pastoral commission established by the Methodist Bishop of Johannesburg, Paul Verryn, to probe the propriety of the expulsion of six matric boys following an eve of Valentine's Day booze-up during a sleepover at St Stithians Boys' College (*nose65*).

The advocate's compassionate style with the boys and his harsh condemnation of St Stithians headmaster Ian McLachlan won over the mothers of the dumped boys. So much so that, this year, a couple of weeks after former St Stithians pupil Wayde Baker got his face demolished in a savage attack (see our recounting of the events in our last issue), Marcus received a phone call from the mother of one of them: would Marcus help her friend Lynne Baker, a single mother of limited means who was facing horrendous medical costs in the rebuilding of her son's face?



A top human rights advocate persuaded an elite Joburg school to pay the medical costs of Wayde Baker, teenage victim of violence at a now-notorious 18th birthday jol in Houghton (*nose71*).

But when the college's attorneys presented the draft amnesty-for-honesty agreement to Wayde's mom there were some disquieting conditions...

**HAVING A BALL:** Wayde Baker, before the horrific attack, with Ali Leary at a school dance

The Sandton building where Marcus has his chambers houses a large number of advocates, and in its coffee shop one morning Marcus encountered advocate Jaco Venter, then representing two St John's boys who had been charged with assaulting Wayde. Marcus had been trying to think of a non-legal route that would bring speedy compensation for Wayde (now 19), as well as a degree of punishment for the guilty. Venter thought this achievable. The "amnesty for honesty" proposal that was later to be punted arose from that coffee shop discussion.

Marcus presented his proposal to Lynne Baker. Although Mrs Baker felt strongly – and continues to feel – that the boys who ruined her son's good looks should be punished, she wasn't baying for blood (ie. criminal convictions). Her prime concern was how to pay her son's ever-mounting medical and dental bills.

When she and Wayde's father Brent (St Stithians head boy, class of 1975) parted, the divorce settlement stipulated that Wayde and his sister Bronwyn would be on Brent Baker's medical aid. But when Wayde was beaten up at the Houghton party on April 2, the savings account on Mr Baker's medical aid with Discovery was empty. Discovery only met the hospital expenses and, in any event, the three specialist surgeons – maxilla-facial, ear nose and throat, and plastic – all bill three times the medical aid rate.

Marcus's proposal was that Lynne Baker would drop all criminal charges, not only against the St John's boys but also against Wesley Wiegand, the Edenvale High School pupil she alleges was summoned to the Houghton party to beat up her son. She would also agree not to bring any civil actions.

In return (by now Gilbert Marcus had persuaded St John's to embrace his



amnesty proposal), a Baker Claim Fund would be established by the school to cover Wayde's medical and future medical costs. There is no basis for a legal claim against the 107-year-old Anglican Church school, but events at the Houghton jol have severely dented its reputation and here was a chance to bring a quiet end to the mess.

However, the school, represented by its headmaster Roger Cameron and chairman of council Michael Spicer, and advised by council member Tim Gordon-Grant – who acts as attorney to St John's – insisted on some tough conditions:

- No St John's boy found guilty by the Amnesty for Honesty Commission would be suspended, expelled or lose school honours. (The chief suspects were all members of the school's prize-winning water polo team.)

- No punishment would be more severe than community service – that is, for boys the commission believed had made "honest and transparent disclosure".

- There would be no restriction on punishment for those who did not.

- The commission's members would include Marcus, the Johannesburg

declared: "Quite clearly the allegation by Mrs Baker that a group of 20 St John's boys attacked her son is quite untrue"?

Then there was the headmaster's "fairly wide-ranging internal investigation" which he told parents had yielded "clear and consistent statements" from a number of pupils. When called upon to produce these statements to the police the school's attorneys admitted that no statements had in fact been taken and that the headmaster could not find the "certain rough notes" that had been handed to him, "despite diligent search".

Last but not least, had Cameron not described Wayde Baker's girlfriend, Roedean matric pupil Ali Leary, then 17, as a hysterical drunk – and when confronted by Ali's father, a senior corporate banker with Absa, admitted he had described her thus to discredit her as a witness?

Lynne Baker's unease will be shared by many lawyers and members of the Justice Department. After a vicious assault resulting in criminal charges of grievous bodily harm, justice was to be removed from the criminal courts and tried in a secret star cham-



Picture: Sunday Times

**STRICT:** St John's headmaster Roger Cameron insisted on tough conditions for an out-of-court solution

## When called on to produce statements to the police the school's attorneys admitted **that no statements had in fact been taken**

director of public prosecutions (Charin de Beer), St John's headmaster Roger Cameron and an Anglican minister.

- Proceedings would be conducted on school premises (itself an intimidating prospect).

- The commission would sit in secret.

- No notes would be taken.

- None of the boys – including Wayde Baker – would be allowed legal representation.

- The attendance of parents would be "discouraged".

- All signatories to the agreement would have to undertake not to talk to the media.

Lynne Baker was uneasy about most of this. The inclusion of Roger Cameron as a "judge" especially concerned her. After all, had not Cameron in his email to parents 12 days after the assault already pre-judged the issue when he

ber, albeit one of the "judges" being Johannesburg's director of public prosecutions (DPP). In other words: one law for the poor but another, infinitely more easygoing and forgiving, for delinquent sons of the rich.

How did they persuade DPP Charin de Beer to go along with this? First De Beer met with a contingent from St John's. According to those close to the negotiating process, she wasn't exactly keen on the idea. But she was prepared to go along with it, provided the legitimate purposes of punishment were served. "She's a prosecutor, she can't go around giving people free pardons," says one negotiator. "She needed to be satisfied both that the victim would be compensated and that the wrongdoers would have some form of punishment imposed upon them."

Advocate De Beer then called Lynne

Baker to her office at Johannesburg High Court. Says Lynne: "She said that the chances of getting a criminal conviction were very small. In a mob attack it was nearly impossible to prove beyond reasonable doubt which boys were involved. Charin said: 'If I was you I'd look very seriously at this offer'."

So she did. Lynne Baker says that Gilbert Marcus assured her that St John's was guaranteeing the payment of Wayde's medical costs. And that this payment would be made regardless of the deliberations and findings of his amnesty-for-truth commission.

The impression that Mrs Baker received from Marcus was that St John's would establish a fund and hand over the money. This it can well afford to do – annual fee income from its 626 day boys and 111 boarders nudges

R40m and the school has built up a reserve kitty of R10m.

The commission would apportion blame where it found it and parents of the guilty would reimburse the school in proportion to their sons' degree of guilt.

Mrs Baker's former attorney, Stephen Flowers, had assessed Wayde's medical and future medical costs at R320,000, with a further R80,000 due for pain and suffering – R400,000 in all. St John's was proposing to meet only the medical costs. The school asked for independent assessment of the R320,000 medical costs and reports were faxed to South Africa's leading personal damages attorney Ronald Bobroff.

But Bobroff was supplied only with clinical reports. Assessing future medical costs is a sophisticated and

complex process requiring a whole battery of detailed medico-legal reports. Bobroff's view, on the limited information he was given, was that Wayde had suffered a "Le Forte"-type fracture – where the face is cracked off the skull; an extremely serious injury caused by considerable and sustained violence. But without medico-legal reports the expert felt unable to confirm Flowers's R320,000 assessment.

On June 15 St John's attorney Tim Gordon-Grant of Bowman Gilfillan faxed a draft amnesty-for-honesty agreement to Lynne Baker's new attorney Sean Sim.

The proposal, drafted by Gordon-Grant, contained some nasty new shocks. Not only was there a blank where the medical costs sum should have been, but now it was the Commission that would determine the

size of the payout. Clause 5.1.2, which dealt with the degree of blameworthiness in respect of the injuries suffered by Wayde, added: "and, in so doing, also assign a degree of blameworthiness, if any, to [Wayde] Baker".

Clause 5.1.3 hammered the point home. The commission would determine "the proportions in which each blameworthy person is to pay the Baker claim and in so doing to reduce the Baker claim by the proportion, if any, Baker is to blame for the Baker incident."

Says Lynne Baker: "These clauses were a big stumbling block. Roger Cameron had already decided that all his boys were innocent. If the commission believed their story – that Wayde was drunk and had gone in there looking for a fight – they could have decided that he was 100% to blame, and we would get no medical expenses at all.

"Yet I would have already signed for the criminal charges to be dropped, and agreed not to institute a civil claim. Also, we were not to be allowed legal representation to cross-examine witnesses and be present to ensure that the commission's proceedings were fair."

Mrs Baker's attorney Sean Sim phoned Tim Gordon-Grant to express these reservations. Sim says that no firm sum of compensation had ever been on the table. "Gilbert Marcus just said 'there is money – there's R250,000 and there may be more'. To open the negotiations I said to Tim Gordon-Grant that we're looking around the R500,000 mark.

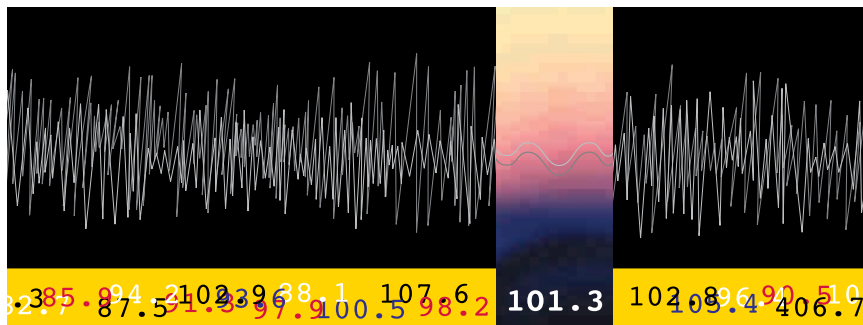
"I would not have encouraged Lynne to take just the R320,000 medical costs as assessed by Stephen Flowers. That didn't reflect the true damages which have been suffered by Wayde. There's pain and suffering involved."

Gordon-Grant said he would consult his client. Two days later Sim wrote to him: "If the proposal in not amended to accommodate our client's concerns [she] shall not agree to the proposed inquiry and agreement."

On June 27 Gordon-Grant replied. Due to fundamental differences between the proposal and the stance taken by Mrs Baker, and more particularly the amount of damages required [R500,000], he had received instructions to discontinue the process.

Says St John's headmaster Roger Cameron: "We felt that Advocate Marcus's amnesty-for-honesty commission was quite a creative and useful way to go forward for all the boys, including Wayde Baker.

## calm in chaos



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**JUDGE NOT:** Advocate Gilbert Marcus proposed the amnesty-for-honesty scheme to bypass the courts

“The commission would get agreement among all the people [at the party] that they would speak the truth and there would be a limitation on the consequences for all the boys concerned. The parents would pay the costs of Wayde Baker’s injuries.

“It was an initiative that was done in good faith. But it did mean that once the process had been completed there would be no civil case and the state prosecutor would have to agree to drop the charges. We were quite clear in our understanding that the state prosecutor [advocate De Beer] was quite willing to do that and in fact she herself was quite willing to be part of the commission.

“Unfortunately, Mrs Baker rejected it. She didn’t want Wayde to be present without legal representation, although the spirit of the commission was that there was not going to be legal representation for any of the boys; that it was going to be honest, tell-the-truth stuff. She also felt that the money had to be paid over to her beforehand, before any outcome of the

commission. In a sense she was saying that Wayde was an angel and we were all devils.”

(Cameron’s use of the word “we” certainly indicates that he identifies himself with the accused St John’s boys – and regards the charges against them as exaggerated, if not actually unfounded.)

So where are we now? Criminal charges against two St John’s boys, Richard Gunn and a surgeon’s son who is still a juvenile have been withdrawn. Wesley Wiegand (the boy from Edenvale High) and Brian Dudley from St John’s are due to go on trial on December 5, charged with assault with intent to do grievous bodily harm. Lynne Baker has launched a R724,000 high court “joint and several” damages claim against six St John’s boys, plus Wiegand. Of this, R300,000 is for pain and suffering.

On October 3, the day before her 46th birthday, Lynne Baker, who works as an estate agent, placed her four-bedroomed Fourways home on the market, at R1.3m. “My house is on the market because I cannot live with these medical bills any more,” she says. “I’m absolutely drowning. This case has really destroyed my life. Last week I had to pay R20,000 for [Wayde’s] teeth. The dentist tried to help me, but the lab fees were R14,000 just to create the implants.

“Where will I live? I don’t know. I’ll just rent somewhere until things get better.”

■ Legal experts warn of the tremendous risk Lynne Baker is taking suing half a dozen sons of Joburg’s rich and powerful. “Say she wins against three of them and gets awarded R500,000, of which 25% goes to her attorney, who’s acting on contingency,” says one. “That’s good for her attorney, but not good for Mrs Baker herself: She’ll be ordered to pay the legal costs of the remaining three she lost against – which could easily total R1m. She’ll be wiped out.” ■



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# SA Cricket fields its spinners

**L**OVERS OF cricket can be excused for feeling confused about the financial state of the great game in South Africa. At August's annual meeting of the United Cricket Board chief executive Gerald Majola presented a glowing – if untrue – picture of profit that sporting hacks scurried to splash in the press and on TV.

*nose70* hit the streets three days before the UCB meeting, with a depressing tale of massive losses, a R40m deficit budgeted for the coming season, perplexing inter-company transactions and extravagant spending at the Wanderers. *Sports Illustrated's* August issue and the *Mail & Guardian* of July 28, were already out with their curtain-raisers about cricket's gloomy bottom line: "BROKE" shrieked the *Sports Illustrated* headline; "UCB stumped by cash crunch" offered the *M&G*.

The Wanderers spindoctors hastily rallied their stumps to divert a storm at Saturday's meeting, when UCB's figures for fiscal 2005 were to be announced. The Great Deceit was under way, supported by faithful sports writers who enjoy many perks from cricket – as long as they toe the line.

On Thursday August 4 *The Star* kicked off the bullshit with a piece by Stuart Hess [*Who he? – Ed.*]. "UCB bankrupt? What a load of nonsense, insists Majola" ran the headline. Hess's story quoted Majola on the "relatively healthy" state of UCB's finances. Reports that the organization may be bankrupt in the near future were "absolute nonsense". An operating profit would be announced at Saturday's annual meeting, promised cricket's chief exec.

The same day *noseweek* appeared a news reporter at *The Star* acquired a set of leaked UCB and Cricket SA accounts, which indicated a grimmer picture. But the following day (the Friday) there were no shock revelations in *The Star*. Just another unctuous piece of garbage by Stuart Hess headlined: "Nothing extraordinary expected at UCB's annual meeting". In spite of



the "usual contentious talk" surrounding the state of UCB's finances, Hess quoted Majola: "Everything is in fact fine".

It transpires the leaked accounts were now handed on to Rodney Hartman, former sports editor of the *Sunday Times*, who now freelances on cricket matters for the *Sunday Independent*. The intention was that he would write a well-informed piece for *The Saturday Star* due to appear on the day of the meeting. It wasn't to be.

Hartman was retained by former UCB chief executive Ali Bacher to be communications director for the 2003 cricket World Cup. He is the author of Bacher's biography. Not a likely candidate to rock the boat with an embarrassing story on the morning of the annual meeting. Hartman sat on the leaked accounts, no doubt earning coveted brownie points at the UCB.

When a report by him did finally appear – in the *Sunday Independent* the day after the meeting – it was a positive eulogy to the UCB balance sheet. The "genie from the bottle" had released a net profit of R8.4m for UCB, he trumpeted under a headline which ran "Quips and quibbles amount to zilch in UCB's R8m fiscal glory".

In Hartman's old paper the *Sunday Times*, David Isaacson reported UCB president Ray Mali as saying "cricket is financially healthy" – so healthy he wanted to hire a second chief executive. (He has, spin-bowling legend Vincent

van der Bijl, to run professional cricket). But hawk-eyed readers must have been puzzled by the last paragraph of Isaacson's doxology, a terse quote from outgoing UCB treasurer Haroon Lorgat: "The company is technically insolvent".

The bullshit continued. On August 12 the *M&G* published a letter of complaint from Majola. "Far from the UCB being 'stumped by a cash crunch', South African cricket is on a sound financial footing," he wrote. "Media speculation that cricket could be bankrupt within 18 months is nonsense."

Far from a predicted operating loss, he added, the UCB annual report showed a R16m "turnaround" in operating profit.

The *M&G* got suckered by that misleading "turnaround" tattle. On August 19 the paper's Ken Borland reported that the UCB had "somehow posted a R16m profit". What Majola should have said was that from a (claimed) predicted R8m loss a (claimed) R8m profit had been achieved. That's how that R16m was created. Geddit?

That's the sort of sleight-of-hand trick that master of misinformation Majola excels at. So what is the true position? *noseweek* retained a top accountant to examine the accounts (see box) of the three entities that should all be considered when examining the finances of cricket in South Africa: UCB, Cricket SA and 2003 ICC Cricket World Cup. His conclusion: the three entities made a total loss of R326m in fiscal 2005 and Cricket SA is insolvent to the tune of R194.9m!

So where does chief executive Majola get his UCB "profit" of R8m and "everything's fine" from? Perhaps Deloitte & Touche, auditors for the three entities, could enlighten us? In the meantime, we prefer to go with the warning that departing UCB treasurer Haroon Lorgat delivered to the UCB General Council earlier this year: "If we don't create a new, sustainable business model, then we have 18 months before we go out of business – maximum." ■



## Eye on the ball: Mr Numbers examines the facts

**M**AY I introduce you to a quagmire of confusion? The financial statements do not disclose all the facts; they're misleading and confusing.

They've created three separate identities: the United Cricket Board, which is an association; Cricket South Africa Pty Ltd (to accommodate the professional and commercial aspects of cricket); and a Section 21 company, 2003 ICC Cricket World Cup (which has a limited lifespan). Each is governed by different rules of accounting and business.

As an association, the umbrella entity UCB (which owns Cricket SA and 2003 ICC Cricket World Cup) can do basically whatever it wants. And that is exactly what UCB has done.

They have decided not to consolidate three separate sets of accounts into one to give a full picture of the finances of South African cricket. Cricket in its totality is a public interest identity and I would say they are obliged to follow the rules and disclose everything as if each entity was a public company.

As it is, they are using minimum or no disclosure, which is adding to the confusion. What is required is a consolidated set of accounts, stripping out all the inter-entity transactions.

I've analyzed the three sets over the past three years, and for a global figure added the profits and losses of the three entities. In 2003 the total net loss was R927,717. In 2004 the net loss had risen to R55.7m. In 2005 we're at minus R126.4m. That shows the deterioration that is taking place.

Looking at the entities separately, Cricket SA, the commercial arm (total loss of R64.9m in 2005) is insolvent to the tune of R194.9m. That was its reported true position at 30 April 2005.

The UCB total 2005 loss should be R236.7m (reported loss of R36.7m plus the R200m irrecoverable portion of the Cricket SA loan which is subordinated and not provided for in the UCB accounts). UCB and 2003 ICC Cricket World Cup (2005 loss R24.6m) are both heading for insolvency.

That's a total 2005 loss of R326m before stripping out the inter-company transactions. Based on their reported figures, the total loss is only R126m.

UCB has subordinated R200m of the loan moneys it's owed by Cricket SA and should therefore provide for this as irrecoverable. That loan was generated as a paper transaction – the sale for R371m of an intangible asset in 2003 by UCB to Cricket SA, supposedly for TV rights etc. How did they get to this value of R371m? I feel they've probably over-valued it, especially in view of the impairment write down of R59m in 2005.

So the intangible asset is being used to prop up and support the assets of Cricket SA. Indeed, Cricket SA would have turned a profit if one adds back the write-down of the intangible asset. But I do not believe that you can write it back as this would result in an over-valuation of the assets of Cricket SA.

UCB must realize there is no hope of getting repaid that R200m which it has subordinated in terms of the present balance sheet. So they should have provided a further R200m in the UCB accounts, to add to the R36m loss they made in 2005. So UCB's true loss in 2005 is R236.7m.

But when I look at the global consolidated figure, that's a different story. May I introduce you to a world of confusion?

Total consolidated reserves are R77m. Liquidity appears to be acceptable – they owe R40m but have got R38m in the bank. So for the moment they can pay their debts. But their consolidated finances are pretty shaky if you look at the future.

I cannot determine in my own mind why they're jumping around trying to mollycoddle and soft-soap the question of their profits or losses. Why not give the public the full truth?

My analysis shows a total loss in 2005 of R326m. Take out the R200m I say they should have created. Take out R105m amortization and impairment of the intangible asset. That gives me a net loss for UCB of R36m; a profit of R40.4m for Cricket SA and a loss of R24m for 2003 ICC Cricket World Cup. That gives me a net overall 2005 consolidated loss of R20.9m.

■ Mr Numbers' identity remains our secret. Suffice to say that he is a legend in the world of high finance and that corporate titans tremble when this accounting wizard arrives to dissect their balance sheets. **W**

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# House of the rising floor tiles



**D**RIVING INTO Adriana Bertheil's brand new R5m high-tech cluster home is a tight squeeze – the electric gate doesn't fully open ("the rail's bent," she explains). "Sorry about the pool," continues the 54-year-old Israeli businesswoman, casting an arm towards a dank, evil-looking cavern flanked by collapsed paving in the supposedly landscaped garden. "It leaks and when it's full it floods the neighbours' garden."

We're in the exclusive boomed-off Johannesburg suburb of Sandhurst, home to the – nouveau-ish – ultra rich. Here in Jedburgh Road the properties are enormous, entombed within towering walls.

Behind the walls of number 42, there's war. Tossing back straw blonde hair from a lived-in face ("no photo of me, sorry") Adriana names her chief

If you thought a cool R5 million guaranteed you a quality home, then think again. Adriana Bertheil's brand-new pad is falling apart around her: the pool leaks, the garden paving is wobbly, one of the doors has come off its hinges...

**Home truths:** The house that MKB built

adversary – Andrew Botha, financial director of property developers MKB, who built the house that she says is falling down around her.

Behind the instant bougainvillea that showers brightly across the front of the house completed only a year ago, the exterior wall paint is peeling. Adriana throws a hand to indicate this ugliness as we pass through a rickety front door to the interior.

At first glance it looks wonderful – there's natural light everywhere and a tiled floor flows, if not entirely smoothly – though a series of gracious living areas. The ten cats that live here along with Adriana and her sons of 17 and 20 are (mercifully) not in evidence, apart from one bloated feline, a monstrous



bundle of black fur that noseweek takes for an over-stuffed cushion and comes close to sitting on.

Adriana, a large woman clad in a voluminous trouser suit and barefoot, curses as she stubs a toe on a protruding travertine floor tile. "The tiles are third rate and they weren't laid properly. There's no quick fix – it's all got to be lifted," she declares.

Adriana came to South Africa from Israel in 1974. She trades in specialty metals, mainly tantalite which is controversially mined in war-torn Central Africa. Until it went belly-up last December, she was co-ordinator in sub-Saharan Africa for an Irish-registered company based in Holland, called Univertual.

An embarrassing part of her present situation is a fraud (alternatively theft) charge hanging over her head concerning a R600,000 tantalite deal that went sour. When we meet, Adriana – who denies any wrongdoing – is out on bail of R30,000 pending an appearance in the Johannesburg Commercial Crimes Court.

It was on a Sunday in August last year that the spanking new four-bed-



**Fallback position:** Collapsing brickwork alongside the pool

bond, with monthly repayments of around R43,000.

Ever the wheeler-dealer, Adriana immediately conceived the idea of a similar cluster development on the one-acre site of her former home in Morningside and proposed a joint venture with MKB: MKB would do an eight-house cluster development on her property for R28m, they'd sell them for R32m – and divide the profit between them.

Sadly, after a dispute over R50,000 that Adriana gave MKB to cover the cost of a rezoning application (the money was subsequently refunded), that deal collapsed and Absa, which held a large bond on the Morningside property, repossessed it.

Anyway, Adriana plus 10 cats and two sons moved into her new Sandhurst home five months ago, on 16 April – and straight into a furious row with

level the uneven floor tiles, R45,000 to waterproof the leaking roof and R38,000 to repair electrical faults.

MKB, with offices in Parkmore, are developers of "top-of-the-range" homes in Johannesburg's northern suburbs. Andrew Botha shudders when he recalls the "bucketsful" of correspondence between Adriana and himself. "We've got many happy clients, we build very special stuff," he says.

"When we finish a house there are snag items that need to get addressed, that's the normal course of any building practice. Build a house, the person takes occupation and within 90 days a snag list is drawn up, and off you go.

"We agreed a snag list with this lady. There was stuff like the grass behind the house that died; she wanted to hold us accountable. Bullshit like that. We said in writing we'd love to attend to them, but every time we send a team she's never there to let them in.

"If we had a decent relationship with the woman we'd attend to these things. But she's just a bad apple and very aggressive.

"A week ago an inspector at Hillbrow police station called to tell me she's got

## Adriana, a large woman clad in a voluminous trouser suit and barefoot, curses as she stubs a toe on a protruding travertine tile

room Sandhurst cluster went on show. Asking price was R7.5m and special features included piped music, Siemens appliances, LG artcool air-conditioning, an irrigation system, electrified fencing – the lot. Adriana was one of the first prospective purchasers on the scene, and she was overjoyed when her offer of R5.35m (R6.1m until she got the VAT docked off) was accepted by MKB.

Adriana had 30 days to come up with a bond. "Within a week after my offer was accepted I started getting extremely annoying telephone calls from Andrew (Botha)," she says. "He said he knew I was going to default and wanted to arrange the bond for me, through Absa.

"I wrote to his attorneys that he must stop pestering me. I arranged my own bond through Standard Bank at 2% below prime" – a R5m-plus, 20-year

MKB about the shower room window.

Where a frosted window should have been to protect her privacy there was just an empty hole. "The contractor told me he couldn't fit a window frame because the brickwork was uneven," says Adriana. In the end the glazier stuck in some glass without a frame, which is how it is today.

A whole host of additional defects emerged. "The alarm wasn't connected, the paving in the meditation garden was like an obstacle course, the grass in the landscaped garden was dying; the travertine floor tiles you know about," says Adriana. "They acid-washed the pool, but it's still stained and floods into the neighbours' property, the paintwork was peeling..."

Adriana compiled a list of 44 items that she said needed rectifying. She obtained a contractor's quote to fix 23 of them: R350,000 (with VAT). This included R56,000 to sort out the pool, R37,920 to relay paving, R21,000 to

**Up against the wall:** Peeling paint (left) and uneven paving in the meditation garden (right)

a R5m fraud case against me. When he came for my statement he looked at the documentation, shook his head and said: 'You rich people, the way you fight! Whenever there's a little scuffle you use the police and waste everyone's time.'"

Latest dispatch from Adriana on the Sandhurst war front: "Since you've been here another door has just come off its hinges and three tiles have cracked. I don't think the house will last much longer, I really don't." ■



# Exiled by Cape Town council on R500,000 a year



**The disappeared:** Di Phillips

**L**AST MONTH Di Phillips found she was on a list of “displaced people” being circulated in all departments of the Cape Town City Council. A “displaced person”, in the Kafkaesque jargon of the city council, is somebody who has fallen through the cracks of the “restructuring process” and is paid a salary but has no real status or function. The term makes Phillips sound like a refugee, stranded on some desert patch, far away from cleansing services, water and electricity. There’s truth in the comparison.

She was forced into administrative exile over a year ago and is a Level Four Cape Town City Council employee in limbo, despite being on the books as a manager and receiving a regular salary of almost R500,000 a year, nearly R42 000 a month – plus a performance bonus.

Phillips was once a fulfilled and contented administrator, the manager of the South Peninsula subcouncil. When she got the job just before Christmas in 2003, she felt as if she had finally made it, after working hard for nine years clambering up the ranks. Prospects were good; at least as a woman there was scope for development in line with the council’s new gender-sensitive policies. So she went about responding to local issues, negotiating with donors,

Despite being paid a monthly salary, including a performance bonus, Di Phillips finds herself in limbo with no function and no work. She is one of the Mother City’s ‘displaced persons’

organising conferences and workshops, often working late to ensure good service delivery to residents from Kommetjie to Tokai, from Retreat to Fish Hoek.

Democratic Alliance ward councillor from the South Peninsula, Nicki Holderness, praises Phillips for being a model employee.

“She is one of the council’s most efficient people. The thing I enjoyed was that she actually let you know if something was happening in your ward; if there was a fire she would be on the spot, alerting the disaster management people; she knew what was going on and she sorted things out. And she had the added benefit of knowing the area because she lived here,” says Holderness.

However Phillips had not reckoned with her new boss, ANC councillor Kululwa Mpongo, chairwoman of sub-council 19, appointed from the proportional representation (PR) party list. By now resident ward councillors of subcouncil 19 were outnumbered by PR councillors based in other suburbs of the Cape Peninsula, meaning that the majority vote was in the hands of councillors living beyond the area they were representing. Mpongo hailed from Mitchells Plain and had recently been welcomed into the arms of the ANC.



**The crosstitute:** Kululwa Mpongo

She is a “crosstitute”: a councillor who had belonged to the Democratic Alliance and then crossed the floor to the now defunct NNP and onwards finally to her current political home, the ANC.

Phillips and Mpongo approached things, it seems, somewhat differently. Phillips found herself in the bad books after an article appeared in the local Fish Hoek knock-and-drop newspaper, *The Echo*, laying out the structure and functions of the new subcouncil. She had provided the journalist with information from the Cape Town City Council website but was accused of maliciously leaking information to the press. A dispute over the appointment of Mpongo’s personal assistant soured things further. Phillips was a stickler for due process, and the new PA had arrived without a letter of appointment or a contract.

By May last year the tension in council offices in the Fish Hoek civic centre was “thick”. Mpongo had stopped talking to Phillips, preferring to refer to her in Xhosa in passing as “iManager.” She was also running into trouble with ANC councillor David Erleigh, (another crosstitute) who by his own admission, was not entirely happy with her performance and phoned her to remonstrate – an incident which was recorded in *The Echo*.

“I think I spoke to Mrs Phillips once,



possibly twice,” said a twitchy Erleigh, when contacted by *noseweek*. He accused Phillips of defaming him in *The Echo* and says he was entitled to remonstrate when he was not impressed with an official.

“I was entirely correct; I didn’t use foul language,” said Erleigh who holds the safety and security portfolio on the all-powerful mayoral committee.

Phillips claims that by the end of the conversation she was sobbing. At a meeting with her manager, Phillips begged to be told where she was failing in her duties, in writing, so she could defend herself.

But no formal complaint was ever laid against her.

Meantime Mpongo became embroiled in a sexual harassment case where she was accused of fondling one of the sub-council’s male staff members at the fax machine. Tension ratcheted up higher, although his case was dismissed by the city’s internal disciplinary committee. Criminal charges, too, were recently withdrawn.

By the time the winter rains had come, Phillips suspected trouble was afoot. Her boss had received a fax in late

between the chairperson [Mpongo] and yourself,” he wrote to Phillips on 24 August last year.

“To remedy this situation I have decided to remove you from the subcouncil until such time that your grievance has been resolved. Your action director will arrange for your temporary placement at an office where you will be utilised.”

Phillips was sent packing – to a dusty office in Parow.

“For the first four weeks I sat and stared at the walls,” she says. The computer given to her did not work and there was no reason to use it in any case. Eventually she took to driving round and round Parow aimlessly in her car, anything to stave off the boredom. She volunteered to do tasks and was sent on a stock-take.

“I was the most expensive junior clerk ever employed by the city to count furniture,” she says. She appealed to the city manager’s office, but got no response.

In February she sent a letter to Dr Mgoqi begging for clarity on her grievance, and explaining that she had no work to do.

“I have now been removed for a total of 174 days, apparently without any

pitched her tent, so to speak, in an office in Cape Town, borrowing a desk and a computer. She has simply vanished from subcouncil 19. A new manager has been appointed in her place.

“I don’t know what has happened to Ms Phillips,” said Erleigh. “She knows exactly what the channels are and if she has a problem she can lodge a grievance. [She has, of course, done so a long while ago already, apparently only adding to her problems. – Ed.]

“When somebody doesn’t take action and the matter floats around for a year and a half and she suddenly does it after the restructuring process, I take it a 100% with a pinch of salt,” says Erleigh in an embarrassing display of his own arrogance and ignorance.

Asked why Phillips lost her job at sub-council 19, Erleigh surmises: “Because there has been a restructuring process, in which she has lost out. You know, officials who lose out in the restructuring process often react negatively.”

Which is bizarre. The restructuring process has not yet been finalised, and Phillips has not been told that she was restructured out of a job. However, as a result of *noseweek*’s phone calls, the

## Mpongo became embroiled in a sexual harassment case where she was accused of **fondling a male staff member** at the fax machine

June demanding that she be removed from subcouncil 19 and dispatched to Khayelitsha to work there. She put her foot down and refused, she says, because she can’t speak Xhosa. By then, her health had started to suffer. She had always been a hard worker, committed, confident and an achiever, with a network of contacts across the city to ensure that problems were sorted out quickly and painlessly. Now she was feeling undermined and incapacitated by stress.

Soon after, Mpongo – citing her own personal safety – had the locks changed at the Fish Hoek civic centre and became the sole keeper of the keys. Phillips could no longer work early or late; she was experiencing the Big Freeze.

So she played the only card she had: she filed a grievance charge against Mpongo and Erleigh for victimisation and harassment and intimidation.

The city manager, Dr Wallace Mgoqi, then upped the stakes. “It has come to my notice that the situation at the subcouncil has become untenable with specific reference to the relationship

prospect of resolution,” she wrote. The city manager, it appears, was unmoved. In April, the city advertised her job on the city’s website.

By May her relationship with her fiancée had disintegrated, her mother was terminally ill and she was on the edge. Her pet rabbit was mysteriously gutted and its corpse left near her door. She received anonymous threatening cellphone calls. She tried and failed to commit suicide.

“I think it was precipitated by a change of antidepressants that did bad things to me. I felt unwanted, worthless. I am a hands-on person that performs 120%. But I was treated as if I didn’t exist. I think they are trying to force me to resign. I’m 46 and white and other employers will think twice before hiring me,” Phillips says. She is adamant that she wants to be reinstated to her job so that she can serve the city.

When not on sick leave, she comes to work and clocks in and waits for something to happen, day after day, week after week, month after month. She’s

speaker of the city council, Gavin Paulse, has ordered a “full and urgent” investigation into Phillips’ case – over a year after the original grievance was filed.

“It’s the third or fourth time they have done an investigation,” says Phillips wearily.

Mandla Tyala, corporate spokesperson for the City of Cape Town, has refused to answer questions about Phillips’ case. Mpongo, an elected representative of the people, refused to talk to *noseweek*, for fear of being misquoted, even when questions were put to her directly on the phone and in writing. She promised to send answers by fax but none have been forthcoming. She sent this message, however, penned in her own hand:

“City of Cape Town has its conditions of employment, its policies and regulations in which Ms PHILLIPS is not singled out; she forms part of the employment team of the city. I prefer not to discuss this with media as I am not aware of your questions.”

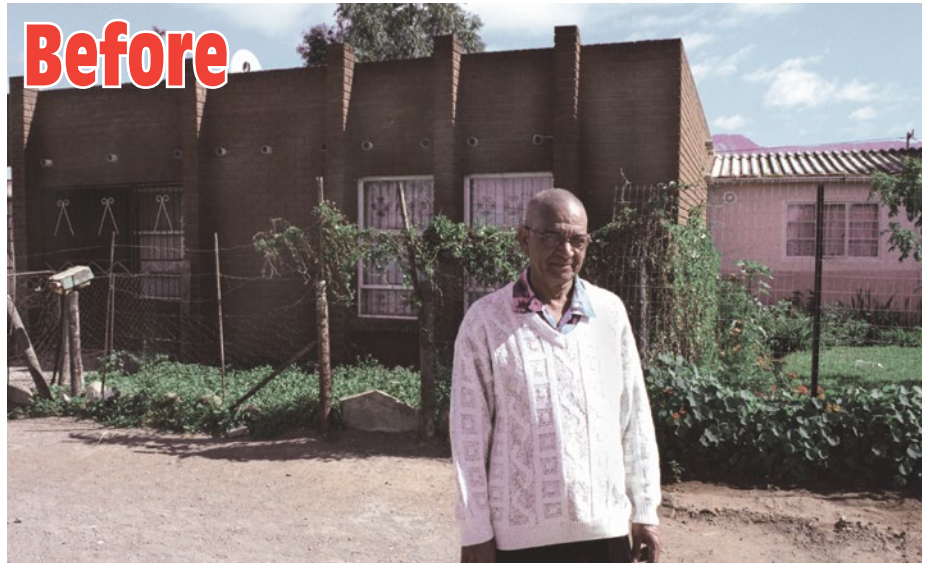
Oh, but you are, Mrs Mpongo.

Please give us the answers. **📧**

# The REAL impact of the Saambou scandal

**S**INCE NOSEWEEK'S recent coverage of the rip-off of ex-Saambou, now-FNB, mortgage bondholders ("FNB'S massive home loan scam", *nose70*), First National Bank has for the first time acknowledged that many of the balances on the Saambou housing loan book bought from Saambou are overstated. FNB has undertaken to correct the balances. That's good. But what are FNB and Saambou receiver John Louw going to do about folks like Alec Apollos?

Apollos (left) borrowed R65,000 from Saambou against his house in Worcester. In 2001 Saambou claimed that he was in arrears on the bond, and sold the house in execution. Apollos was forced to move his family into a one-room shack. Financial consultant Emerald van Zyl has analysed Apollos' bond charges and has found that the balance was overstated by R38,000, and was not in arrears as the bank claimed.



## The house FNB sold for R10 – to themselves



**E**D GRONDEL, head of First National Bank HomeLoans, told *noseweek* last month that "under FNB's tenure, not a single affected former Saambou client has lost his or her home because the balances on their home mortgage accounts have been incorrectly calculated."

That's news to André Brown of Ceres (left).

Brown took out a R55,000 bond with Saambou in 1996. In June 2003 FNB, having taken over the Saambou mortgage loan book, claimed Brown was in arrears on his bond, and applied for the sale in execution of the house. The house was sold for R10 (including VAT). The buyer? FirstRand Bank Ltd.

FirstRand subsequently sold Brown's house for R45,000. Now the bank is claiming R24,726.01 from Brown, ostensibly to make up the difference between his bond balance and what FNB sold the house for.

But, according to financial consultant Emerald van Zyl, Brown's bond balance was overstated by R18,000 at the time FNB applied to sell it, and the bond was not in arrears.

"It was terrible what happened with my house – with my children and parents there are six people depending on me. I'm renting now and the rent is double what I was paying on my bond," said Brown.



# Stellenbosch's professor of moral cowardice

**R**EADERS WILL recall our tale ("Metropolitan's Life Sentence", *nose56*) of the savage persecution of insurance broker André van der Merwe, at the hands of his former employers Metropolitan Life.

Van der Merwe ran afoul of senior Metropolitan execs for what seems to have been entirely personal reasons. The subsequent campaign to destroy him featured, as we reported, the use of forged documents by Metropolitan executives Hannes Coetzee and Anthony Durant to justify cancellation of Van der Merwe's brokers contract with the insurer.

Van der Merwe won the subsequent court case against Metropolitan, and applied for damages of R7.5m. After a long campaign of threats and legal bullying by Metropolitan – and some strange legal advice from his attorney Stoffel Ackerman – Van der Merwe was eventually driven to settle for a paltry R200,000. This, five years after losing his brokerage, and source of income, and after being unable to find work because the crooks at Metropolitan told prospective employers that *he* was a "crook".

It was a clear case of corporate dishonesty and abuse of power destroying a man's life. While this was undoubtedly a source of satisfaction to Coetzee and Durant and as clearly a matter of indifference to Metropolitan MD Peter Doyle – there was still hope: one of Metropolitan's directors is Stellenbosch University's professor of business ethics Willie Esterhuysen.

Van der Merwe's friend and adviser, Johan Bothma, also an insurance broker, made sure that Esterhuysen was fully informed about all the sordid details. He told *noseweek* that he discussed the matter with Esterhuysen on several occasions, and that Esterhuysen had undertaken during one of their conversations to arrange a more appropriate financial settlement for Van der Merwe.



**Bowing to pressure:** Stellenbosch University's Professor Willie Esterhuysen gets a gong from President Thabo Mbeki

So, a year later, we approached Esterhuysen for a report on progress. The good professor immediately denied ever having made any such undertaking.

He did confirm that he had "gone into" the matter thoroughly, and agreed that Metropolitan staff at branch level (we assume he means Coetzee and Durant) had behaved unethically.

When *noseweek* asked him, however, whether he believed that Metropolitan's top management had been unethical in its treatment of Van der Merwe the Prof would only say, "No comment." That was such a surprising response that we asked again. The answer, again: "No comment."

We were interviewing him over the telephone, so we can only guess that he was furiously washing his hands as we spoke.

It seems that ethics is only of academic interest to Esterhuysen – and that he is currently suffering from a bad bout of moral cowardice.

By having Esterhuysen on its board, Metropolitan tells the world that its directors are the sort of people who will ensure that the company acts ethically. Esterhuysen admits knowing that Metropolitan has not been ethical in this case – and that the consequences have been devastating for Van der Merwe and his family. The Prof should either take meaningful action to put things right, or he should resign. It's as simple as that.

*(Horrors! Imagine life with no free boardroom dinners ... – Ed.)*



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## The Kebble fun and games aren't over yet

**T**HE WORLD will be a duller place, was our first thought when we heard that Brett Kebble had been deposed as CEO of the three JSE-listed gold companies that he had headed (JCI, Randgold and Exploration and Western Areas).

On second thoughts though, Kebble's demise has opened the way for a closer scrutiny of events that took place at these companies under his direction.

And that may mean that the fun is just beginning.

For example it was recently discovered, to, the surprise of Randgold and Exploration (RGE) shareholders, that their company no longer owned a substantial part of its major asset, – 18.4m shares in Randgold Resources, a London-listed spin-off from RGE. Kebble has subsequently disclosed that 9.9m of those shares (today worth about R850m) were "lent" to a company called Bookmark to facilitate a BEE transaction that involved the purchase of shares in Western Areas, another of the companies of which he was until recently CEO.

Why was that "loan" not authorised by RGE shareholders, as is required by law? What did RGE get in return? What security is there for the loan? And, if it was a kosher deal, why did Kebble repeatedly misrepresent the situation before his ouster.

There are also questions about which banker advised on and facilitated the loan. If it was Investec, and it turns out that RGE has made a (massive) loss on the deal, then Investec could well be liable for damages.

Does that perhaps explain why Steven Koseff of Investec is so touchy about the questions posed by Neal Froneman, the CEO of Afrikander Gold and Uranium (Afilease), a substantial RGE shareholder?

Afilease has called for an extraordinary general meeting of RGE shareholders and has prepared an extensive (by all accounts) list of questions about questionable transactions that took place under Kebble's direction. It wants answers.

Froneman is also interested in details

of RGE's 2003 purchase of Viking Pony Properties 359 Ltd from Phikoloso Mining for R260 million. Kebble and RGE finance director Hennie Buitendag were also directors of Viking. Froneman says that Viking was worth less than half the amount paid for it.

It will be up to Peter Gray, the new CEO of RGE, to address these issues. Gray's appointment – essentially at the behest of Investec – is controversial because he has had a long business relationship with Kebble. Also because he has at the same time been appointed to head JCI, RGE may have substantial claims against JCI.

Gray is adamant that he is independent and will address all issues openly and correctly. A first indication of how he is doing will come with publication of the long overdue annual reports for RGE and JCI. That should have occurred by the time you read this.

One way or the other, there's a long and entertaining road ahead before the full story has been told.

Watch this space.

## Dr Dolittle gets off lightly

**R**EADERS WILL recall the sorry tale (*noses* 53, 55 & 63) of Chippy Hubbard: how he was admitted, disoriented but still conscious, to the Kingsbury hospital in Claremont, Cape Town on the evening of August 30, 2003, after suffering a stroke earlier in the afternoon; how Dr Peter Whitfield, listed as the physician-on-call at the hospital that evening, was immediately summoned by telephone – but only arrived at the hospital to see his patient 17 hours later. ("See" being the operative word: he did nothing.)

Kingsbury nursing staff, too, sat back and watched their patient slowly deteriorate, ignoring his wife's desperate pleas. It took 24 hours before Hubbard received any proper care – from another doctor – by which time he was in a coma.

Chippy Hubbard died on

March 4, 2004, after months of suffering from complications arising from the stroke.

When he was eventually charged with professional misconduct before the Health Professionals Council of South Africa, Whitfield was let off with an admission of guilt fine – a mere R5000, paid on 5 August this year.

The Kingsbury's response? Hospital manager Marius Luckhoff says all he can say "for now" is that the matter will be taken to the hospital's Medical Advisory Committee "for discussion". He did call later to remind us that the Kingsbury "has no contractual relationship with the doctors using its facilities". (Translated into plain language: "Nobody should think of suing us for anything our 'on-call' doctors do – or don't do.")

Thank you Mr Luckhoff.

## Seedy business in Iraq

**A** DECREE IMPOSED on Iraq by the US-led coalition, prior to the handover to Iraqis, will effectively privatise seeds in the country, reports British magazine *Private Eye*. One section of Iraq's order 81 reads: "Farmers shall be prohibited from reusing seeds of protected varieties".

Activists claim that the law effectively creates a system of monopoly rights over seeds.

According to the *Eye*, "Such claims give the big seed firms angling to grab a share of the Iraqi market..., particularly Monsanto's pro-active PR team, an opening to insist that the order does no such thing. Campaign groups have even had to add a Monsanto-approved clarification to their critical report from October 2004, saying: 'The law does not prohibit Iraqi farmers from using or saving "traditional" seeds. It prohibits them from re-using seeds of "new" plant varieties registered under the law'."

The problem with this is that there's barely a "traditional" seed left in Iraq as a result of the conflict there and the UN has warned that seed shortages threaten the country's food security.

"And who is ready to step in with their patented, no re-use, cheap-this-time, pay a fortune when all the traditional, re-usable seeds are gone, seeds? Er, the US agri-business giants of course," says the *Eye*.



# Telkom hangs up as website hits its mark

**G**REG STIRTON is no fan of Telkom. He's in fact so unimpressed with "Africa's leading integrated communication operator" – a quote from the Telkom website (and there we were thinking they were a phone company!) – that he's registered [www.hellkom.co.za](http://www.hellkom.co.za) as a domain name, from which he operates what is commonly known as a "sucks site". (Older readers who feel awkward saying that word tend to refer to these things as "gripe sites"). It's all very opaque of course, but the suggestion on this site does appear to be that Telkom are not very good at what they do, but that they are rather adept at charging very high prices for what they don't do very well.

What a difference a year makes! A year ago Telkom announced with some fanfare that they would be suing Stirton for defamation, copyright infringement, trade mark dilution, child molestation and anything else their lawyers could think of. In addition, they would be seeking from Stirton R5 million in damages. This is, of course, a substantial sum – according to Stirton's site, Telkom's CEO would have to work a full five months to earn this kind of money. Worst of all, Telkom would be disconnecting Stirton's phone forthwith! Early last month Telkom announced, rather more quietly it must be said, that they had withdrawn the case and agreed to pay Stirton's legal costs. This was being done for "strategic reasons", a well known corporate euphemism for "We've just seen some other big okes see their backsides and we're not really that keen to look as stupid."

The whole thing really was rather ill-conceived: Even a year ago, Telkom didn't have a hope in hell because Stirton had clearly done his homework very well. In those bad old days, you may recall, the T-shirt case was in transit and the law seemed to be that corporate jokes were verboten (even if most of them were listed!). The rationale seemed to be this – the BLACK LABEL brand was being infringed because Laugh It Off were selling

Johannesburg trademark attorney **Hans Muhlberg** gives his version of why South Africa's telecommunications monopoly withdrew – with a whimper – from its fight with the man behind Hellkom, the website every angry phone customer loves

their spoof T-shirts in the course of a business. To get around this problem, Stirton made very sure that there was no commercial aspect to his website.


Although he kindly gave viewers some helpful tips on how they might make their own T-shirts featuring the HELLKOM logo, he did not offer any goods for sale.

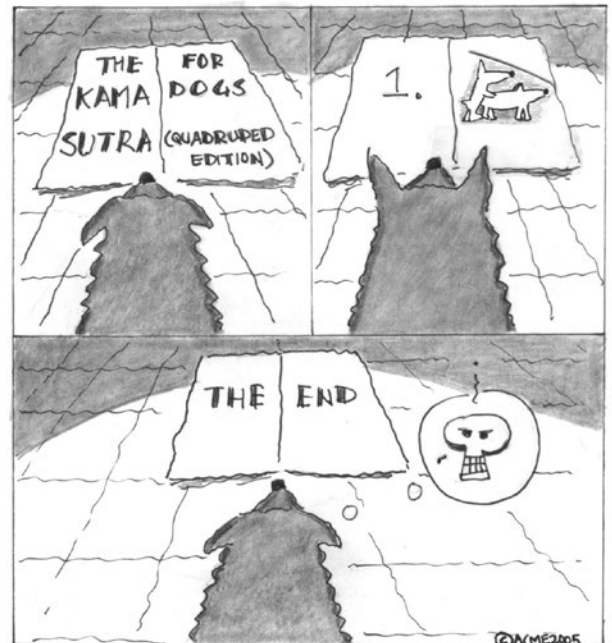
Earlier this year the judges of the Constitutional Court ruled that it is in fact not rude to laugh at companies with handicaps. It also won't have escaped Telkom's attention that Justin Nurse won the PR battle with SAB hands down. On top of that, the draft rules for domain name disputes regarding ".co.za" registrations were published a few months ago. The regulations are not very good, but they do sensibly follow international precedent in providing that a domain name comprising a brand name together with something unflattering (like [www.muhlbergsucks.com](http://www.muhlbergsucks.com)) will be valid if it is used in fair criticism of that brand

(obviously impossible in this particular example).

In the light of all these developments it's hardly surprising that Telkom decided to back down. The only real surprise is that it took them as long as it did to act, but then again we would imagine that Stirton, like stoic phone users throughout the land, is quite accustomed to holding on.

So what exactly is the law on sucks sites? We still don't have a decided case in South Africa, but it does seem that a sucks site is perfectly acceptable, provided that the criticism is fair and provided that the site is not being used as a form of blackmail, in other words to extract money from the company. So don't just mutter under your breath unhappy customer – get yourself a website!

■ Hans Muhlberg is the author of *The Law of the Brand*, published by Struik this year. 



Scampy couldn't shake the feeling that his species had been shortchanged.

# Should Bob have thrown the book at Bill?

**R**W JOHNSON WAS not the first to allege in print that Bob Hepple had agreed to give evidence for the apartheid state against Nelson Mandela, Walter Sisulu, Govan Mbeki and the other Rivonia trialists – and that he was seen as a traitor for it at the time.

In a letter to *noseweek* Hepple, who has since the Rivonia days advanced in life to be knighted for his achievements as a Cambridge legal don, declared (*nose71*):

“It was false and defamatory for Mr Johnson to accuse me of treachery and/or betrayal of my comrades in the Rivonia Trial. ... The circumstances in which I made a statement to the security police under the pressure of solitary confinement, psychological abuse and continuous interrogation, were well-known to my fellow-accused ... Both during my detention and after my release ... they were never left in any doubt that ... had I been called to the witness box, I would have refused to testify. The lucky chance of being released from custody enabled me to leave the country without being called. Walter Sisulu wrote to me, shortly before he was sentenced in 1964, to say that the description of me as a traitor ‘certainly did not reflect my views about you.’ More recently, Ahmed Kathrada, stated: ‘Advocate Hepple has been a worthy friend and comrade, and I had no reason to doubt his integrity.’” So far Sir Bob’s account of the situation.

But what, then, about James Kantor’s autobiographical account of the Rivonia trial, *A Healthy Grave*, published in 1967? Kantor, an attorney and brother-in-law of another Rivonia arrestee, Harold Wolpe, was acquitted and discharged at the end of the trial. In his book he relates how, while in prison during the trial, he had an opportunity to talk with Hepple:

“Bob and I discussed his decision to give evidence. He felt that none of the people caught during the Rivonia raid had the slightest chance of an acquit-

In recent issues *noseweek* has reported and commented on the legal action brought by South African-born Cambridge professor and one-time ‘Rivonia’ Communist, Sir Bob Hepple, which resulted in publishers Weidenfeld and Nicolson agreeing to withdraw R W Johnson’s latest book, *South Africa: The First Man, the Last Nation*, from the market. There are, however, some disturbing aspects to the case that have escaped public attention. After all, books should not lightly be banned – even if they are by R W Johnson

tal, and whilst he sympathized with the plight of the non-white in South Africa, he did not feel sufficiently dedicated to be prepared to sacrifice himself. The statement he had made went no further, he said, than information already available to the police. He wanted my views on his agreement with [state prosecutor Dr Percy] Yutar to give evidence for the state, but this was so personal a decision that I was not prepared to express an opinion on it.”

On the previous page, Kantor records that Hepple had been moved “to another part of Pretoria Gaol to keep him isolated because he was being used as a witness.”

Hepple could have challenged the account in Kantor’s book in the courts in London during Kantor’s lifetime, but chose not to. There can, therefore, be no objection to Johnson’s phrase, quoted by *noseweek*, that Hepple “agreed to testify for the prosecution” in the Rivonia trial.

Kantor describes (on page 140) the occasion during the trial when Yutar announced to the court that Hepple would be called as a witness for the prosecution and how Judge de Wet had noted that Bob Hepple (himself an advocate) was unrepresented and asked him if he had anything to say.

“Before he [Hepple] could reply, Yutar jumped up once more, announcing that he was now withdrawing all charges against Bob Hepple, who would be called as the first witness when the case began. Bob, who had been taken to Yutar’s office during the tea break, grinned happily behind his glasses as he was led downstairs to a chorus of good luck from the rest of the accused who, at that stage, bore him no ill-will for his decision.”

This of course implies that at a later stage some of the accused may indeed have come to bear some ill-will towards Hepple for his decision.

To Yutar’s disappointment, Hepple was then spirited out of the country before he could give evidence.

Kantor quotes Yutar’s announcement of Hepple’s escape:



“Bob Alexander Hepple is in Dar-es-Salaam. Hepple has been threatened, and is now in Dar-es-Salaam with his wife. The state is no longer prepared to expose its witnesses to threats of this kind, or to run the risk of them being spirited away.”

The *Rand Daily Mail* had that morning carried a news item under the banner headline: WHY I FLED ... HEPPLER.

Kantor quotes from it (the date appears to be 26 November 1963):

“Bob Hepple, former Rivonia detainee, who was to have been first state witness when the trial opened in Pretoria this week, arrived in Dar-es-Salaam last night and told why he had fled South Africa. He said, ‘I believed I was not safe, even if I gave evidence for the state, and I might have been re-arrested and placed under 90-day detention. I left because of broken promises made to me by the police.’”

Note, not because of loyalty to his comrades.

A great deal in Kantor’s almost-contemporary account is confirmed in Rusty Bernstein’s memoir of the trial, *Memory Against Forgetting*, written and published thirty years later.

Recalling his own feelings and those of his colleagues after Hepple’s departure from the dock, Bernstein writes that he had known him since he was a small boy. An only child, Hepple’s parents Alex and Girlie had been in a pre-war Communist Party group with Bernstein and his wife Hilda.

Concerning Hepple’s decision to give evidence, Bernstein writes in the present tense, as if from contemporaneous notes:

“Any testimony he can give can have little significance in the case against us, but for him to give evidence for the state will be a bitter blow to his parents. It will destroy his own reputation and self-respect and take his parents down with him. Giving evidence – any evidence at all – for the state will be seen as an act of betrayal and act of cowardice which will dog his life. Once he is freed of the pressure of imprisonment he might find the courage to draw back from the brink, as others have done before him. Hilda and Bram [Fischer, chairman of the SACP and senior counsel for Mandela in the trial], who have helped his wife Shirley to stand strong during his detention, will surely now be advising her that Bob must leave before he destroys himself.”

Bernstein queries only Yutar’s claim that Hepple had been threatened to induce him to leave. In a note to page

296 he states: “There has never been any evidence for the allegation.” He does, however, see fit to quote Yutar’s coarse concluding comment about Hepple: “For the information Bob Hepple has given to the police I would like to make him minister of informers.”

The former *Washington*© *The New Yorker Collection 2002 Matthew Diffie from cartoonbank.com. All Rights Reserved.* Post correspondent in South Africa, Glenn Frankel, author also of *Beyond the Promised Land*, makes an unambiguous – and until now unchallenged – statement about Hepple’s relation to the prosecution during the Rivonia trial in his biographical history, *Rivonia’s Children*, published in New York in 1999.

Noting that Hepple had been ‘a member of the Communist Party’ (he was a member of the party’s central committee) and had ‘served as secretary to the group’ of SACP leaders debating the Operation Mayibuye document at Rivonia at the time of the police raid on 11 July 1963, Frankel states unambiguously that Hepple later ‘agreed to appear as a witness for the prosecution’.

Frankel gives further information about perceptions among Hepple’s SACP colleagues following his arrest. He writes that on the 89th day of Ruth First’s detention in solitary confinement, she was permitted a visit from her mother Tilly and her three daughters. He writes:

‘...Tilly whispered disturbing news: rumors were flying that Bob Hepple had given some kind of statement to the police. Bob knew everything. He had attended many meetings with Ruth and others at Rivonia, knew why she had gone there and whom she had met with. If Bob agreed to give evidence, she would wind up sitting in the dock with the Rivonia defendants facing treason or sabotage charges.’

Puzzling is the discrepancy in tone and approach between Ahmed Kathrada’s kindly remarks about Hepple in a recent statement, quoted above, and Kathrada’s more critical perceptions of Hepple, reflected in a secret letter he wrote from prison to his lover, Sylvia Neame, in early 1964. The letter appears in *Letters from Robben Island. A Selection of Ahmed Kathrada’s Prison Correspondence*,

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1964-1989, published under Kathrada's supervision by Mayibuye Books in 1999. In it he writes:

"Of course everybody must have been quite shocked by the news that the Mountain View cottage was given away by Bob Hepple. [The allegation that Hepple's had provided information leading to the discovery of an SACP 'safe house' at Mountain View had been made in court by Lieutenant Swanepoel of the Security Police, as recorded in Kantor, p.189]. I must say I wasn't. From the first day when we were released from 90-day detention, I suspected him of telling the police more than he admitted. In fact I should say that I started suspecting him even before this, when during interrogation I was told that some of my friends were talking. At the time I thought that this was to induce me to talk, though there were little things they said here and there which made one suspect. What can one do? I suppose these things happen in any struggle. I feel very sorry for his poor wife. She is such a nice girl and must be taking this very badly."

A similar discrepancy emerges in another book published by Mayibuye Books, also in 1999, Dr Vladimir

Shubin's *ANC: A View from Moscow*. Shubin is described on the back cover as having been "involved from the late 1960s in political and practical support" for the SACP and the ANC on behalf of the Soviet state, and as having been "a Soviet representative at the ANC national conference in Durban in July 1991." He credits Brian Bunting and Barry Feinberg, both very senior leaders of the SACP, with having edited the book. It may, therefore, be fairly expected to reflect the perceptions of the leaders of the SACP and the ANC in exile.

In his book, Shubin quotes (from Helen Joseph's autobiography, *Side by Side*, published in London in 1986) a judgment on Hepple supposedly made by Walter Sisulu during the Rivonia trial, which is sharply at variance with comments ascribed to Sisulu by Hepple in his recent letter to *noseweek*. Once again, Hepple did not take issue either with Helen Joseph's book (despite the protection that might have been afforded to him by the ferocious English libel laws) or with Shubin's book, published effectively by the ANC.

The passage from Shubin reads as follows:

"Robert Hepple was the first activ-

ist to agree to be a state witness in a political trial. Though he managed to avoid disgrace by leaving South Africa illegally before his day in court, his comrades did not forgive him. Even Walter Sisulu, a man of very fair judgment, said during the Rivonia trial: 'He is a traitor. Anyone who gives information to the police is a traitor...Hepple will be ostracised to such an extent that he could do no further harm'.

"Helen Joseph wrote later with bitterness: 'There have been many since Hepple...'"

So: Johnson's phrase "Hepple's agreement to betray his comrades" – which led to his book being withdrawn and pulped – is supported by Joseph's unchallenged use (in 1986) of the word "traitor", attributed there to Sisulu, and its unchallenged re-publication by Shubin in 1999.

Given the evidence as to contemporary perceptions among the Rivonia accused and their political colleagues, the question arises: why had Hepple not challenged these primary sources, as he later challenged the secondary historian, Johnson?

The first question prompts a second: given the corroborative evidence that has long been in the public domain – where it has remained uncontested by Hepple – why did the powerful Orion Publishing Group (owners of the originally independent Weidenfeld and Nicolson, publisher of Johnson's book) choose not to confront Hepple in the English libel courts? Instead they agreed to pulp the book, and Johnson tendered a personal apology to Hepple and paid a modest sum in damages to a charity of Hepple's choice. Might their decision have something to do with the economic and social risk of confronting a pillar of the English legal establishment in an English court?

Or is it only lack of attention or his charitable feelings towards these authors that permitted Hepple not to pursue them in law – charitable feelings that Hepple and his former Communist comrades could not be expected to have for Johnson?

Might it even be *that* lack of charity which accounts for the discrepancy between what Kathrada wrote privately to his lover in 1964, and what he was prepared to say in 2004 in a statement prepared at the request of Hepple's lawyers for their case against Johnson?

In short: Hepple, today a knighted Cambridge law professor, might feel wronged by Johnson's unkind historical judgment of him, but was it so wrong as to justify banning the book? **■**



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# The president vs his deputy, Nigerian style

**L**OCKED IN a deadly embrace, President Olusegun Obasanjo and his deputy Atiku Abubakar look like two men struggling on a cliff edge as they try to hurl each other into the ravine below. This epic battle, which now dominates politics in Nigeria, doesn't turn on policy or principle; it is a raw battle of power and personality. Vice-President Abubakar wants to stand for president in the 2007 election; President Obasanjo doesn't think he's up to the job of running what could by then be an economy worth US\$80 billion (about R500bn) a year, with a fast-growing oil and gas industry. Abubakar's supporters suspect that Obasanjo's public campaign against their man has its roots in the president's hidden plans to change the constitution and run for a third term.

Adding fuel to the fire are the grand corruption allegations against both men. On 3 August, the United States Federal Bureau of Investigation raided the palatial home of Abubakar and his wife Jennifer in Maryland in connection with a probe into whether Democratic Congressman (New Orleans) and chairman of the Congressional Black Caucus, William Jefferson, had made illegal payments to facilitate telecommunications deals in Nigeria and Ghana. Jefferson's lawyer says he was an innocent victim of an FBI sting operation. Ghana's Vice-President Aliu

Mahama was also mentioned in the FBI documents. Abubakar's wife lives in the USA and he spends a couple of months a year in the house he bought in 2000, shortly after coming to power.

Within days of news of the FBI raid, an ally of Atiku's, Abia State Governor Orji Kalu, wrote an open letter to Obasanjo accusing him and his aides of massive corruption. The chairman of the Economic and Financial Crime Commission (EFCC), Nuhu Ribadu, says he will investigate the allegations; he requested more details from Kalu. Like many other state governors, Kalu himself is under investigation by the EFCC for financial mismanagement.

That Abubakar and Obasanjo have nursed a mutual loathing for years isn't news to insiders at the presidential villa at Aso Rock. They have suppressed most of the outward signs, though, in the interests of holding the governing People's Democratic Party together. Last month, they finally gave up the pretence. Abubakar let the dam burst with an interview in Lagos-based *This Day* on 22 August expressing exasperation that Obasanjo had "sworn to him" that he would not seek a third term in office.

Abubakar's friends say he had merely wanted to distance himself from groups calling for Obasanjo to stand for a third term but the interview spun out of control. A week later, on a phone-in show on state television, Obasanjo

accused Abubakar of lying and disloyalty, recounting an incident in which Abubakar had refused to swear an oath of loyalty to the president on the Koran. The public feud rumbled on with press reports that Obasanjo had told Abubakar to resign because of the irrevocable breakdown of their political relationship. The reports added that Abubakar had already registered two alternative political parties and would take at least 25 of Nigeria's state governors with him into the new parties, precipitating a breakdown in the PDP and the end of Obasanjo's third-term ambitions, were he to harbour any.

Obasanjo's allies may try an impeachment motion against Abubakar in the senate, where they have more support. They may also target Abubakar's wife for investigation because she, unlike the vice-president, doesn't enjoy immunity from prosecution. Looking on with more than professional interest is the Nigerian military, whose political stock had hit rock bottom by 1999, after decades presiding over a succession of corrupt and autocratic regimes. The combination of personal feuding in the political elite, rampant corruption at all tiers of government and record oil and gas earnings producing foreign reserves of \$25 billion (about R150bn) and five times that in export sales over the next three years may prove irresistible. — © Africa Confidential

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Which leading supplier of military equipment to Zimbabwe's President Robert Mugabe dined at 10 Downing Street and has indefinite leave to remain in Britain?



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Picture: AFP/Touchline Photo

**Cross my heart:** Bernie Ebbers, former WorldCom chairman, arrives for his appearance before the US House Committee on Financial Services in Washington in July 2002

# Crime pays big for Worldcom

Top US investigative journalists **Russell Mokhiber** and **Robert Weissman** examine some disquieting factors behind the decision not to criminally prosecute the company that committed the biggest fraud in US history

the US government seems poised to allow WorldCom/MCI as a company to escape with the fruits of its unlawful conduct.

The core mission of the US's justice system is to ensure that "crime does not pay," and the core mission of its securities laws is to ensure that securities fraud does not pay.

When individuals commit crimes, they are not only punished but also compelled to surrender the benefits gained from wrongdoing. Likewise, when a business engages in crime that produces illicit advantages, it is axiomatic that – whatever individual punishment is meted out – the company itself cannot be left in a position to profit from those ill-gotten gains.

In WorldCom/MCI's case, the fraud was so massive that a significant part of its business – its assets, customers and market position – are the fruit of criminal conduct.

Imagine two competing trucking firms: one is an honest business, leasing trucks and making payments on time. The other is a criminal enterprise, which acquires its trucks through theft and uses this illicit advantage to steal business from the honest firm.

There are two classes of victims – those whose property is directly stolen, and those whose businesses are injured by the criminal enterprises' illicit advantages.

What must the government do to right this wrong?

Obviously, the individuals who stole the trucks should be punished, but just as obviously this alone does not remedy the offence.

If new management is simply allowed to take over the corrupt company, keeping and using stolen trucks, the law-abiding competitor will still be a victim. It will lose customers and

**I**N THE last week of August, federal prosecutors in New York decided not to criminally prosecute WorldCom/MCI for an \$11 billion (about R70bn) fraud. This represents a travesty of justice.

The government's response to the largest corporate fraud in US history has been grossly inadequate and fundamentally misdirected.

WorldCom/MCI engaged in a concerted programme of manipulation over three years by which it fraudulently manufactured \$9 billion (about R55m) in income, making victims of investors, pension funds and every honest company struggling to survive the telecom meltdown. As a result of the WorldCom/MCI fraud, investors lost roughly \$175 billion – more than three times the losses in Enron. WorldCom/MCI's brazen scheme dramatically deepened the crisis of confidence in corporate America, imposing incalculable costs across the country.

While the Securities and Exchange Commission (SEC) and the Justice Department have focused on pursuing individuals who perpetrated this crime,

## Plot behind another Andersen fairy tale

The accounting scandal at Worldcom was the largest and, next to Enron, most notorious of the many major accounting scandals that broke out in the US in 2002. Like Enron, Worldcom was audited by the now defunct Arthur Andersen.

Worldcom had previously been the second largest American telecommunications company (after AT&T).

When, in November 1997, WorldCom and MCI Communications announced their US\$37 billion merger it was then the largest merger in US history. In 2002 an internal auditor at the company blew the whistle on question-

able accounting practices to the tune of US\$3.8 billion. In July that year WorldCom filed for bankruptcy protection in the largest corporate insolvency ever. In August, an additional \$3.3 billion in improper accounting was uncovered. Finally, by the end of 2003, it was estimated that improper accounting practices had inflated the company's assets by around \$11 billion.

Bernie Ebbers, co-founder and long-time CEO, was convicted in 2005 of fraud and conspiracy for his role in the scandal and sentenced to 25 years in prison. In the meantime the company has re-emerged from bankruptcy.



profits, not because it was beaten in the marketplace, but because it must compete against an enterprise built on criminal activity.

So, too, with WorldCom/MCI.

It is no overstatement to say that WorldCom/MCI would be a valueless enterprise but for its fraud.

None of the arguments that have been made on WorldCom/MCI's behalf warrant leniency. Some have asserted that WorldCom should be spared enforcement because it is a major supplier of important services to the government, including services important to law enforcement and national security, that it is "too big to fail." Others have lamented that liquidation would put WorldCom/MCI employees out of work. This is a red herring.

The issue is not whether the business continues to exist, or whether the government will still be able to obtain critical services. It is whether the ongoing business has the cost structure of an honest enterprise or a criminal enterprise, and whether the government obtains services from vendors who fairly compete, or instead seeks to cash in on the crime by effectively serving as a "fence" for stolen goods.

WorldCom/MCI apologists also claim that the company deserves leniency for co-operating with the government's investigation.

But co-operation cannot trump the numerous other factors that dictate action against the corporation in this case, including the crime's unprecedented scale, its brazen nature, its catastrophic impacts, the involvement of senior officials, and the unscrupulous corporate culture that bred these offences.

WorldCom's co-operation results from necessity, not from probity.

The crime here was so egregious that the company had no choice but to co-operate.

If this kind of "desperate co-operation" were rewarded with a pass, the most brazen criminals would go scot-free, while those with the temerity to raise a legitimate defence would suffer the harshest punishment.

This result cannot be squared with any rational concept of justice.

In any event, law enforcement gives greatest weight for co-operation when it helps to snare a bigger fish.

Here there is no bigger fish than WorldCom/MCI.

Uh. Wait a second.

Full disclosure:

Except for the first paragraph, that wasn't us writing.

That was William Barr, executive vice president and general counsel, Verizon Inc. (and former Attorney General of the United States) in a March 19, 2003 letter to the Securities and Exchange Commission calling for the death penalty for WorldCom, then a competitor to Verizon.

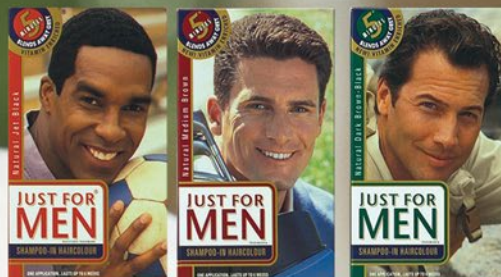
Next month, Verizon shareholders will vote on a proposed merger with MCI, the new name for WorldCom.

We assume Barr has now changed his mind and agrees with the US Attorney in New York that MCI should not be criminally prosecuted.

But he did not return our call seeking comment.— © Russell Mokhiber and Robert Weissman

■ Russell Mokhiber is editor of the Washington, DC-based *Corporate Crime Reporter*, Robert Weissman is editor of the Washington, DC-based *Multinational Monitor*. Mokhiber and Weissman are co-authors of *On the Rampage: Corporate Predators and the Destruction of Democracy* (Monroe, Maine: Common Courage Press). ■

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# Cape Town property market overheats

After reading a WWF report on climate change, you could regret having bought your house in the Mother City

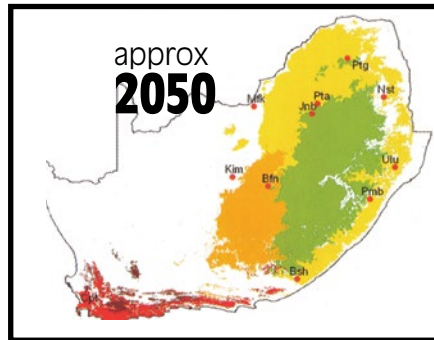
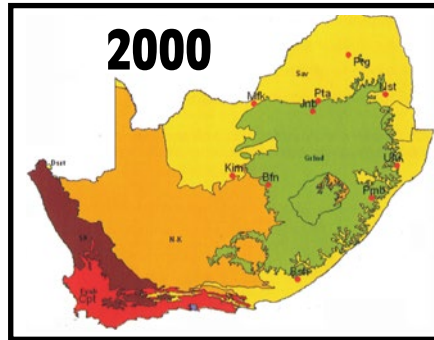
**H**URRICANE KATRINA is the coolest thing to have happened to environmental science in a long time. One could even say it was a blessed relief. After years of warning that human-caused climate change could lead to more frequent severe hurricanes worldwide, and that such hurricanes could easily overwhelm coastal defences thanks to the ongoing destruction of protective wetlands, (non oil company-funded) climate wonks can finally point to a spectacular American example of what happens when you mess with Mother Earth.

An act of God has allowed the ranks of lab-coated dirty-Darwinist doomsayers to rise up in triumph, thumbs on noses, yelling “we told you so! Hallelujah! Now give us more grant money!”

George W, that great subsidiser of the oil biz and relaxer of wetland protection rules, has finally got what he deserves; falling poll ratings while his dumbass supporters in their lard-inflated epidermii and luxury SUVs panic their way through chaotic traffic jams to the doubtful sanctuary of crappy motels in Texas and Florida, leaving their aged ancestors, fluffy pets and less fortunate neighbours to die lonely deaths in drowning, listing clapboard homes.

American analysts reckon the whole shebang is going to set them back \$300 billion – the equivalent of the wars in Iraq and Afghanistan. Ag shame. Those ‘Mericans can’t forever get away with tearing up Kyoto treaties and spewing out more greenhouse gases than any other single country – 21% of the world’s total at last count. If they’re going to make the planet less habitable for the rest of us they may as well suffer too.

Just as NoseArk was about to skive off work and join the party, the obvious thoughts struck home – surely if climate



Projection of possible future shifts of climate zones associated with major South African biomes (from WWF report ‘The Heat is On’).

Generally, the west may experience significant heating and drying. White areas in the lower map represent climatic conditions not presently experienced in the country

change can screw them, it could stuff us up too? Are our Great and Good dealing with the consequences of climate change any better than the Bushies? Some reference searching threw up some interesting bits of information, most of them rather unsettling.

Tony Frost, head of the South African shellhole of the WWF, recently told the Cape Town Press Club that the two places on Earth most likely to suffer the most extreme drying due to climate change were the Yangtze River Valley in China, and South Africa. He also said Cape Town would run out of fresh water by 2015. NoseArk doesn’t know the source of Frost’s data, but it prompted us to look at a June 2005 report on climate change in the Western Cape put together by the South African Biodiversity Institute, and what we saw made us wish we’d never been hyped into buying property in the Mother City.

The Western Cape has been warming at roughly twice the global average over the past 30 years. This upward trend in temperature is likely to continue. Although the models predicting overall rainfall don’t show as distinct a trend, the tendency is downwards, with more concentrated precipitation – in other words, fewer, and violent storms, and a probable increase in flooding events. Even if rainfall doesn’t actually decline, the increase in evaporation due to the temperature rise is going to shrink water supplies. Add a burgeoning population to this, and you have a recipe for industrial collapse and social chaos.

A 2000 study projecting what might happen to our natural biomes, or life zones, is even more alarming. Scientists mapped the current “bioclimatic envelopes”, or zones of particular climatic conditions associated with the major South African biomes.





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# Turning reds and whites into greens

**W**INE IS a great fomentor of friendship – when not provoking drunken brawls, of course. In one expensive red incarnation it might be doing its bit to resolve any remnants of ill-will between Gauteng Premier Mbhazima Shilowa and Anglo American.

Back in the bad old days (oh – a decade or so back) when the premier was “Sam” and a trade union leader rather than a politician with champagne tastes, he tended to extreme rudeness about Anglo. Now he’s clearly become fond of at least the outpost of the great capitalist empire known as Vergelegen – that most fashionable of wine estates. He was certainly quick to snaffle six cases of Vergelegen V, a new wannabe “cult wine” selling at R600 per bottle.

Whether he tried it before buying, or relied on some trusted advisor’s recommendation, or merely adopted the solid nouveau-riche principle that what’s expensive and showy must be good, I don’t know. Nor why the estate waived its own declared limit of one case of this wine per customer – simple warm-hearted friendship, I suppose.

Another erstwhile struggle hero with an interest in wine is Tokyo Sexwale, who’s done better than most in gratifying the pre-vice-presidential encouragement of Phumzile Mlambo-Ngcuka for blacks to get “filthy rich”. Few are, er, richer than Tokyo and he does things on a grander scale than Mbhazima. In late 2003 he spent R15 million on Elephant Pass Vineyards in Franschhoek. Strangely, since then nothing has been heard of the winery: mention of it even disappeared from the Platter Wine Guide, in response to forceful insistence, I gather.

There are people who see a leopard and think of silk linings and matching shoes. Similarly, there are those (Tokyo Sexwale apparently among them) whose imaginations, when they are confronted with vineyards and mountains, are fired by visions of golfcourses, electrified fences,

Tim James *hits the bottle*



and smug neo-Georgian houses stretching to the horizon.

The destruction of vines and fynbos in this noble cause is happening all over the winelands, of course. The deals around the development of Boschendal, for example, are of a scale and complexity beyond my modest understanding, but will certainly result in lots of expensive housing. Constantia already has Steenberg Estate, with its golf course, residential estate, hotels, etc, but Tokyo is planning to add a lot more traffic to the pleasant road leading through the valley to Tokai.

In a deal which received remarkably little public notice, the owners of Constantia Uitsig, Marlene and David McCay, recently sold a 50% stake in their spread – which includes three restaurants, a hotel, a cricket pitch (!), some non-arable land, and 30-odd hectares of vineyards. The buyer was a consortium led by Tokyo Sexwale, the price rumoured to be around R130 million.

The plan is to build one or two hundred houses, partly on the bit of the estate at present left to unprofitable nature, but also doing away with some 20% of the vineyards. The impact on

that part of the lovely valley will be substantial, and continue the march to the sea of the suburbanising rich (Hout Bay, for example, is pretty tightly packed already). Of course, the visionaries will first have to get the land rezoned to residential, and planning permission: not a straightforward task, but with such grand money and grand connections fueling it, I wouldn’t bank on a high-minded city council resisting them in the name of preserving a little more greenery.

The wines of Constantia Uitsig, all whites apart from one red blend, are rather good, incidentally (not yet, anyway, leaving a nasty taste in the mouth). My own favourite is probably the lowest priced, the unwooded Chardonnay, which is rich and flavoursome, though nervy, dry and fine. There’s also a good wooded version, an elegantly intense Sauvignon Blanc, and an imposing Semillon Reserve. The estate now also has a sauvignon-semillon blend as its flagship; the second vintage (2004) is being released about now, and is even better than the first, though promising to improve still over a year or two in bottle, as do all of the Uitsig wines. None of them are cheap – but from R50 to about R100 per bottle from the shop on the property, not unreasonably expensive, given the quality.

And if you’re in the area, looking at the vineyards and sadly (or excitedly) imagining walls rising, and you fancy some red wine, do call in at Buitenverwachting. They currently have their 2001 reds on release, and it was a brilliant vintage for them. The Christine blend (R150) is sold out from the farm, but the second-string Meifort blend is an excellent buy at R40, the Merlot (R70) really appealing, and the Cabernet Sauvignon a highly recommended bargain at R75: it’s restrained and elegant, but with lovely forceful fruit and a fine structure; very drinkable now, but it should improve over at least the next few years – perhaps while the Constantia Valley itself deteriorates. **W**

# Century

BY HAROLD STRACHAN



**WHEN I** was at Maritzburg College I was taught something by a bloke in his mid-thirties, but I can't remember what it was. Indeed I couldn't remember what his name was either when I came across him again last week. Indeed I wouldn't have noticed him at all except he was examining certain small watercolour landscapes in the window of a small art gallery down the beach end of West Street, whose old pictures I clean for a living. The far corner of this window, that is, just next to the window of the Adult Movie and Love Aid Centre.

I approach him. Good morning, Strachan Minor, says he. You got that wrong as far back as 1943, say I, there never was a Major, unless you count my sister who was at the Teachers' Training College. Aah yes! says he. Pretty gel, rather I should say handsome, she had a good nose on her, better than yours, I remember. What was it again I tried to teach you? I can't remember, say I, but why do you remember me at all when you can't remember what you taught me? Well I tried, I tried, says he. So if you didn't get it right that's all the more reason to forget me. Aah no! says he, I remember you because you were always so sarcastic. You did a drawing of me which you labelled Pinched-arse Old Pee. It was very true to life. Which, the drawing or the label? I ask. See what I mean? says he. He pats his clothing as if to check the whereabouts of this thing. I've still got it, he says as if he would have kept it on his person to this day. No, it's in my Bible, says he.

Would you like to meet my friend Tienkie who works here? say I. In the art shop? he asks. No, in the sex shop, say I. No, says a new voice. I realise he has a minder, because he's now exceeding old.

when you  
pass away  
you will find  
yourself with  
a whole lot of  
Christians and  
smiling all the  
time and no  
sex or booze  
anywhere

His minder is a Muslim or a Quaker or some bloody thing. He doesn't like places like that, she says. Yes he does, say I, and steer him inside. Hullo Dearie, says Tienkie, I got a lovely one just come in, dubbed in Afrikaans for the Christmas Gauties, called Blou Bul Cheerpoppies, just nice for the mature man, hey. You should see them in the shower. Of course they not reely Blou Bulle, they Chinese, but never mind.

You know, I have just turned one hundred years of age, says he. Is it? says Tienkie, the Capie way. Yes says he, reflectively, ... you know, if I'd known I was going to live so long I'd have taken better care of myself. Well you can start now, says she. Did you got CD or DVD? I have an automatic radiogram and a television set, says he. She blinks. Goeie genade! says she.

I think we'll just steer across to the Tudor House Hotel and get a good big shot of Jameson's Irish Whisky, say I. Want to come? Ooo yes! she cries, and signals her departure to somebody. Though I have been as sinful as the next man, says Dearie, I have nonetheless maintained a creditable moral standard, which I should try to maintain even at my present age. Crazy old fool, think I to myself, you scorn that which would save you from dementia, whilst declaring with profound hypocrisy Aah yyyes, true, true! Dearie, declares Tienkie, if you haven't worked out for yourself yet how to grow old disgracefully, one of these days when you pass away you will find yourself floating about with a whole lot of fucking Christians with your toes all dangling down and smiling all the time and no sex or booze anywhere around and loving your enemies evermore.

So we steer him across the street to the bar and settle the minder in the reception foyer where a waiter gets her stupefied with Coca Cola and I order triple-whiskies, though the law says a double is the maximum. And after the first shot he says You know, I feel as if I am only ninety-nine! Then maybe after another 82 shots you will find yourself shagging pimply schoolgirls on the rugby field at midnight, says Tienkie.

After some silent smiling contemplation of these new Verities of Life he rather irrelevantly asks Was it you who used to write things in the dust which had settled on my motor-car? You remember, a bottle-green Nash, which is why the writing appeared so clearly. I used to park it behind the gymnasium. Who me?! I exclaim, why should I do such an antisocial thing? Because somebody had written there Old Pee, and I thought that was rather your style. I shake my head.

The minder appears with a taxi and whisks him off. Sweet old bugger, says Tienkie. What's his name? Damned if I know, I declare. **W**



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