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# noseweek

82  
AUGUST 2006



## TRAVELGATE: THE ONES THAT GOT AWAY

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Durban Metro's dungeon Tokyo's CEO robbed me!



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# noseweek

AUGUST 2006

ISSUE 82

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**Stains on Stein**

I read the story about Carl Stein and his misfortune at Werksmans with interest.

It couldn't have happened to a nicer chap! After a disastrous first marriage when he cheated on his wife, he entered politics. He accepted nomination by the PFP and was elected the party's Johannesburg city councillor for the Killarney ward, which for years had been the backbone of Helen Suzman's Houghton constituency.

As their new city councillor, it took Stein just short of a year to alienate the voters of Killarney.

When the PFP finally managed to get him to resign his

I know this businessman socially and am aware of how he boasts of his crooked dealings. It really upset me when I recently learned that my friend was threatened out of a business by him and lost a lot of money. I feel it unfair that he should get away with it again and again because no-one has the balls to expose his shady dealings.

He is Dave McKay of Constantia Uitsig.

I hope you have the balls.

**(no name supplied)**

*A bit cheeky, your challenge on the question of balls, don't you think, when you yourself clearly have none? For the record: while we are prepared to withhold the*

went into business with some friends I had met at work. Through our lack of experience, the business failed and we went our separate ways.

A few weeks later, I was on the way to have my car fixed when my fiancé called to say that some cops were at the house wanting to ask me a few questions. Having nothing to stress about, I asked if they could collect me as my car was immobilised. That's when I first met Inspector Rodney Palm of Kempton Park police station.

They took me through to my employer's head office to ask me a few questions. Within minutes they were accusing me of being

Whenever he called my lawyer and I to Kempton Park police station for yet another "meeting" he'd wait for my lawyer to be busy and again threaten me with jail. He had me fingerprinted three times (in the process, he'd insist on showing me the cells and tell me that that was where I would be, shortly).

What got me about your article was not only his name, but also the fact that he lost the docket! He also lost my docket – which contained all my official papers – just to make life even more difficult for me.

After what seemed a lifetime, I arrived at the Kempton Park court one day to hear that the woman who was trying to implicate me in her case had ended up as state witness – against Inspector Rodney Palm! I walked out of that court, knowing nothing more than that. I never had any real closure. For years I was terrified of answering the phone in case it was HIM.

Now I can't help but smile when I think that the man that abused his position for pleasure and monetary gain has been reduced to being a garden hand. Gosh, I love karma!

**Rechelle Hutt**  
Johannesburg

**Genetic enslavement**

Your article "Rammed down our throats" (*nose71*) left me with a feeling of dread for the future.

Monsanto and their ilk making light of people's right to make informed choices, and actively using their wealth to not only silence the voice of truth and reason, but ultimately to hold the world to ransom by eventually owning the rights to all staple foods, is an act worthy of the same sentence they wish to dole out to humankind.

People do not understand that, once all staple foods are genetically modified, there will no longer be a free world. People will no longer be able to plant a few mealies in their yards or grow their own veggies without Monsanto suing.

Never mind the health risks. Please expand on this article as an aid to enlightening the South African public, who have suffered information repression for so long.

**Adrienne Addinall-Kokkas**  
Midrand

\* *Monsanto is already suing SA farmers for selling their maize crops for seed.* – Ed.

## As their city councillor, it took Stein just short of a year to alienate the voters of Killarney

seat, it was lost to an independent at the subsequent by-election.

The leopard never changes its spots and I can't imagine Stein changed his attitude to his fellow human beings.

**Call that the Gang of Six**  
Cape Town

**Load of balls**

I am writing anonymously because I feel very strongly about how someone near and dear to me has been mistreated in a business deal by a notorious businessman in Cape Town.

*identity of sources, we don't generally publish letters from anyone whose identity is not known to us. Anyway, Mr McKay, now you know: someone in your social circle is out to shop and/or defame you.* – Ed.

**Long Palm of the law**

When reading your report on the theft of a container of cigarettes from a bonded warehouse ("Smoke gets in your eyes", *nose81*), I came upon the name of investigating officer Sergeant Palm – and my blood ran cold.

When still young and eager, I

party to a huge fraud within the company. A certain "friend" at this company had apparently been caught defrauding the company and had said that I was the mastermind of a plan to defraud it of R1.5-million! Unknown to me, this "friend" and Inspector Palm were working hand in hand.

Imagine my surprise! My fiancé and I weren't exactly living the high life. After being badgered and aggressively questioned for over three hours, I was allowed to leave.

In the months that followed I was mentally raped by the police system! My parents had to take out a second mortgage to pay for a lawyer. All to prove my innocence.

For nearly a year, Palm called to threaten me with the years that I would spend in jail: he added a year for every time that I insisted that I was innocent; he called me the day before Christmas to say that he was coming to collect me so that I would spend my Christmas in jail "where I belonged", and again, the day before New Year. This time he even said that he would spend his New Year toasting me from his new jacuzzi with champagne, all of which he had financed from my little episode (his words). Terrified, my fiancé and I packed clothes, took our puppy and disappeared to friends for a few weeks, Palm next called the day before my birthday in January – to threaten me yet again.

**GUS**

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Tel: (021) 686 0570  
 Fax: (021) 686 0573  
 noseweek@iafrica.com  
 www.noseweek.co.za

**Editor**

Martin Welz

**Managing editor**

Marten du Plessis

**Production editor**

Tony Pinchuck

**Gauteng bureau**

Jack Lundin

**Censor-in-chief**

Len Ashton

**Proof reader**

Ann van Bart

**Researcher**

Jacqui Kadey

**Cartoons**

Gus Ferguson

Myke Ashley-Cooper

**Contributors**

Mzilikazi wa Afrika

Tim James

Hans Muhlberg

Marike Roth

Andreas Stelzer

Harold Strachan

**Subscriptions**

Maud Petersen

**Advertising**

Adrienne de Jongh

**Subscription rates**

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## Handled with Dexterity

**R**ECENTLY our reporter travelled to Nelspruit to interview Philip Dexter, acting CEO of Mpumalanga's Economic Empowerment Corporation, newly spun into the Mpumalanga Economic Growth Agency (Mega). On his way back to Johannesburg, our reporter stopped off in Pretoria – only to have his car stolen from a parking bay in a busy city street. In it was a confidential file of documents that had provided some of the background to the interview with Dexter.

Within hours of the theft, Mega staff members somehow knew that the reporter's car had been stolen. And two days later Dexter informed our reporter that he was aware that we had a "dossier" of documents totalling some hundreds of pages relating to his history at the MEEC. (We had never shown him the file or referred to its existence in our interviews.)

Apart from amending some of the answers he had given us prior to his learning of the existence of our file, he said that he had referred all the matters raised in the documents to the chairman of the MEEC's "audit committee" for investigation. We would be given access to its report when it became available two days later. On the promised day, the report did not materialise.

As we went to press ten days later, we

received a letter from Mega's acting CEO, Anton Scheepers. He declared: "We have had sight of the documents in the so-called dossier [*noseweek's* reporter] has in his possession. These documents have been reproduced from the Mega files and are the property of Mega."

The shocking implication: we are receivers of stolen goods. But then he makes nonsense of the threats and bluster by adding: "The allegations made in this dossier have no truth in them." Ah, well then, nothing to worry about.

"The Mega Audit Committee will issue a report in this regard next week," Mr Scheepers added. Promises, promises. But then, of course, we probably don't need to see it, since, according to Mr Scheepers, the committee's findings are a foregone conclusion.

Read our story on page 22 anyway – and let us know what you think.

## A man of honour

**I**taly has found Vito Palazzolo, aka Robert von Palace Kolbatshenko by old Ciskei deed poll, guilty of "Mafia association". But then, we told you so ... how many years ago? We forget.

But now you know for certain: he's an Honourable Man. – **The Editor**

## I'm alright, Jackie



Police Commissioner Jackie Selebi's little official armour-plated runabout. Just thought you'd sleep better, knowing he's safe from hijackers.



# Mr Nose puts it about

## Spare us a Bob!

**INTELLIGENCE** sources have tipped off Mr Nose about Robert Mugabe's top secret departure-from-power plan in Zimbabwe.

Starting any moment now, bulletins will be released every fortnight or so to Zim's state-owned media about Captain Bob's ever-deteriorating health. After these have accumulated to suggest there's a serious problem (they won't be true, the old stick is alarmingly fit for his age), the 82-year-old president will reluctantly announce his resignation on (face-saving) health grounds.

Mr Nose is reliably informed that Mugabe will then gap it, to spend his remaining years relaxing in Cape Town. Remember you read it here first!

## Blowing his own Hoorn

**IN NOSE81**, NoseArk told a tale of the Little Karoo town of Oudtshoorn, and how certain influential folk in the dorp were punting a golf estate development, despite the area facing water shortages.

Mr Nose gathers that Sarel Coetzee, a developer behind the proposed Karoo Heritage Estate, has a problem with Mr Nose's organ, which he disparages as a *skindertydskriffie*, or "little gossip magazine".

He has written to the *Hoorn*, a local Oudtshoorn paper, accusing Mr Nose of publishing distortions and untruths – which he refuses to enumerate or refute. He insults *noseweek* at length, and accuses us *inter alia* of being "uninterested in facts", and of failing to do our

homework.

Coetzee stands to earn many millions if the Karoo Heritage Estate goes ahead. Might this have something to do with his blustering response to *noseweek's* fact-rich story?

Coetzee also says that "when", not if, the Department of Environmental Affairs approves the estate plans, he will be in a position to appoint a water-recycling expert.

Knowing full well that Oudtshoorn has a water problem, why did he not appoint water-recycling experts when planning his development?

He says that the estate will deposit 3% of sales into a fund to help the Oudtshoorn poor. This, he

tells *Hoorn*, will be about R10-million initially (which gives you an idea of how much he hopes to make).

But will his charitable offer begin to approach offsetting the cost of future water shortages? Or is he simply avoiding the issue with a (relatively) cheap gesture?

To provide the water needed for the estate and other schemes, Oudtshoorn is raising user tariffs. Extra water is planned from a borehole/pipeline scheme that will cost R35 million-plus.

Coetzee gives an Oudtshoorn address, but Mr Nose is informed that he's a Garden Router.

Yes, ou Sarel, you can run to, but not hide in, the pages of the *Hoorn*.

## Solar destroying business

**MR NOSE WAS** among the hordes hailing the incredible, revolutionary solar panel developed by physics Prof. Vivian Alberts of the University of Johannesburg earlier this year. (We're entitled to celebrate: he used R15.5m of taxpayers' money to get the job done.)

Labelled the CIGSSe panel, after the elements

used in its manufacture, it will halve the cost of solar-generated electricity. The German company which has been granted world rights (excluding South Africa) estimates that, by 2012, it will have captured 20% of the solar market – worth a cool 2.2 billion euros (R20-billion) to that company.

But, Mr Nose learns

back at the ranch, South Africa won't be seeing those fabulous sun panels for at least another decade. Forget about exploiting all our sunshine – three South African financial giants have concluded an agreement that has effectively cornered the South African market for them. But they've decided to wait "until

we see how the German business pans out" before considering doing anything nationally.

The two biggest SA shareholders are the Central Energy Fund (the oil companies) and Anglo Coal. Now why does that make Mr Nose just a little suspicious, not to say pessimistic, about SA's panel prospects?

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# THE ONES THAT GOT AWAY



**A**t last the long-overdue criminal trial in the Travelgate matter is underway at the Cape High Court. For the benefit of those who can't remember what this grubby affair is all about, it relates to the very generous travel allowances which MPs are given – 60 flights annually to anywhere in South Africa, even if you live in Cape Town and have no need to go elsewhere!

It was never going to work, of course. Before long, a practice developed whereby MPs could go to certain travel agents and trade their boring little local travel vouchers for glamour items like hotel arrangements, foreign trips, car hire, flights for friends and family, and, eventually, even cash.

There are 30 names on the charge sheet and they are accused of defrauding Parliament of a cool R30-million. Seven of the accused are travel agents, although one of these has at



**High fliers:** (left to right, from the top) Deputy Speaker Gwen Mahlangu-Nkabinde; Education Minister Naledi Pandor; ANC chief whip Mbulelo Goniwe; Speaker Baleka Mbete; Home Affairs Minister Nosiviwe Mapisa-Nqakula; Minister of Safety and Security Charles Nqakula; Deputy Minister of the Environment Jean Benjamin

All pictures IMAGES24.co.za and as follows... Mahlangu-Nkabinde: Die Burger/Simone Scholtz; Pandor: Beeld/Felix Dlangamandla; Goniwe: Die Burger/Yunus Mohammed; Baleka Mbete: Die Burger/Esra Alexander Mapisa-Nqakula; Beeld/Felix Dlangamandla; Nqakula: Rapport/Lisa Hnatowicz; Benjamin: Rapport/Nasiet Manie;

the last minute turned state witness. Which leaves just 23 MPs on the list. They're all low-fliers, of course. Only a political train-spotter would be familiar with names like Jabu Sosibo,

Randy Pieterse, Tsietsi Louw, Beauty Dzulane and Daniel Olifant.

Which is good news, since it must mean that the malaise was relatively contained and didn't spread too far up the system. Yes? Wrong! The 2004 PricewaterhouseCoopers report on the travel voucher scandal fingered a whopping 330 members. Which is quite a lot, if you consider that we've been blessed with only 490 of them, including 90 in the National Council of Provinces. This list was handed to the Speaker, who has unfortunately

what has happened to the "comrades", and assures them that the party will provide "emotional support".

■ Charles Nqakula, the Minister of Safety and Security. He's repaying around R13 000. He is of course the one who thinks that people who whinge about crime should go elsewhere (perhaps, given travel vouchers, they might just do so).

■ Home Affairs Minister Nosiviwe Mapisa-Nqakula, wife to Charles. She is in for some R58 000. Nosiviwe obviously takes home affairs very seriously; she's apparently traded in lots of her vouchers, and those of her husband, managing, inter alia, to have an exciting trip on the Blue Train.

■ Deputy Speaker Gwen Mahlangu-Nkabinde has apparently traded

when the chief of the prosecuting authority, Vusi Pikoli, is talking publicly about possible plea bargains. Why you ask, doesn't he want to put his main witnesses on the stand? Fine upstanding figures like:

■ Chairman of the House Geoff Doidge, who has reportedly turned state witness, although it's not clear if he's pleaded guilty. Doidge apparently used "the system" to take his family on a nice holiday to Vic Falls.

■ Shamima Lamalia, a travel agent whose name appears on the list of accused, but who has now pleaded guilty to fraud and turned state witness.

■ Nolita Twantwa, a travel agent whose business was called Ilitha Travel, and who was apparently queen of the cash-for-vouchers scam. Chief Whip Goniwe was one of her many satisfied clients. She pleaded guilty to fraud and turned state witness some time ago.

## Some 160 MPs have been allowed to pay back the misappropriated amounts on the never-never

chosen to, well, not speak! She won't tell anyone who's on the list, although we would imagine that the Scorpions, who ran the criminal enquiry, must know. Yet they chose to charge fewer than 30 MPs (apart from the 23 listed, five others pleaded guilty some time ago and subsequently resigned their seats). Roughly 160 MPs – who were committing exactly the same sins as those who were charged – have been allowed to pay back the misappropriated amounts on the never-never, in small instalments. An even larger number have not been punished at all.

So why didn't the Scorpions go after all 330? The way they tell it, there's nothing sinister about the situation; it's simply that they don't have the resources to do so. So it would be purely coincidental if any big names involved in the scam escaped unscathed! Names like:

■ Mbulelo Goniwe, the ANC chief whip. He's repaying some R50 000 and he also has his hands full with a civil action from one of the travel agents. Lest you imagine Mbulelo's the type who leaves his mates to take the rap, please note that he has said publicly that he very much regrets

vouchers for cash and allowed others to use her vouchers.

■ Deputy Minister of the Environment Jean Benjamin. It is said that, as a result of the windfall, her own environment has improved greatly.

■ The late Deputy Minister of the Environment, Joyce Kgoali, erstwhile chair of the National Council of Provinces. She was in for some R49 000. But let's not speak ill of the dead.

■ Naledi Pandor, the posh-sounding Minister of Education. It's heartening to see that she's a fast learner.

■ The mysteriously silent Speaker, Baleka Mbete, who, we understand limited her indiscretion to a single trip. A recently discovered letter reveals she undertook to refund the cost.

Oh, and there was also that trip to China for one of her children, which matter remains unresolved.

**W**ELL, EVEN IF ONLY a handful of MPs are being charged, surely the state will prosecute the case vigorously, so that the whole truth comes out? That would be nice, but it's probably naïve to imagine such a thing will happen. Especially

**A**RE YOU, LIKE *noseweek*, starting to suspect that certain parties are hoping that most of this matter can be swept under the carpet? And that the government, allegedly so intolerant of corruption in any form, is not even taking the issue very seriously? What are we to make of the fact that one of the whistleblowers, Parliament's former CFO Harry Charlton, has been dismissed and has filed an unfair dismissal claim, alleging victimisation? Or the fact that Nolita Twantwa, the travel agent who handed out all that lovely cash for vouchers and then pleaded guilty and turned state witness, has now reopened for business just outside Parliament, under the name Ukhanya Travel, where she handles (yes! you've guessed!) travel arrangements for MPs. Or the fact that one of the five MPs who pleaded guilty and resigned in disgrace, Ruth Ntshulana-Bhengu, reappeared on the ANC's proportional representation list shortly after her resignation. Or the fact that simple logic suggests that, if 330 MPs were suddenly forced to resign their seats, the political landscape would alter somewhat.

It's actually a wonder that someone hasn't introduced an MPs Can Do What They Like With Their Travel Vouchers Bill. The numbers being what they are, it would be passed with an overwhelming majority. ■





# Trust me, I'm a doctor

In SATV show *The Apprentice*, Tokyo Sexwale gets to pick the best of the country's young corporate hopefuls. But what about his off-screen choice of managers, in particular Dr Jackie Mphafudi (right), chief operating officer of Sexwale's Mvelaphanda group?



**J**ACKIE MPHAFUDI, an executive director and chief operating officer of Tokyo Sexwale's high-profile Mvelaphanda group, is involved in an acrimonious dispute in which he is accused of cheating a naïve business partner out of his share in a Johannesburg hotel.

In an unusual departure from his important duties at the country's largest black-owned minerals and resources group, Mphafudi and his socialite wife Phindi have, as a private venture, for the past 13 months been leasing the small and slightly run-down Duneden Hotel in Edenvale. As *noseweek* went to press the couple was in the final stages of buying the 54-room hotel for an estimated R5m from

its UK-based owner, Nick Patricios.

Extremely agitated about this, and doing his best to block the sale, is their jilted business partner, Dr Vusi Makhalemele,

occasional medical doctor to Safa's Under-17 national football team. He claims that the Mphafudis have conned him out of his 30% stake in the hotel – and grabbed the R500,000-a-month cash cow for themselves.

Jackie Mphafudi is a 50-year-old medical doctor whose business career took off after Dr Nthato Motlana brought him into his legendary Kwacha black health-care enterprise. He joined JSE-listed Mvela in 2000, where, in addition to his role as chief operating officer, he is executive chairman of Mvelaphanda Property Investments and Mvelaphanda Strategic Investments. In fiscal 2005 Mphafudi's earnings at Mvela were a comparatively modest R585,000 – boosted by a bonus of R400,000 to R985,000. He lives in great style in Joburg's Sandown and has a wife who likes to cut an expensive dash.

Life has not been so kind to fellow doctor Vusi Makhalemele, 47. He failed to make it in private practice and is now director of the IkhayaIthemba centre, in Braamfontein, for victims of rape, domestic violence and child abuse. In 2000 his house in Kyalami



The Duneden Hotel

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**Kitted out:** Dr Vusi Makhalemele (left) with physio Vusi Mkosi during a football tour of the Sudan

was repossessed by Standard Bank and his repeated efforts to get into property development and make big bucks on the black empowerment ticket never quite got off the ground.

A couple of years ago, while staying at the Duneden with the country's Under-17 squad, Vusi decided that the hotel, with its three bars and conference centre, could be the answer to his financial woes. "It was not in good shape, but I could see that it had great, if not massive, potential," he says.

Early last year he made contact with the hotel's owner, Nick Patricios, now living in London. "I'd wanted to buy it for R5m, but in the end Nick suggested that I lease it initially. He wanted R200,000 as a deposit to cover the first three months' rent."

Although not formally insolvent, Vusi's ups and downs had made him

*persona non grata* at TransUnion ITC, South Africa's largest credit bureau. So raising R200,000 – let alone R5m – was a problem.

Back in the mid-1980s, when Vusi was an intern at Baragwanath hospital, his supervisor was Dr Jackie Mphafudi. Now, all those years on, Jackie was one of Tokyo Sexwale's key executives at Mvela and, in Vusi's eyes, "one of the billionaires".

He had approached Jackie with business proposals before – a sports tourism scheme around the Rand Stadium, a shopping centre at Sodwana Bay etc. But without success. "Jackie would promise to call me back, but never did."

This time was different. They met at the Hilton hotel and, when Jackie saw the numbers Vusi had gleaned from the Duneden's then-general manager, and heard his marketing plan, he was enthusiastic. Swearing him to secrecy (had Tokyo Sexwale heard of this, might he not have expected the head of his Property Investments division to snap up such a snip for Mvela?), Jackie promised to put up the dosh personally – and, in the process, to restore Vusi's battered dreams.

A meeting followed at Jackie's luxurious home in Sandown. Jackie agreed to pay the deposit for the lease and they would buy the hotel later on. But he attached a condition – his 36-year-old wife Phindi, who was present at this meeting, would join the venture and run the hotel as its managing director. It was agreed that Vusi would have 30% in the venture, Jackie 30% and Phindi 40%.

Phindi said she had a non-active off-the-shelf company, Black Ginger 140, which could be used for the entire business. Everyone agreed, and on 3 March 2005 Vusi was appointed a co-director of Black Ginger and the shares allotted as agreed.

"I was very happy with this deal," he says. "For me, what was paramount was to own 30% that would bring in monthly income to augment my [Ikhyalethemba] salary and enable me to buy my family a house."

In March last year Vusi and Jackie were set to fly to London to meet the Duneden's 67-year-old owner, Nick Patricios, and negotiate the lease for the hotel business pending the purchase of business and property at a later date.

But at the last minute Vusi was called on by Safa to accompany the national Under-17 soccer team to Namibia. Phindi took his place on

the vital London trip. Vusi gave them a letter introducing husband and wife as his two business partners in "the venture of acquiring your hotel property". A postscript said: "The name of the company to acquire the property will be Black Ginger 140 Properties, of which I am a shareholder."

In the event, the lease was not signed until last October. But it was agreed that the new owners could take over the Duneden from 1 July 2005, for a rental of R50,000 a month (for the hotel business), plus R4000 a month for the pool club business run in one of the Duneden bars, the Ball and Cue. Just one month's deposit (R54,000) was requested – not the R200,000 that Patricios had quoted Vusi.

In July last year the three partners duly took over the business. It was around this time, according to Vusi, that Phindi executed the sting. She told Vusi she wanted to use Black Ginger for an estate agency business with her brother. However, she had another shelf company, Capstone 1321, which could take over the leasing and operation of the Duneden.

Vusi agreed to give up his 30% in Black Ginger and resign as a director. He says he was assured that the lease, when it was eventually signed, would be in the name of Capstone; the share split would be the same as before.

Phindi moved into her managing director's office at the Duneden and ran the hotel on a day-to-day basis. Husband Jackie was otherwise occupied, doing important things at Mvela. Vusi threw himself into implementing his marketing plan, persuading the unions, the Sports Federation and Safa to start using the hotel again. He claims that over the next five months turnover reached almost R500,000 monthly.

But soon there was friction between him and Phindi. "Phindi played hide and seek each time I requested financial statements and chequebooks for scrutiny," says Vusi. "She was not co-operative and her attitude towards me began to change. I was particularly concerned that business money was being used for personal ventures by Phindi."

The newly-opened FNB bank account for the hotel business was in the name of TP Mphafudi T/A Duneden Hotel. Vusi says he found cheque stubs suggesting that R300,000 had been paid out to the Mphafudis. He expressed the view that a new bank account should be opened in the name of Capstone and says a compromise was

reached, with Phindi agreeing that Vusi should become a co-signatory on the TP Mphafudi account.

According to Vusi, he met Phindi at FNB's Sandton branch last November 18, where they saw Eva Lapan in Customer Services. "I produced my ID and signed specimen signatures and some forms," says Vusi. "Since it was near Christmas, Phindi then cashed a cheque for R15,000, so each of us could have R5,000. She gave me my R5,000 and took the rest for herself and Jackie."

Despite this sop, Vusi remained "deeply suspicious" of the goings-on at the Duneden. Was VAT being paid? Vusi says he was told by the lady handling the hotel's finances that it wasn't; the income of the business was being channelled into different accounts under different names and it was difficult to calculate the amount owed.

Apart from that R5 000 for Christmas, Vusi says he received only one payment of R10,000 for his share of the business. Amid increasing friction, it was agreed, at the end of November, that the partnership would be dissolved.

The Mphafudis' attorney, Yogan Govender, wrote to Vusi on 28 November 2005 claiming that Jackie and Phindi had purchased the Duneden Hotel "in terms of a duly executed sale agreement." Vusi's continued presence at the hotel would lead to "dissension among staff and instability in the conduct of the business", ran Govender's letter. Henceforth, Vusi was banned from the premises.

Eventually this year Vusi managed to get his hands on the business lease for the hotel, signed by the Mphafudis last October 27. Only now did he discover that Black Ginger was the lessee of the hotel business. And Vusi had resigned as a director of Black Ginger and relinquished his 30% stake in it because Phindi had told him she was going to use it for an estate agency business with her brother.

Capstone, which he assumed had replaced Black Ginger as leaseholder for the entire hotel operation, was named only as lessee of the Ball and Cue pool club operation.

On April 25 this year Vusi received another jolt. When he returned to the FNB in Sandton to examine the bank statements of TP Mphafudi T/A Duneden Hotel, his request was refused because there were no documents in the files to show that he was a co-signatory.

FNB, one of Mvela's corporate bankers, tell *noseweek*: "First National Bank can confirm that Mr Vusi

Makhalemele is not a co-signatory on the account of TP Mphafudi T/A Duneden Hotel, account number 62085935694. Mrs Phindi Mphafudi, upon opening the account, signed a Declaration for a Sole Proprietor, making her the sole signatory on the said account."

On June 5 this year, Vusi's attorney Lester Fuchs wrote to the Mphafudis' attorney Yogan Govender: "Your clients' actions, in our client's view, form part of an elaborate fraudulent scheme to defraud our client firstly, of monies owing to him in terms of the partnership and secondly, in wrongfully and unlawfully and in breach of an agreement, attempting to snatch a business opportunity which was our client's.

"The suggestion in your letter that our client only has an interest in the pool business, and by implication not in the hotel business, is an outrageous untruth to yours and your clients' knowledge."

Of the Duneden lease, attorney Fuchs wrote: "It is apparent from the agreement that, as early as October 2005, your clients were intent on removing our client from the venture and retaining what they saw as a very lucrative business for themselves. Why else would your clients have concluded the lease of the hotel business in the name of Black Ginger, in which our client was asked to resign as a shareholder?"

"And why was it reflected that Capstone would merely lease the pool business, when the intention was always that our client would have a one third share of the entire business? It is significant that your clients chose to keep the contents of the lease agreement a secret."

We told Phindi Mphafudi of Vusi's claim that he has been cheated out of his 30% of the Duneden hotel business. "OK...well...really...as I said...I think...I don't want to say things I'm not sure of," she said. "Do you want to call our lawyer, Mr Yogan Govender?"

We also told Phindi's husband, Jackie Mphafudi, chief operating officer of Mvelaphanda Group, of Vusi's claim. "It's *sub judice* as we speak," he said. "It's between his lawyers and our lawyers. Safe to say that I've been conned by Vusi before. He sent me to Botswana for a shopping centre, at expensive costs to everybody. He's been coming to me with 20 proposals about this and that and trying to con money out of me. Now the lawyers are dealing with it, so I've got no further comment."



**Brighter than a thousand suns:** Hotelier Phindi Mphafudi (right) with Bukelwa Holomisa at the opening of Parliament this year

Their attorney Yogan Govender said: "It's very difficult for me to comment selectively, there's a whole history to the matter. I suggest you reduce your issues to writing and then I'll respond appropriately." No response received by deadline.

So what's the situation at the Duneden Hotel? From London, owner Nick Patricios, said: "You're not going to get information out of me. I'm 6000 miles away and my solicitor's dealing with this." The solicitor is Joburg attorney Solon Phitidis, who felt unable to discuss "confidential commercial information" with *noseweek*.

However, as we went to press Phitidis told Vusi's attorney, Lester Fuchs, that no deal had yet been done, but he was negotiating to sell the Duneden hotel to Jackie and Phindi Mphafudi. Phitidis was not prepared to meet with Vusi Makhalemele and owner Patricios was not prepared to talk to him either. ■

# Local Hero

When a pair of dicey developers swung into the Eastern Cape hamlet of Fort Beaufort offering 'affordable' homes, Absa granted bonds on surreptitiously inflated house prices without even deigning to interview the borrowers. If it weren't for one man, the hapless buyers would still be making crippling loan repayments



Picture: Tracy Lynn Oremby

**W**HEN "BLITZ" VAN HEERDEN and Rufus Luttig descended on Fort Beaufort, offering affordable houses to the previously disadvantaged, they seemed like answered prayers to the teachers and policemen of the little Eastern Cape town. No cramped RDP abodes for these salaried burgers – instead, face-brick two- and three-bedroomed properties were on offer, mostly in town, with a choice of colour for the roof tiles.

The cost? Don't worry about that, assured the duo: Absa was funding

**Talk of the town:** Furniture-chain manager Sydney Nkatsha

the development and would supply 20-year bonds. The monthly payments would be around R500-R1200. In some cases, house prices were not quoted; just the temptingly low bond repayments.

The developer was Van Heerden's Devcon Development and Construction, with a registered address in Bloemfontein (no connection with

Devcon Projects of Johannesburg). Luttig, a farmer and host to foreign game hunters, came in to “help out” with the project, which yielded around R5m for the coffers of Devcon.

For weeks, Van Heerden and Luttig delivered their spiel to the teachers and police officers of Fort Beaufort. Soon they had persuaded nearly 50 aspiring home-owners to sign loan application forms on Absa-headed paper. Van Heerden delivered the completed forms to Absa in Adelaide, for processing. None of the house-buyers had direct contact with Absa while their homes were being built; everything was entrusted to Van Heerden/Luttig, who would collect signatures when needed for contracts and progress payments.

But when the houses were built and the keys handed over, their proud owners received a nasty shock. The bond payments deducted by Absa from their bank accounts were double, or more, those quoted to them!

Why? Well, if the house prices were doubled that would double the amount of Absa’s payouts to the developer (Van Heerden’s Devcon).

But this story has an unlikely hero, whose efforts have resulted in a recent revaluation of all the houses by Absa. He is Sydney Nkatsha, Fort Beaufort resident and 40-year-old area manager of the Town Talk furnishing

chain. Read on for the details of his remarkable and still unfinished battle with Absa:

It was in 2000 that Van Heerden and Luttig arrived in Fort Beaufort, a sleepy little dorp that boasts just one set of traffic lights. Founded in 1824 as a military garrison, it lies in the lee of the Katberg and Amatola mountains and is surrounded by orange farms and cattle ranches.

We’re not talking big town figures here but, to those earning around R3000 and R4000 a month, with additional outgoings for income tax, medical aid, rates, electricity, water,

■ Matilda Ndubela is principal of Mdeni primary school. She and her fiancé, teacher Eric Mdlalo, were told by Van Heerden that their bond would be R800 a month. When they moved into their new house in August 2001 it turned out to be a massive R2924! Mr Mdlalo died the following June.

“It was only after his death that I discovered there was no insurance,” says Mrs Ndubela. “It was a hectic experience. Absa was harassing me to leave the house. Now, as the result of pressure from Sydney Nkatsha and his committee, Absa has agreed to write off her R282,730 outstanding debt.

## **One teacher on R4813 a month was left just R63.17 after deductions, the biggest of which was a R1539 bond payment**

food, school fees etc, a doubling of the monthly bond repayments was devastating.

One teacher with a gross monthly salary of R4813 found himself with just R63.17 after a host of deductions, the biggest of which was a R1539 bond payment to Absa. Some more case studies:

■ Malangana Twele, principal of Nothonto primary school, was told by Van Heerden that he was getting a three-bedroomed house for R90,000 to R100,000, with monthly bond payments of R1200. But when Twele moved in he found R2484 being deducted from his monthly salary, and his house registered at R200,000!

“It’s caused me a lot of pain,” says father-of-four Twele. “I was paying Absa R2484 every month for five years and it affected my family’s life. Last September Absa was pressured into revaluing his house at R80,750, reducing his outstanding debt from R182,359 to zero!

■ Police sergeant Themba Gabashe was told his house would cost R129,000, with monthly bond payments about R800. Gabashe died in December 2000, before he and his wife Ellen moved in. Absa told Mrs Gabashe – she’s a detective inspector with the Fort Beaufort police – not to worry; their insurance would cover the debt. But the insurance was in Mrs Gabashe’s name, not her husband’s, and for nearly five years bond payments of R1640 were deducted from her monthly salary – twice the amount the couple had been quoted by Van Heerden.

One of her monthly payslips shows that, after a long list of deductions



Picture: Tracy Lynn Denney

**Lady in red:** Matilda Ndubela with sons Lazola (14) and Lithalethu (2)

– the biggest being R1640 to Absa – the detective's gross salary of R5161 was reduced to just R43.60. The committee's efforts have resulted in Absa writing off her R109,543 outstanding debt.

■ Monwabisi Mveli, a teacher at Ilingelabantu primary school, was told his house would cost R80,000 and monthly bond payments would not exceed R1000. Absa registered the bond at R120,000 and monthly payments were R1600-plus.

"And they built my house in the wrong place!" says Mveli. "I applied for a house in Somerset Street, in town. Then this Van Heerden guy told me my house was now on the other side of the river. House now revalued at R68,000. Outstanding debt reduced from R112,804 to R27,685.

■ Xolani Nqabeni, a teacher at Masizakhe high school, only discovered where his house was when he was given the keys to move in. Van Heerden had told him his property

had Fort Beaufort police sergeant Eric Nkatsha, brother of Sydney, not been one of the 49 house purchasers.

Sergeant Nkatsha's bond for his house in Frazer Street was registered by Absa at R126,222, and the cop made monthly bond repayments of R1643 from 1 June 2001 until his death in November 2003, at the age of 35. Absa's records indicated that there was life insurance in place in the event of his death. But there wasn't; Nkatsha only had a retirement annuity with Old Mutual, which didn't count for paying off a house.

The policeman's executor was his elder brother Sydney, Town Talk's area manager, with his own house in Fort Beaufort's Somerset Street.

When Eric died, his brother had no inkling of the already two-year-long struggle by the town's teachers and police officers to meet their inflated monthly bond payments. But he saw red when Absa told him that Eric was

filed with Absa, to the effect that the house prices had been inflated without the purchasers being informed.

In September 2004 Hein van Rensburg, of Absa's forensic team in Port Elizabeth, was ordered to conduct an investigation. Two months later a two-man team arrived from Absa head office on a "fact-finding mission". Absa promised the house-owners' committee it would receive the bank's report – it's still waiting.

In April 2005 Absa told the committee: "If we are fully liable we will settle completely, if we are partially liable we will settle partially and if we are not liable no settlement will be made."

Absa agreed to withdraw repossession claims on four of the houses whose owners had died, writing off the R764,709 outstanding. This included R154,583, then owing on Sgt Eric Nkatsha's house – a victory for his battling brother Sydney.

## **September's adjustment means that instead of being in debt to Absa for R4.9m, the teachers and cops of Fort Beaufort only owe the bank R928,044**

would cost R80,000, with monthly bond repayments of R800. However, the Absa bond was registered at R140,000, with monthly repayments more than doubled at R1845. House now revalued at R68,000. Outstanding debt reduced from R137,720 to R15,702.

■ Mkululi Mhlubulwana, a teacher at Sivuyisiwe primary school, was also not told where his house was sited. But suddenly deductions of R1800 a month were made from his bank account. "I paid the bond for five years, but never moved in – I've developed a hatred for that house," he says. "I rent it to a lady." House registered at R145,000, now revalued at R72,250. Outstanding debt reduced from R147,958 to R23,545.

■ Like several others, police sergeant Lulama Majali says Van Heerden and Luttig never quoted a price for his house. "They just said the bond payments would be R400 to R500/month. In May 2002 I moved in and Absa started taking R1700 monthly from my salary." House now revalued at R85,000. Outstanding debt reduced from R133,675 to R12,823.

None of this dramatic bond restructuring would have happened

not insured, and unless he took over the bond payments or coughed up around R126,000, then outstanding, they would repossess his brother's house.

Eric Nkatsha left two children, now aged 7 and 17, and there was no way uncle Sydney was going to surrender their inheritance. Under the Long Term Insurance Act of 1998, a lender is obliged to notify a borrower in writing of the option to enter into a policy providing benefits in the event of the borrower's death. There was no evidence of such a communication and Sydney's attorney Richard Jardine wrote to Absa: "It now appears that, due to an omission on the part of Absa bank, alternatively the bank's attorneys, the deceased passed away without having adequate cover to meet his obligations in terms of the loan."

It was a two-year battle for Sydney Nkatsha to save Eric's house for the policeman's children – and have Absa write off the outstanding debt.

The Town Talk area manager soon became aware of the plight of other suffering bond-payers (Malangana Twele is his neighbour). A committee of six was formed and complaints were

Last September, after months of negotiations between the bank and Nkatsha's committee, Absa agreed to re-register all the bonds, finally accepting "independent" valuations presented by Fort Beaufort attorney and appraiser Nonkie Barnes. Figures for 42 houses, at September 15, show that in 2000/2001 their bonds were registered at a total of R4,974,400. Repayments of R3.2m had been made, leaving R4.9m still outstanding.

"The Adelaide branch of Absa state that the clients did not go to their branch as all the forms were completed by the developers," ran Ms Barnes' written "observations on the situation". "Why did Absa consent to registration of the bonds when pre-registration conditions had not been met, namely the insurance policies were not in place?" she demanded.

Ms Barnes found that the current value of the houses totalled R3,072,000. Residents argued that when the houses were built five years previously their value would have been at least 30% less than this. Absa agreed to 15%, so a new "current value" for them was set at R2,611,200.

This revaluation means that, back in 2000/2001, when the 42 houses were built, they were over-priced by a total of R2.4m.

Last September's belated adjustment means that, instead of being in debt to Absa for R4.9m, the teachers and cops of Fort Beaufort – 43 of them anyway

**Rock bottom:** Thandie Khala points out the shoddy foundations of her house



Picture: Noel van Chennoy

out of protracted negotiations that Absa had with representatives of the community. The bank remains of the view that it was not liable to the members of the community for the losses suffered by them.

"Absa still intends to pursue the perpetrators who caused the community's problems."

Absa says summons has not yet been issued against Blitz van Heerden/Devcon. "In order for Absa to pursue the alleged perpetrators it requires the co-operation of all members of the community of Fort Beaufort involved in this matter," says the bank's media spokesman, Deon Oosthuizen. "They [the committee members] have withheld their co-operation on the advice of Mr Sydney Nkatsha, the representative of the community, and as a result Absa has not been able to finalise its investigation of the community's various complaints."

Oosthuizen says that Van Heerden and Luttig were neither mandated by Absa nor acted as the bank's agents in the Fort Beaufort development. "Absa did not set these prices or costs. The agreement to build the dwelling was between the builder and the member of the community."

Of the R5m "payout", Oosthuizen says: "The effect of the credits to the various accounts is tantamount to a

payout. The amounts credited to the various accounts were substantially in excess of any alleged over-valuation. It was a goodwill gesture."

Snorts Sydney Nkatsha: "R5m? We never got anything! All they did is restructure their nonsense!"

And the community's alleged refusal to consult with Absa in its investigation? "Absa was busy trying to manipulate us," says Nkatsha. "They were not negotiating with us in good faith. We felt they were on a fact-finding mission to find a defence for themselves."

The Fort Beaufort house-owners are now considering a civil action against Absa, for the suffering caused by those inflated bond payments. Some would say they're pushing their luck.

From Edenburg, Free State, Blitz van Heerden tells us: "I'm not doing any developing at the moment. I was the owner of Devcon and the company made nearly R5m out of the Fort Beaufort project. Devcon closed down about three years ago. I wasn't Absa's agent for the Fort Beaufort project, I was just the developer. Absa gave the bonds."

"It can't be true that the houses were over-valued [in 2000/2001]," maintains Van Heerden. "The building cost then was R1200/sq metre, now it's about R3000 to R4000. The ground, the registration fees, the services, the drawing of the plans were all included in the bonds."

"Absa set the prices of the houses, not me." ■

– owe the bank only R928,044!

On March 27 this year, the bank wrote to Sydney Nkatsha and his committee: "As you are aware, Absa has paid out to the various members of the community the aggregate sum of R5m as a goodwill gesture arising

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# Big cheeses bully little café

*A large SA food company is squeezing a Cape Town eatery for using a name it claims belongs to it: a moniker both parties happen to share with a famous London street*



**C**ELESTE DE WITT IS hardly the threatening sort. In fact, she's a rather gentle soul. She runs a little vegetarian coffee shop in Cape Town's Long Street – a slightly off-beat, Bohemian type of place called Portobello Café. Why Portobello? Well, Celeste once worked in a deli off London's famous Portobello Road and she liked the name.

At the other end of the food chain is Rhodes Food, once Anglo American's food division, now owned by the Ferreiras of Durban. They're involved in a variety of foodstuffs, including fruits, jams, vegetables, juices, purees, dairy products and prepared meals. They've been around for more than 100 years and they have factories in Swaziland and the Western Cape (in Pniel Street, Groot Drakenstein, would you believe – perhaps marginally better than being in Proes Street, Pretoria). They supply big retailers like Woolworths and also export their products to North America, Europe and the Far East – a pretty substantial group by all accounts.

Odd, then, that they should regard Celeste as a major threat. So much so, that they instructed intellectual property law bigshots Adams & Adams to send a letter threatening her with legal proceedings if she insists on naming her coffee shop Portobello.

So why should they want Celeste to stop calling her coffee shop Portobello? The letter provides the answer: because this famous old street name belongs to Rhodes Food. Bet you didn't know that! And, by retaining it, Celeste is

confusing the public (you know how it is – you see a cheese and, next thing, you see a restaurant bearing the same name. Before you know it, you're telling yourself: "I bet they're connected"). She's therefore guilty of trademark infringement and passing off.

Oh really? According to Adams & Adams' letter, Rhodes don't actually have any trademark registrations for Portobello, only applications covering various foodstuffs, drinks and retail services (but not restaurants), and which were filed on 28 January 2005. To the uninitiated, that may sound quite impressive, but those who've been through the hell of trademark registration know that it could be quite some time before Rhodes' applications go through to registration. If, indeed, they ever do. They might, for example, be refused because they clash with an earlier mark, or because some might deem it unfair to give one company a monopoly in an internationally famous street name, or because it might be supposed that people seeing Portobello foodstuffs could mistakenly assume that they came from London. So, no trade mark registrations being infringed then!

No matter, says the letter, Rhodes Food have made "extensive use" of the name, particularly in respect of cheeses, and especially cheeses of "Italian style" (what? like Armani, Versace?). And in case Celeste wasn't too familiar with Rhodes Food's products, they helpfully enclosed some samples of their labels. (*noseweek* perused this evidence and, although Casseggio Pepper and Fior

**Marked:** Portobello Cafés Celeste De Witt

Di Latte sound the part, investigators are still trying to sniff out some Italian connection with Farmhouse Cheddar and Franschoek White). The letter goes on to explain that Celeste is encroaching on Rhodes Food's turf by using the name Portobello for a restaurant which serves "Mediterranean-styled food" (*noseweek* senses a certain desperation in this contrived line of reasoning!). And just in case Celeste couldn't remember what foods she serves in her restaurant, the lawyers kindly enclosed a copy of her own menu with the letter (we kid you not).

All of this, the very detailed letter goes on to say, amounts to two things: Firstly, the name has become so big that it is protected by trademark law as a "well-known mark". She is therefore guilty of infringing a well-known trademark. Secondly, she has left the public totally confounded, befuddled and discombobulated, and is therefore also guilty of passing off.

Well-known mark? It seems they're referring to the special protection created a few years back for truly major global brands which are known in South Africa, even if they aren't used here. At least one judge has ruled that this protection applies only to foreign brands. McDonalds was given this protection a few years back, Gap more recently. McDonalds? Gap? – and Portobello? Mmmmm!

As for passing off, well it would



be interesting to know exactly when Rhodes Food's extensive use of Portobello started. Unfortunately this is one aspect of this matter the letter doesn't deal with. But large companies tend to file their trademark applications quite promptly. So, unless Rhodes Food's admin is about as Italian as its cheese, we can probably assume that use started around early 2005. Late 2004 at a push!

Now this is pretty important stuff – because Celeste de Witt started her Portobello coffee shop back in 2003. Which means she probably has a very good defence. When she opened for business in 2003 she was a sole proprietor, but in 2005 she, together with a partner, registered a close corporation under the name Portobello Restaurant. It was this incorporation which seems to have caught the attention of Rhodes Food and prompted the letter; not the shop, which has been trading openly in the centre of Cape Town for more than three years. In fact, it may be Celeste who has grounds for complaint. At a recent food show, where both she and Rhodes Food were present, a number of people asked her

whether she had branched out into cheese production.

Celeste doesn't have the means to take on Rhodes Food, so she has fought this matter the best way she can – through the media. The *Cape Argus* latched on to the story early on and Celeste has, as a result of the publicity, received lots of messages of support, in many cases from people who have been through similar experiences. She's even received a call from an ex-director of Anglo American, expressing his disgust at the conduct of Rhodes Food.

So why should anyone care about an apparently spurious complaint lodged by a large food company against a little coffee shop? (The fact that the letter was sent on 6 April, and the threatened legal proceedings have still not materialised, allows us to use the word "spurious" with some confidence.) The letter is the tip of an iceberg. Attorneys send out demands like this all the time. They do so because they can, and because such demands are often met. It's very

rare for a small business to contest a trademark claim made by a large law firm on behalf of an even larger client – the likes of T-shirt man Justin Nurse and Celeste de Witt are expected to back off.

It's the system that's wrong, of course. In a country like the UK, far fewer trademark threats are made, for the simple reason that the law gives a person faced with an unwarranted threat a very powerful remedy – they can go to court and ask for an order declaring the threat unlawful. And get legal costs! We do have a similar remedy here in patent law but, for reasons best known to the lawmakers, it doesn't extend to trademark law. Perhaps it should!

PS: If you're going to accuse people of illegal behaviour, shouldn't you at least play by the rules yourself? Rhodes Food use a ® symbol on their Portobello products. Which is actually an offence if you don't have a trademark registration. Just a thought! **W**



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# Tracking the plane to nowhere



**T**HERE WERE JUST hours to go to the 6 June deadline set by the Pretoria High Court when the state attorney, acting for the minister of home affairs, handed two documents to advocate Zehir Omar, lawyer for the family of Khalid Mehmood Rashid. Sadly, neither document satisfactorily answers all the questions surrounding the arrest of Rashid, a Pakistani national illegally resident in South Africa, by a group of men, including armed policemen in plain-clothes, and at least one Home Affairs official, from a house in Estcourt last November. Nor do they reveal where Rashid is now to be found.

“Not worth the paper they’re written on,” commented advocate Omar.

On closer inspection, one document appears to be a surrogate version of the standard flight documentation that every aircraft has to file before taking off from South Africa. Instead of the usual printed forms, the flight documentation for the flight that took off from Waterkloof Airforce base with Rashid on board is typed on unheaded paper.

The second document is a standard BI 252 form headed “Body receipt for the transfer of detained persons”. A certain Mr Ullah, a Pakistani official, signs it, acknowledging receipt of Rashid.

If this document is genuine, why was it not produced six months ago, as the court had ordered?

In a letter accompanying the two documents, the state attorney informs advocate Omar that four Pakistani

noseweek plays  
detective and finds  
a CIA connection  
and other oddities in  
the shady history of  
the aircraft in which  
Khalid Rashid was  
secretly flown out of  
South Africa

officials (whose names, he says, are listed in the flight documentation) came to South Africa to collect Rashid.

Under the heading “Crew names”, instead of names, the flight document simply states “on Gendeck: 5 Crew.” What this document does, of course, suggest, is that there is yet another document which the minister has still not produced: the “Gendeck” on which the names of the crew and other information are to be found.

“Gendeck” is an obvious misspelling of “gen-dec”, the standard abbreviation for “general declaration”. Aviation rules prescribe that the gen-dec must contain a lot of information besides the names of the crew members – such as a flight plan that identifies the destination. Where was the plane scheduled to land? In the answer to this question lies one of the keys to the mysterious disappearance of Khalid Rashid.

So the still-missing gen-dec is one of the many issues sure to be raised in the Pretoria High Court in August, this time before three judges who will deal not only with the issue of the “whereabouts” of the missing Pakistani, but also look into the circumstances of the South African government’s co-operation in the man’s alleged abduction.

What the flight documentation provided by the minister does confirm is that A6-PHY was, indeed, the registration number of the plane on which Khalid Mehmood Rashid was carried out of the country on 6 November 2005. Behind those five digits lies a long and intricate tale of intrigue.

It is quickly established that a Gulf-

stream II, marked A6-PHY, landed at Lanseria Airport on 5 November 2005, shortly before 3pm. Coming from Mombasa, pilot Tsaregorodsev and co-pilot Bushev (honestly!) brought the plane in half an hour behind schedule. Unidentified security personnel awaited the plane, to guard it at Execujets' hangars. In the afternoon, the plane was photographed by casual bystanders. The Pakistani passengers Rasool, Ullah, Rehman, Amir, Mirza and co-pilot Bushev left the plane and were driven to Monte Casino at Fourways. They booked into the adjoining Palazzo Intercontinental, where they were given rooms 209, 210, 251, 252 and 411. Ashiq Rasool was the only Pakistani who didn't use the telephone.

On check-out early next morning, the combined bill for R5309.59 was paid in cash. The Gulfstream II took off around 6am to fly, just over the hill, to Waterkloof Airforce Base, where the plane's unique call sign must have appeared on the air controller's screen. Once landed, Pakistani lead-man Ullah signed the BI-252 form (which, curiously, relates to criminal detainees, not deportees) on receiving Khalid Mehmood Rashid from Home

appears to be in the habit of changing his name, most recently to Lebedev. He has a brother called Sergey, and it seems more likely that Phoenix Aviation is owned by him, because, according to the US Treasury Department, Victor returned from Sharjah to Moscow around five years ago, whilst Sergey remained in Sharjah.

The re-naming from Phoenix to AVE was also more likely connected to a dreadful accident in February 2005, when a Phoenix-operated Boeing 737 flew into the mountains surrounding Kabul while attempting to land there. (All 104 people aboard were killed.)

A major air crash like this provides urgent reasons for a questionable low-cost carrier like Phoenix to quietly change its name. Even more so if the airline is already blacklisted for poor safety standards by the European Union and in the UK – as Phoenix Aviation is. Or, rather: As it was. "AVE.com" – its new marketing name – is now in a position to mark the group's 10th anniversary, a decade during which, so their marketing poetry reads, they specialised in adding value to aircraft leasing and charter, not to forget "ad-hoc charter". AVE's

## A6-PHY – the title of a long and intricate tale of intrigue

Affairs. (The case number 0/06010 was filled in on the form by a later hand. It was supposed to identify the relevant criminal case – but there was none.) Shortly thereafter, A6-PHY took off to ... nowhere. Its next recorded appearance is on June 19, 2006.

So, for the benefit of those insufficiently heeled to own a private jet, let's investigate the murky world of aircraft names and numbers. The media had earlier obtained the number A6-PHY from airport sources – and zoomed in on the Russian gun-runner Victor Boutt: it was claimed that a plane with registration A6-PHY was owned by his Phoenix Aviation, an airline operating from Sharjah in the UAE. It was also discovered that Phoenix had re-named itself AVE, just after the Khalid abduction.

But – trust us – there were more interesting details still to be discovered. Victor Boutt, a rather elusive figure,

website currently lists a fleet of four planes, including a Gulfstream II, "the most looked upon VIP-style business jet ... that moves people with time value and those who value style in the air."

Time to make a call. "Yah, Alpha Six. I chnow, I chnow", says the Sergey who answers the phone at AVE in Sharjah. His surname, real or changed, is Shcherba. Sergey is the manager for the charter section of the airline; he is on duty 24/7. Any paperwork for the A6-PHY flight ex Waterkloof to Nowhere would have crossed his desk if his company was the provider of the unusual air service in question. But will he tell? Question: Do they own the plane? "Yes," he agrees. The Gulfstream belongs, he says, to "Phoenix". "But Phoenix is gone, right?," we ask. "Chno, chno, not this Phoenix, other Phoenix, new one!"

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Of course. But which one and where?

At this point, Sergey becomes “vechy bezy” and excuses himself.

The aviation business can get really complicated: An aircraft might be registered in one country, then leased by a company in a second; crews can be hired in a third country and the plane might be based in a fourth. All of which is totally legal, provided that proper documentation has been filed and proper procedures followed. It happens all the time – mostly, for cost-cutting and tax evasion. If the intention is less than legitimate, well, there is also the option of illegally switching or removing a plane’s ID or so-called tail number. In this way you can conceal the true nature of a flight, its route, the identity of the operators, the cargo ... a kind of aircraft laundering, you might say, Which is precisely why it is so important to find the answers to the questions relating to the Khalid plane. Hey, our very own government is involved!

Is it plausible that AVE provided the crew for the Khalid flight? Yes. Do they still operate it? Probably not. Do they own the plane? No. Here’s the history:

In 1973, the Gulfstream business jet with the manufacturer’s serial number 1-3-0 leaves Grumman’s hangars and is registered under N127V to El Paso Natural Gas, Texas. After more than two decades of executive use, the plane is then sold to a Mr Chang, principal of various businesses; OAI Air is one of them. The registration of the plane changes to N512SD.

Later in 2004 the jet finds its way to its current owner, Aircraft Guaranty Holdings & Trustee of Houston, Texas.

On January 25 last year, Aircraft Guaranty, a registered aircraft dealer in the US, de-lists the Federal Aviation Authority-registration of the plane – the reason given is that the plane has been exported to the United Arab Emirates. Once there, it will get another registration number, starting with the local country code, A6. The necessary paperwork to that effect is processed and a business jet database, published in February 2005, already lists the Gulfstream as “A6-???” – an indication that the remaining three letters are still to be assigned by Dubai’s aviation authority.

But, it now transpires, on the day of the deregistration of N512SD, Aircraft Guaranty also reserved the old registration number with the FAA, effectively “blocking” its use by anyone else for the next two years. That the registration

was intended later to be restored to the very same plane becomes apparent from the identical S-code licence number used for both filings. (The “Mode S code” refers to the unique beacon aboard an airplane with which ground control is able to monitor and identify an approaching craft.)

Why would somebody de-register a plane on exporting it, if the re-importation and re-registration are already planned? Why not just fly the clipper under the N-number in the meantime?

If one wishes to conceal the identity of a plane or its owner, Aircraft Guaranty appears to be the port of call for the secretive aviator: As a registered dealer, the company can act as a trustee for foreign applicants; they are also a holding company, providing further protection against unwelcome curiosity – and they offer the necessary finance options. They are, truly, a one-stop-flying-shop and render all these services from the single office, suite 305 at 515 Sam Houston Parkway East in Houston, Texas.

As it turns out, the company is an old fox in the thicket of international aviation rules; rules that are abused on a regular basis for “rendition” operations like the one involving Khalid Rashid. It comes as no surprise that Aircraft Guaranty belongs to a group of companies that is reported – by civil rights watchdogs and independent media – to work, at least occasionally, for the CIA, providing services for covert operations.

In 2004, another of Aircraft Guaranty’s planes, N666MX – a Cessna Citation – is alleged to have ferried rendition victims from interrogation to incarceration and back. When in Amsterdam, the name “Flying Service” was used; in Brussels the plane arrived as “Flying Partners”; and from Zurich it reportedly flew off as “Comjet.” All within the space of a few weeks.

Or take the Learjet N35NK: Some years ago, the jet was owned by a company belonging to US drug-runner Wally Hilliard, a criminal with very close friends in very high places, and recently retired to the Bahamas. With the help of Aircraft Guaranty’s “team of ... legal advisors with experience in aviation, international business, and tax law” it was bought, sold and re-leased several times and appears, after some visits to Guantanamo Bay, now to be an ordinary, “clean”, plane. Also a few years ago, Turkish intelligence sources described Aircraft Guaranty’s business as providing “untrace-

able registration numbers to its customers, which reportedly include U.S. intelligence agencies.” In spook-speak, they are referred to as “brass-plate” companies. Aircraft Guaranty may not belong to the inner circle of CIA fronts, but the Texans sure as hell do know what they are talking about:

“Did you know that the FAA does not verify the legal ... status ... of any Trust Document ... when reviewing it?” they cheekily ask their clients. They recommend their clients also pay close attention to the stipulation, in the US aviation rules, according to which a plane registration may be invalid if “a transaction ... was not entered into in good faith, but was made to avoid compliance”. In plain Texan: If you want to lie, you need a front – like us. In the case of A6-PHY, Aircraft Guaranty created a temporary ghost-plane, useful for the clandestine operations of their, as yet unknown, clients which, via one or more intermediaries, used Phoenix/AVE as their operators. All this while, officially, the plane was in process of changing hands.

A6-PHY is for sale again. The seller claims the jet to be stationed in Kingswood, Texas. But the photograph, taken in 2005, shows a different airport: Sharjah, UAE. The tail number A6-PHY has been erased from the internet advert – because the plane is for sale under its original registration number, N512SD.

How would Khalid Rashid have felt had he known about all the clandestine activity and falsehoods arranged especially for his abduction from South Africa? Pretty damn important, no doubt!

■ On 13 July 2006, a ministerial delegation, headed by Minister in the Presidency Essop Pahad, met a delegation of 60 representatives of the South African Muslim community at the Union Buildings in Pretoria.

In an open and candid discussion, ministers Pahad and Kasrils assured the Muslim leadership that there was no security policy specifically directed at the Muslim community.

In response to questions regarding the deportation of foreign nationals, the ministers emphasised that the government was opposed to renditions and remained committed to following due legal process.

In order to allay the concerns of the Muslim community it was agreed that mechanisms be created to ensure better communication and liaison between the government and the Muslim community on security issues. ■

# Durban Metro's dungeon



**T**HERE HAS BEEN an interesting new development in the “Durban Metro Blues” story featured in *noseweek* last month, which detailed how Durban Metro Police have allegedly been hiring out and selling their firearms to criminals.

Within days of the appearance of that article, which described how two Metro Police guns came to be in the hands of a cash van robbery gang which used them to maim Constable Cherise Cox of the Metro Police Dog Unit, councillor John Steenhuisen received information from two independent sources that the policemen who allegedly sold these pistols had confessed more than a year ago.

The allegation is that, although the pair confessed to having flogged the guns, the matter was hushed up so as to avoid embarrassing the authorities. *noseweek* followed up the story, but could get only one police officer to confirm there had been a confession – made a year ago.

Since *noseweek* began probing the confession claim, Metro Police officials have again been warned that talking to the press is *verboden*.

Eugene Nzama, head of the Metro Police, ignores requests for interviews, and Dr Michael Sutcliffe, the municipal manager, simply keeps promising he will be releasing a report on his investigations “shortly” or “toward the end of the week.” He fails to specify which week.

Raj Moodley, a former HR director at Ethekewini Municipality, says he’s heard about the confession, but has no personal knowledge of it.

Steenhuisen intends kicking up a fuss in council meetings about the alleged confession.

“If the Metro Police could use lie detectors to check for dishonesty among their staff, why on earth can’t they strap a lie detector onto the two policemen who are alleged to have sold their firearms to a notorious cash heist gang? If nothing else, having an open and proper investigation will allay the



**Eyes have it:** Another tough day at the office for Metro Mike Sutcliffe

public’s anxiety about their once proud police.”

Steenhuisen says he will be demanding to know what knowledge “Metro Mike” Sutcliffe has about the alleged confession.

But, while media attention doesn’t seem to have moved Metro Mike’s investigation into missing guns along very much, it has made the streets a safer place for motorists.

Apart from allegedly supplying guns to gangsters, the Durban Metro Police Service also, until recently, ran an illegal dungeon where motorists with outstanding traffic fines were held hostage after being kidnapped from the streets.

The dungeon was a single cell with-

out any toilet facilities, into which both men and women were crammed – until they paid their traffic fines, or managed to beg a family member or friend to pay for them.

If they needed to urinate, they had to do so on the floor – unless of course they could persuade a cop to walk to the toilet with them.

According to the SAPS Amendment Act – which sets out how Metro Police must operate – only the SA Police Service have the right to detain people.

After the illegal cell was discovered by the media, the response was swift. “Metro Mike” ordered the bars removed and a sign proclaiming the cell a “courtesy area” erected over the door.

The idea was to create the impression that the illegal cell was only ever a lounge where motorists were offered tea and scones.

Steenhuisen demanded to know whose idea the cell was – a question Sutcliffe neatly avoided. However Nomvuso Shabalala, councillor in charge of the Municipal Health and Safety Committee, has now admitted that the man who formulated the idea of the cell was Eugene Nzama, head of the Durban Metro Police.

Says Advocate Don Smart, former legal adviser to the Automobile Association and author of several books on motoring law:

“It’s completely illegal. They have no right to detain anyone in a home-made cell. Also, nobody may be arrested for having outstanding fines. You have a right to dispute these fines in court. Only if you fail to appear in court to contest the fine can you be arrested – and the charge is for contempt of court, not for failing to have paid traffic fines.”

Sutcliffe has ignored questions about the cells.

Judge for yourself whether it shows a courtesy area or a cell. The person in the picture is a motorist who has been held without food or water overnight – not having found anyone to pay his ransom to Nzama. **W**



# Mr Clean's dirty tricks

Staff at  
Mpumalanga's  
development  
agency accuse  
Communist Party  
treasurer Phillip  
Dexter of using  
Big Brother bugs  
and cameras to  
spy on them

**Hammer and sukkel:** Phillip Dexter, acting CEO of Mpumalanga Economic Growth Agency and SACP treasurer

**S PHILLIP DEXTER**, treasurer of the South African Communist Party, an appropriate Mr Clean to sanitise the scandal-ridden Mpumalanga Economic Empowerment Corporation (MEEC)? According to some of his co-workers, he's almost as bad as his lousy predecessors.

Dexter says his detractors are trying to divert attention from their own corrupt activities.

Mpumalanga Premier Thabani Makwetla brought in Dexter to take over as acting CEO of the parastatal in May last year, after Scorpions investigators established that, among other problems, the corporation's former bosses had dished out around R452m in loans to friends and relatives.

Dexter was executive director of Proudly South African until he resigned

last year. We have since discovered that this was just days before a forensic report was handed to the board, which dealt, *inter alia*, with the allegedly irregular award of a tender to his ex-wife's company. (He says he was not found guilty of any impropriety.)

Now he faces a barrage of accusations by angry MEEC employees alleging odd goings-on at MEEC. Such as:

■ The controversial communist lives in Cape Town, where he is a paid director of a not-for-profit company called Enablis Entrepreneurial Network South Africa, that was set up with funds from the Canadian Government. On 29 January this year, a junior MEEC employee named Thulani Nobela was dispatched from Nelspruit, by Dexter, to meet Dexter and other directors of Enablis in the Mother City. The negotiations resulted in MEEC concluding a contract with Dexter's company.

(The MEEC has since been renamed the Mpumalanga Economic Growth Agency – Mega.)

■ When Petunia Morgan, Dexter's office manager and confidante at MEEC headquarters in Nelspruit, needed money to pay school fees and uniforms – including expensive Reebok sneakers – for her children, Dexter authorised the payment.

And Morgan's salary has been favourably adjusted three times since the communist heavyweight took over.

■ When Dexter was going through a personal financial crisis, Morgan was not slow to reciprocate, approving a R25,000 loan which was paid into Dexter's bank account.

Staffers at MEEC began a flow of anonymous letters to the acting CEO last September – the fourth, and most recent, arrived on 20 June this year – questioning his extravagant leadership style at the taxpayers' expense. According to Mega sources, he went "mad like a wounded bull", rounding up the suspected authors and forcing them – despite protests – to take polygraph tests.

# Phillip Dexter in his own words...

**Dexter:** I was informed by Proudly South African that you sent them a list of questions about me?

**noseweek:** That's correct.

**Dexter:** Why are you doing this? Who is behind this and what do you want to achieve?

**noseweek:** I am doing my job.

**Dexter:** Are you trying to destroy me? Who are you doing your story for?

**noseweek:** I am not here to destroy you. I am doing the story for *noseweek*.

**Dexter:** *noseweek*?

**noseweek:** Yes, and where is the forensic report that you promised me?

**Dexter:** I am here with the auditors and they are telling me that it's not yet ready. Somebody from their office will phone and explain to you why. Who is feeding you this information about me?

**noseweek:** My source. Can you tell me: why did you resign from Proudly South African?

**Dexter:** It's a long story but, to cut the story short, they were accusing me of awarding a tender to a company owned by my ex-wife.

**noseweek:** Did you?

**Dexter:** I have not yet seen the forensic report, they did not give it to me, I believe it's with the board.

**noseweek:** Did you drive a train in London?

**Dexter:** Who told you that? I never drove a train in London.

**noseweek:** But you stated so in your CV.

**Dexter:** Who gave you the copy of my CV? Why are you doing this? Who is behind this? Listen, somebody from the auditors will phone you. Bye for now, I have to go.

Some of the questions put to Dexter in those anonymous letters:

■ Has your company, Enablis Entrepreneurial Network South Africa, already received about R230,000 from the corporation for consultancy work?

■ Please confirm that your commuting to work between Cape Town and Nelspruit costs the MEEC around R50,000 a month for flights and accommodation.

■ Why do you fire employees who question your leadership style? (MEEC has spent more than R2m settling with staff members whose contracts were unlawfully terminated by Dexter).

■ Why did you allow the corporation to pay school fees and school uniforms for a manager [Morgan] who earns more than R30,000 a month?

■ Why do you install surveillance cameras in the offices, and bug the telephones of staff you suspect of not being in your camp?

■ Why do you permit the corporation to pay speeding fines for some members of staff – including yourself?

Dexter is also accused of awarding tenders to "little, unknown companies owned by his friends". One of these friends, Gerda Lotter, was allegedly awarded a contract paying her R78,000 a month "to do almost nothing, as she could not tell the difference between a business plan and a bunch of flowers."

Documents in the possession of *noseweek* suggest that:

■ MEEC accountant Rendani Sadiki was fired after she refused to pay Dexter's cellphone bill. She had

protested that he was already getting a cellphone allowance.

■ Staff member Arnold Mashamba was dismissed after he allegedly refused to spy on his colleagues for Dexter.

■ Staff member Dinah Nkosi was suspended after she publicly accused Dexter of being corrupt. She was later reinstated and forced to co-operate, against her will, with the Scorpions investigation into wrongdoing by the previous regime.

■ Staff member Dan Skosana was fired after he was found in possession of documents that allegedly implicate Dexter in corrupt activities.

As for that polygraph test: "I will always remember that day, 8 June 2006, when some of us were forced to undergo a polygraph test against our will," says an employee. "We were humiliated and called names in front of our colleagues, just because we had raised reasonable questions about Dexter's leadership style and how he uses the corporation's money like his personal cash."

Dexter acknowledges that there have been letters making allegations against him by "faceless staff members". He believes that former employees, some of them implicated in previous loans scandals and other irregularities at the corporation, have waged a campaign to discredit him.

He denies all wrongdoing.

Dexter confirms that he is a director of Enablis Entrepreneurial Network South Africa and that the company was

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awarded a tender by the parastatal while he was acting CEO. "The contract is being finalised and it has been authorised by the board." He says Enablis does not consult to Mega, but has entered into a partnership with Mega to manage a fund for small businesses. Asked how much Mega has already paid Enablis, Dexter replied: "To date, nothing, as the partnership agreement has yet to be finalised."

*Noseweek* has, however, seen an electronic transfer of R230 000 from Mega's bank account to Enablis, marked "for consultancy".

His high travel costs? Dexter says his employment contract specified that they would be paid.

He denies that he forced MEEC employees to undergo a polygraph test against their will: "It was done with their consent," he insists. The cameras and bugging devices? They were

justified, he says, as "MEEC/Mega has had a theft problem. They are part of a comprehensive security strategy."

Initially, when asked to confirm or deny that junior MEEC staff members authorised personal loans to him, his written reply was: "No junior staff have any authority to approve payments and therefore cannot have done so."

Later, when he discovered – by suspect means – that we had a copy of such a document, he admitted that the signature authorising a R25 000 loan to him was that of his office manager, Petunia Morgan – a junior official. He also admitted signing for her relocation fee (and for those sneakers), saying this was part of the relocation package offered to staff when the MEEC moved from Bronkhorstspruit to Nelspruit. However, Morgan's home has always been in Nelspruit, with her controversial partner Luckson

Mathebula – a disgraced former Safety and Security MEC, presently facing rape charges.

Dexter's claimed struggle credentials include seven years in exile in Britain (1983-1990), most of it, according to an early CV, working as an assistant train driver in London. [See box]

After returning from exile he worked his way into the mainstream political arena, starting as a Nehawu branch organiser and climbing to the top of the ladder when he became a Cosatu-nominated Member of Parliament. And today he's treasurer-general of the SACP.

When first interviewed for this story, Dexter confirmed that the Proudly South African contract with his ex-wife's company was under investigation when he left PSA, but said he did not know the outcome as he had not seen the auditor's report. In a subsequent letter to *noseweek* he claimed that the audit had found "no wrong-doing on my behalf".

Christine Momberg, human resources officer with Proudly South African, confirmed that she has seen the forensic report dealing with Dexter's alleged involvement in an irregular tender award and other wrongdoing when he worked at PSA. She, however, would require her board's approval before discussing the matter with *noseweek*. Later she wrote to advise us that "Proudly South African will not be commenting on *noseweek's* questions."

Dexter says he is now "fixing the mess" left at the MEEC by the parastatal's former chief executive officer Ernest Khosa, who (echoes of Dexter's own past here?) resigned from the MEEC just days before the release of a PricewaterhouseCoopers report.

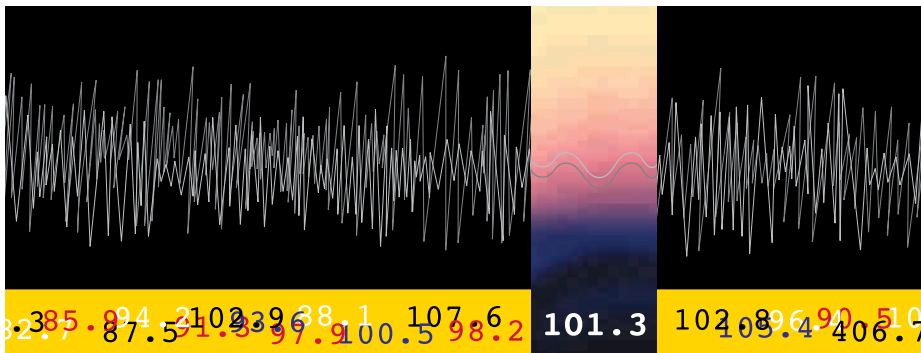
That report detailed Khosa's family jet-setting, at a cost to the taxpayer of around R1m over three years. It also told how Khosa used overseas trips to transport designer clothes for his wife's Pretoria-based boutique, Rights.

The forensic report also fingered Khosa over a R2.8m loan to former deputy board chair Nora Fakude-Nkuna and her daughter. (Fakude-Nkuna is one of Jacob Zuma's supporters, and helped bankroll construction of the former deputy president's multi-million rural home at Nkandla).

Khosa was later arrested by the Scorpions, who attempted to use him as a star witness against Cornwell Tshavhungwa, a former advocate in the Directorate of Public Prosecutions. **■**

*See Editorial*

## calm in chaos



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# The professed professor

Lessons from an academic cabal on how to get your candidate made vice-chancellor – even if she fails to make the grade



**I**N LAST MONTH'S "Judge Hlophe and friends: A profitable academic study", *noseweek* promised to reveal how, in January this year, Ms Lineo Tanga was appointed vice-chancellor (VC) of Cape Peninsula University of Technology (CPUT) – when she was neither the most popular, nor best qualified, candidate for the position.

CPUT is the result of the recent merger between Peninsula Technikon and Cape Technikon. Readers will recall how former Peninsula Technikon Vice-Chancellor Brian Figaji set himself up, with his close business pals on Pentech's council, to maximise the personal profits to be made during his tenure. And how he then bailed out with a R2.3-million payoff shortly before Pentech merged with Cape Tech in January last year.

With Figaji gone, his friends on council were determined to ensure that the "right" person filled his shoes – someone who, like Figaji, had their financial interests at heart.

Our story picks up in mid-2005, when the appointment process for the new VC was looming (Cape Tech's Prof. Marcus Balintulo was acting VC for the year). It was then that the Figaji clan started hatching a cunning plan to rig the selection process.

By the time the VC position was advertised in September 2005, it was already pre-determined that Tanga would score the job.

(Perhaps to set the scene, on August 8, 2005 – a month before the selection process began – Tanga and Figaji were appointed as two (of three) directors of Sithaba Hotel and Leisure. Our friends in the tourism business say this com-

pany was formed to bid for a BEE share in Sol Kerzner's multi-million rand seven-star hotel development planned for the V&A Waterfront.)

This is how they did it:

Step One: CPUT's council (chaired by Figaji's close friend and business associate, the good Reverend Lionel Louw) appointed a selection committee – with Louw as chairman. Figaji's top lieutenant, Patrick Parring, climbed aboard, along with Fatima Allie, who soon became one of Tanga's most dedicated supporters. (Allie sits on the board of Luthando Investments with Figaji's long-standing backer Patricia Gorralla, who also actively campaigned for Tanga's appointment.)

Step Two: Louw instructed the committee that the successful candidate "had to be a black woman". He was vociferously supported by Parring and Allie, and the others agreed to what seemed to be a logical decision because CPUT needed more black female appointments to boost its equity ratio.

But when an extremely well-qualified black woman applicant, based in America, was not even called for an interview, some council members became suspicious. "They used the excuse that it was too costly to fly her in for an interview, but the real reason was that, if she had been in the running, Tanga would never have stood a chance," a council source told *noseweek*.

The American wasn't the only candidate the clan needed to eliminate from the race. Louw, and council vice-chairman Judge Siraj Desai, offered the act-

**Takes two:** Lineo Tanga, vice-chancellor of Cape Peninsula University of Technology

ing VC, Prof. Marcus Balintulo, a R3-million "contract settlement package" in exchange for his refraining from submitting an application. They also suggested to him that he was "too old" for the job. Louw could not be reached for comment, but Desai says he went along with this because he, too, was "bamboozled" into believing a black woman appointment was an absolute necessity – in which case he wanted to ensure Balintulo "left with something". But Balintulo rejected the offer and applied for the job.

By November 2005, the selection committee had narrowed down the 21 applications to seven possible candidates. The three staff unions (representing almost every CPUT staff member) asked to be included in the selection process, but were only allowed to "observe" the interviews. As a token gesture, Louw asked them to name their top three candidates. Not one union included Tanga on its list,

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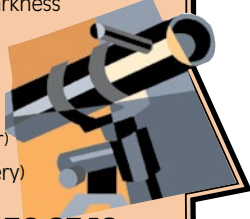
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but Louw conveniently forgot to mention this to the rest of the selection committee.

When Tanga was announced as one of the final three candidates, several academic staff and council members no longer doubted there was foul play. The strategy to rig the selection process was clear: What should one do if your preferred candidate's credentials pale in comparison to the other applicants? Easy! Eliminate the well-qualified competitors and put her up against two equally under-qualified candidates – that way, she's bound to win because she's the only one with the bonus "black female" equity card.

Three senior academics from the Cape Town campus – Mel Hagen, Prof. Geoff Erwin and Prof. Felix Dakora – raised their concerns in a detailed

document that showed how none of the three short-listed candidates met even the minimum criteria for the position.

But Louw and Co. had already got the majority of the selection committee to believe the equity factor was more important than capability. "We knew Tanga didn't meet the criteria, but they (Allie, Louw and Parring) convinced us she would have a strong support team and would eventually 'grow' into the position," says a committee member who now says he was "hoodwinked".

Louw was ready to proceed with the appointment – at a council meeting held behind closed doors – but the tumult amongst the academics reached such a pitch that, at the last minute, he was persuaded to let Sen-

## On the carpet – and under it

**A**S NOSEWEEK went to press, Cape Peninsula University of Technology's three staff unions moved to ensure the ongoing "Figaji and friends" scandal is not brushed under the carpet.

On 18 July, attorneys Smit Kruger Inc (acting on behalf of NUTESA, NEHAWU and CPUEU) lodged an official request for a special meeting of the university's council. According to informed sources, the unions plan to demand a forensic audit at this meeting, and to call for the suspension of those council members implicated by the *noseweek* article, while a full investigation is conducted.

The Figaji camp, we are reliably told, was also very busy during the university holidays. Current VC, Lineo Tanga, reportedly ordered the maintenance department to hand over documents relating to the dubious contracts reported on, while Figaji (who is no longer employed at CPUT) and Patrick Parring, beneficiary of several of the dodgy contracts, were seen visiting the finance office on campus on two occasions.

We'd like to believe they were facilitating the delivery of repeat-

edly requested documents to *noseweek's* office, but we fear any documents they may have found were forwarded elsewhere. (*Surely not the nearest shredder?! – Ed.*)

Tanga has also ordered a hunt for those responsible for blowing the whistle. She has demanded that Human Resources director Peter Morris bring disciplinary charges against one academic who Figaji believes shared information with *noseweek*.

Morris is said to be reluctant to victimise the suspect – a senior colleague – because he knows there are no legitimate grounds for such action. He is probably also aware how ironic it would be to charge a corruption whistleblower with "bringing the institution into disrepute".

A more likely candidate for doing the hatchet job and diverting attention from CPUT's financial and management "issues" is registrar Alwyn van Gensen. He is said to be eager to conduct a campaign to counter the *noseweek* article. The notoriously shrewd Van Gensen, who has been heard bragging that he "knows how to fight dirty", is probably Tanga's man for the job. ☐

ate (comprising representatives of the university's academic staff) vote for their preferred candidate. Thirty four percent voted that none of the three shortlisted candidates was suitable, while a total of 35% voted for Tanga's two competitors – therefore 69% were against her appointment. Chairman Louw decided it would not do for the selection committee to know this and tabled the “no suitable candidate” votes as abstentions, which made it appear as if the majority of those that “had not abstained” (31%) supported Tanga.

Two of the unions immediately issued a public statement saying the process was “fundamentally flawed”. Balintulo decided the time was right to make the secret offer he had earlier received known to the council, and submitted a formal appeal containing a scathing analysis of the selection process. (Among the points he noted was that academic institutions invariably require their vice-chancellor to have a Ph.D. Louw's executive had omitted this criterion – clearly because they knew that their preferred candidate did not have one.)

Balintulo's appeal, coupled with the unions' statements and ensuing press coverage, forced council to disband the selection committee. The seven original shortlisted candidates were called back to make presentations to Senate. Thereafter a vote was to be taken.

Only four of the candidates pitched but, unfortunately for Tanga, these four included Balintulo and Lionel Slammert, who had been strategically excluded from the previous “final” three candidates. Up against well-qualified candidates for the first time, Tanga didn't stand much of chance and was placed third with only 29 of the 114 votes. Senate ranked Slammert tops with 41 votes, followed by Balintulo with 32 votes.

Despite the overwhelming majority of votes not being in her favour, Tanga's loyalty to the Figaji crew on council carried more influence – and council appointed her CPUT's new VC in February this year.

A Senate member inquired: “While no single candidate is likely to be acceptable to everyone, is it wise to appoint someone so obviously rejected by the majority of academic representatives, when she is supposed to manage and drive the institution? Are academic concerns perhaps being sidelined in favour of other interests?”

Still reeling from shock at this travesty, the academics had another nasty surprise in store. No sooner had Tanga

settled into her plush new office than word got around that she had been “given” a professorship.

According to the former Cape Tech's criteria, the title of professor is awarded “for excellence and leadership in the academic sphere... There is unanimity as to the fact that the title of professor is associated with a high level of academic and research expertise. Academic expertise therefore constitutes the basis for the criteria.”

Tanga has not held an academic position for at least 10 years and does not meet most of the criteria for a professorship, such as publishing peer-reviewed articles in accredited journals, delivering research papers at national and international conferences and showing “strong academic standing within her discipline” (such as having a Ph.D).

She gave up her post as senior lecturer in geography in 1996 to join Pentech's administrative management team, first as deputy VC of student

affairs and, after the merger, as deputy VC, learner support and development services.

“She doesn't hold a specific type of professorship,” says a CPUT spokesperson, “...the title is awarded with the position of VC.”

Council had thought it okay to toss in the title as a “perk” to the VC package. “The chairman (Louw) told us it was the norm for a VC to get a professorship,” explains a red-faced councillor. “By the time we realised we had been bluffed it would have been too embarrassing to backtrack.”

Equally embarrassing is the fact that, according to the statute governing university functions, council does not have the authority to award a professorship without the approval of Senate.

Senate was never consulted. When we asked a couple of professors at universities around the country for their opinion, the words “mockery”, “preposterous” and “embarrassing” popped up repeatedly. ■

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Village & Life

# Fighting on the beaches

**R**ENTING OUT sun lounge chairs and umbrellas at R25 apiece on the beaches of snooty Plettenberg Bay can be a respectable source of income. With 150 chairs and brollies, the December to April summer season can earn a successful trader up to R300,000. So, when Dean Krimchanski was struck off the tender list last summer he went into battle.

Plett has four beaches. Central Beach, with its toilets and tuckshop, draws the biggest turnover in the beach chair business. Lookout Beach is second, while the remaining two, Robberg and Hobie, trade on only 20 days annually (in the peak Christmas/New Year tourist season) and yield meagre pickings.

For years, the beachchair permits on Central and Lookout were held by two local businessmen. Marco Lamberti (owner of Nolans Flooring and Keens Kenmar Blinds and Awnings) operated on Lookout; Rob Pretorius (Bay Décor) commanded Central.

But a new contender entered the beach business in the summer of 2003 – Dean Krimchanski.

Krimchanski arrived in Plett from Cape Town's Camps Bay, where he had worked the beach chair summers for 12 years. At first he operated on the entire Camps Bay beach. But, he says, the previous Cape Town City Council's black empowerment policy eroded his share of the beach to a quarter of the territory – and, finally, half of that quarter. So he decided to leave Cape Town for pastures new.

The Bitou council allocated Plettenberg's Robberg beach to the newcomer. Robberg, with its brief 20-day trading season, yields perhaps R7000 in chair and brollie rentals.

Towards the end of that first summer, Krimchanski went to the council and pointed out that Pretorius was trading with only 20 chairs on Central, when the potential was 100-plus. The council awarded him half of the best beach for the rest of the season.

Amid accusations of corruption and shady dealings, a war has broken out over Plettenberg Bay's lucrative umbrella and deckchair concessions – worth up to R300,000 a year

"I was just so happy to be able to make some money," he says. "I had between 60 and 70 chairs there."

For the season starting December 2004, Krimchanski was confirmed operator for half of Central, with half of Lookout for his empowerment syndicate. "At Central, it turned into a fight straight away with Rob Pretorius," he says. "Rob had always had the whole beach and was furious that I had half of it again. But my tender was R15,000 and he'd offered only about R2000."



**Baywatch:** Dean Krimchanski

At Lookout, within days of the new season's start, Marco Lamberti complained that Krimchanski was putting chairs on his section. Mark Fourie, the council's director of economic development, arbitrarily trimmed Krimchanski's patch back to a quarter of the beach.

Last October, the council issued invitations for beach chair tenders for the summer of 2005. Krimchanski applied for Central and Lookout, in various applications with, and without, BEE partners for each beach.

*noseweek* holds a copy of

the council's final tender recommendations. Krimchanski, with his R15,000 offer, was slotted in for Central Beach; Rob Pretorius and Marco Lamberti's brother Luciano (offering R6000 and R5000 respectively, each got half of Lookout; and for R3000 Marco Lamberti got the unprofitable Robberg.

On November 14, shortly before the tender awards were announced, Krimchanski visited the council offices. He was waiting outside Mark Fourie's office when he heard a voice inside instruct Fourie that "he must not give me [Krimchanski] a permit because the guys don't like me". He saw the speaker's face in the reflection from a picture through the open door: it was Marco Lamberti's father-in-law and Bitou's then deputy mayor, John Truter!

Four day later the list had been revised. Krimchanski's name had been deleted from Central in favour of Rob Pretorius (who bid R6000). "I couldn't trade on the beaches at all last summer because they wiped me off the list," says Krimchanski.

Today, 36-year-old Krimchanski lives with his two Labrador dogs, Nemo and Dori, in a wooden cabin in the woods 5km outside Plett, where he acts as caretaker of a house owned by a non-resident German. He claims that deputy mayor John Truter's instruction to Mark Fourie constitutes improper influence on a public official. He submitted a corruption charge to the council's then speaker, Len Levendal, who was in charge of internal disciplinary hearings under the Municipal Systems Act.

No action was taken, so he has now laid the corruption charge with the police, whose Commercial Crimes Branch in Oudtshoorn is investigating.

The unit's Inspector Ryno Serfontein confirms he is looking into last year's beach chair tender process.

In addition, the Special Investigations Unit has been probing allegations by others against Bitou's former mayor Euan Wildeman, and suspended municipal manager George Seitisho – Seitisho for using more than R170,000 of municipal funds for private purposes and, along with Wildeman, for failing to make good overpayments of more than R14,000 on a trip to Europe.

While all these matters are being resolved, the council's director of corporate services, Carl Mattheus, is standing in as municipal manager.

Dean Krimchanski is directing a large share of his wrath at Mattheus, who he says assaulted him on January 26, when he visited the council offices and enquired about the progress of his corruption charge against deputy mayor John Truter.

Apart from laying this assault charge with the Plett cops, Krimchanski has been seen lurking outside the council offices of Mattheus and his secretary Elsabe Carew, collecting cigarette butts he alleges they toss from their window (he points out it is unlawful to smoke in public buildings).

"When I first cleared the garden, I collected 1288 stompies," reports Krimchanski. He adds: "The brands of cigarettes that were collected outside this window correspond with the brands that Mr Mattheus and Ms Carew smoke."

He photographed this "evidence" and subsequently returned to collect "another 100-plus stompies" from the same area.

On the beach chair furore, the council's Mark Fourie comments: "Krimchanski was recommended for Central Beach because his tender offer was the highest. But the tender committee felt very strongly that this man was not complying with the council's policy in terms of empowerment.

That was the whole reason for his being disqualified as a person to trade."

Acting Bitou council boss Mattheus declines to discuss Krimchanski's assault charge against him. "The deckchair tender was not awarded to Krimchanski on certain issues," he says. "The BEE requirement was only one of the reasons."

Successful tenderer Rob Pretorius: "Dean Krimchanski arrived in Plett and said he



**Spelling it out:** It didn't take long before Dean Krimchanski's umbrella protest was broken up by police (below)

was helping the poor and could he put some old chairs on a portion of Central. I felt sorry for him and said fine. He proceeded to take over the whole beach and, when we asked him to leave my section, he got very aggro.

"Dean is more than welcome, but I just couldn't take the stress of fighting with him all the time. He lost the tender for a very good reason: he was just a troublemaker."

Comments Krimchanski: "I never set up my chairs in other people's sections."

Says Marco Lamberti, the other successful tenderer: "Yes, Dean was very disgruntled. If I had quoted, and it was my source of income, and I didn't get it, I would be upset. And he's proven that over and over with the amount of heartache and irritation that he's causing me and everybody else." ■



**R**EMEMBER THE TALE of Altron Group chairman Dr Bill Venter and Happy, his unfortunate gardener at La Falaise du Cap, (nose49)? How Happy arrived for work in a state of shock after he and his family were held up at gunpoint in their Nyanga township shack and robbed of virtually all their possessions?

And how compassionate housekeeper (she's also a qualified nurse) Joan Bruins ordered Happy to lie down and take a breather – only to have Wild Bill berate Happy for “lolling about”? Bruins resigned in disgust at Wild Bill's savagery. Unable to find employment in Cape Town, she flew off to a new life in the UK as an agency nurse.

That was nearly three years ago. Now there's joyful news about housekeeper Bruins – and less happy tidings of Happy.

Joan's first UK position was at Cowes on the Isle of Wight, nursing the Alzheimer's-stricken wife of wealthy Sir Peter Seligman. After Lady Elizabeth's death a year ago, 93-year-old Sir Peter couldn't bear to let Joan go.

In April this year the mooning couple flew to South Africa to visit 62-year-old Joan's three grown-up children and five grandchildren in Cape Town. Sir Peter proposed to her in the Mother City. On the way back to the UK, they stopped at Hartbeespoort Dam, where Joan's youngest sister Beverley Reid lives with her partner, entrepreneur John Bond, CEO of Calibrated Diamonds.

## Wild Bill Venter's sacked housekeeper becomes Lady of the Manor



Sir Peter and his Lady Joan cuddled up (left), with (left to right) Joan's brother-in-law Ken Moreirra and Joan's sisters Beverly Reid and Moreirra's wife Mel

On the spur of the moment Sir Peter and Joan decided on a romantic “commitment pledge” to each other on the banks of the lake under the African

stars. Bond's duties that night included taking this snap for *noseweek*.

Joan officially became Lady Joan after their church wedding on the Isle of Wight on July 8. Sir Peter's two sons and four daughters were there, all thrilled with dad's new wife.

Sir Peter won blues for rugby and squash at Caius College, Cambridge, and as a young director of the APV company played a leading role in its manufacture of fuel tanks for Spitfire fighter aircraft in the Second World War. He rose to become chairman of APV Holdings and was knighted in 1978.

As *noseweek* went to press the happy couple was honeymooning in the Swiss Alps, where Joan, a keen skier, planned to place Sir Peter (plus his walker) on a toboggan and launch him down the steepest ski slope.

■ Happy Ngoma, sadly, no longer tends Wild Bill's garden at La Falaise du Cap. When last heard of, he'd been languishing for two years in prison, accused of rape. **W**



“I swear I wasn't looking at smut—I was just stealing music.”

# Ebay Schmeebay

**M**Y HUSBAND SAYS eBay (www.ebay.com) is a seller's market. I'm not so sure about that.

"Just think about it," he argues, "it's an auction and you're competing with millions of potential buyers all over the world. Compare that with buying something at a local auction when you need only outbid 60 or 80 people."

I think he's just worried I'll become an eBay addict like my next-door neighbour, Betty-Lou. Betty-Lou can never have enough "stuff". One month she's into beanie babies, the next, antique cigarette lighters, the next, some crockery pattern, and so on. At least once a week the UPS van stops outside Betty-Lou's house for a delivery. "It's like Christmas, all year round," she confesses in hushed giggles.

In case you didn't know, eBay is the most popular shopping destination on the Internet. It has more than a hundred million worldwide registered members, who buy and sell anything from hairnets to houses.

Some of the more bizarre items that have been put up for sale on eBay include a fully functioning kidney (eBay soon came out with a rule against selling body parts), a ghost in a jar, and a soul – "Get it before the devil does!" urged the ad. Which make me think there are probably a lot of people who could sell their consciences. They could advertise them as "hardly used".

Out of curiosity, I type "South African" into the search box and get 500 hits. There I see a variety of peculiar things for sale – old number plates from the Free State and Northern Cape, a miniature drawing of Hansie Cronje, the old SA flag, a video of backyard wrestling, "(NOT gay)" the ad insists, and someone in France is selling gold, silver and bronze SA police Vlakplaas secret unit death squadron badges...

Ah yes, thanks for the memories.

But back to eBay being a seller's market: To prove my husband wrong, I become a registered member of eBay. I put a pair of silver-plated candleholders I bought on a whim at a yard sale for the bargain price of \$5, up for auction. I polish them. I take a digital photograph of my candleholders. I write an enticing description. I start the bidding at \$0.99. In the whole five days it's up for sale, I get not a single bid. Wehla-kephla.

In a  
head-to-head  
between  
Internet selling  
and a yard sale  
in Kentucky,  
the latter wins  
hands down

"That proves nothing," says my husband.

The other day Betty-Lou comes over and says she's having a yard sale. Do I want to sell some stuff? Betty-Lou has frequent yard sales. It turns out her husband gets quitearked about all the stuff she buys. Every now and then he sets an ultimatum – it's him or the clutter.

Just because I'm a student of the internet doesn't mean I have to abandon traditional methods of commerce. "Ja," I say, "I've got a pair of silver-plated candleholders."

On the day of the yard sale, I sit with Betty-Lou on her porch. She's got a cooler filled with cokes for us and a big plate of double chocolate brownies to entice the buyers and keep our mouths happy. All the items are artfully displayed on a big table in the yard in front of us, along with a rack of clothes and piles of books, magazines and toys. My silver-plated candleholders sit on the table with the price tag I slapped on them – \$6 for the pair.

This is Kentucky. A yard sale is a sociable all-day affair. Friends and neighbours and strangers drop by to scan our stuff and stay a while to gossip. All day long I chat, sip coke and scarf Betty-Lou's double chocolate brownies, all the while watching the people pick up my candleholders for inspection and then put them down again.

Just when I'm thinking no one is going to buy them, along comes a woman who looks the silver-plated candleholder type. She's dressed in a pink and grey tracksuit and running shoes, even though it's clear she never runs. Her long nails are French-manicured and squared off in the latest style of 10 years ago. She picks up the candleholders.

"Those are nice to put little scented tea-light candles in," I offer.

"Would you take \$5 for the pair?" she asks.


"Sure," I say.

Later in a quiet moment, Betty-Lou nudges me. "I've made \$86 so far today," she beams. I know she paid at least \$200 for the stuff she's just sold. Plus postage.

The phrases "seller's market" and "potential buyers" are ringing in my ears, but I keep tjoeps and play along.

"I made \$5," I brag.

"Aren't yard sales wonderful?" she chuckles.

"Bloody marvellous," say I. "With all these potential buyers, it's a seller's market. Pass me another brownie." 

# Getting snotty

**T**HE RECENT JUDGMENT in the Viral Choice matter runs to some 29 pages, much of it excruciating detail about packaging design. We at *noseweek*, of course, don't need reams of paper to tell a story. Pharmachoice is a company involved in the nutraceutical business. Nutraceuticals? You know – those supplements aimed at preventing the average two or three colds a year. They are not to be confused with pharmaceuticals – those are the potions you take for relief from your cold, to make sure it doesn't drag on for two weeks but, rather, clears up in a fortnight.

Pharmachoice manufactures and sells an immune system booster called Viral Choice C, and a children's edition called Viral Choice Junior. It has a trademark registration for Viral Choice C. It's an odd name for a product, don't you think? Viral Choice?

**Viral  
marketing  
or just plain  
parasitism?**

It invites a "Do I have to? I was so happy without any?" response. Both products are sold in an orange pack with the brand name in green. The word "viral" is dominant. The adult version features some shadow circular devices and the kids' product a child's hand-drawn face (cute hey!).

The products are purchased off the shelf, rather than over the counter, and by people from all walks of life – highly educated and respected professionals (even lawyers), you name it. The products have been around since 1998. Sales have been brisk – nothing to sniff at. According to market research, sales between the years 2000 and 2005 amounted to some R45-million, accounting for a 45% market share. Pharmachoice's own figures, on the other hand, showed that sales in just two years came to some R53-million, accounting for a market share of 65%. Which

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just goes to show that you really shouldn't bother with independent market research.

Nutrilda is also involved in nutraceuticals. In 2005 it started selling an immune system booster called Viral Guard, and a children's edition called Viral Guard Junior. Both products are sold in an orange pack. The packaging is the same size as that of Viral Choice. The brand name appears in green. The word "viral" is dominant. The kids' edition features a child-like script. It also depicts a smiling snowman and a white snowflake (cute hey!). Perhaps concerned that there might be some confusion with a certain product, Nutrilda bravely applied the word "New" to the product and, gasp!, some red detail including the word "Probiotic". Medicine hey – it's not a field where you sit on the linguistic fence is it? Probiotic, antenatal, contraception....

Nutrilda is guilty of trademark infringement, protested Pharmachoice. And passing off! S'not, sniffed Nutrilda, and accused Pharmachoice of using unethical marketing techniques. Nutrilda responded by asking whether ethical marketing techniques existed

...er... no they didn't. We made that part up. Replied Nutrilda: You've been getting your reps to approach consumers in stores and slag off our products, and you've been giving kick-backs to pharmacy employees (corruption in medicine? Surely not!). Said Pharmachoice: You've been doing exactly the same things, Nutrilda. It's not clear whether "Na Na Na Na Na" jibes were uttered at this point. You'll be pleased to hear, though, that the judge ignored this stuff.

The court found against Pharmachoice on trademark infringement. This wasn't a very difficult decision to make, as the issue here was simply whether the names Viral Choice C and Viral Guard are confusingly similar. As "viral" is a completely descriptive word in this product area, and therefore practically irrelevant, it was basically a case of comparing "choice" and "guard." Chalk and cheese you might say. Or colds and flu. Or snot and spit.

Pharmachoice did, however, succeed on the passing off matter. The issue here was totally different – would consumers confuse the products? Given all the packaging similarities, and the evidence of actual confusion,

this wasn't a hard one either. The judge found that Nutrilda had clearly intended to ride on the back of Pharmachoice's product and had succeeded in doing so. The fact that the products were bought by a spectrum of the population was neither here nor there. The similarities were such that all but the most intelligent and astute purchasers would be confused. What chance did lawyers have? The use of the word "new" did nothing to dispel the likelihood of confusion. In fact, it exacerbated it – people seeing the Viral Guard product would assume it was a new offering in the Viral Choice range.

The case doesn't make any new law, but it is a good illustration of the difference between a claim for trademark infringement and one for passing off. It also shows how important it can be to get trademark registrations for packaging. If you register your packaging, including your colour combination, you should be able simply to rely on trademark infringement (and thereby avoid disclosing confidential sales and advertising information) to establish the reputation needed in a passing off case. **[E]**



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# Surprise! De Beers depllores culling

**I**T'S THAT TIME of year again, when the Namibians get into their annual Cape fur seal-killing frenzy, bashing and stabbing pups to death and blasting big bulls away with high-powered rifles. This year's bloodfest is slightly unusual, though, in that it's attracting more than average media coverage.

The *Sunday Independent* headline screams "World outrage over Namibian seal cull". The pictures show workmen swinging pickaxe handles at pups, and one crudely knifing a bleeding pup as recently suckled milk spills from its mouth. It's pretty gross – easily justifying protests from Disgusted of Pinelands and Anonymous of Parktown in their anticipated expressions of rage and disgust.

Seal culling, as practised by the Namibians, is undoubtedly cruel, but probably no more so than what is inflicted on veal calves or battery chickens, so this column isn't going there. Not today. Instead, Ark would like to point out a few peculiarities in the fuss about the seals, and look beyond the battering to death of tens of thousands of seal pups, into the political landscape beyond.

Consider, for a moment, the roles in the seal matter of scientists, politicians, NGOs, and those charming bauble-peddlers, De Beers. And, in particular, possible reasons for the sudden outbreak of seal concern that is figuring in the media.

De Beers enters the picture because a lot of the current culling takes place in the mainland seal colonies at Wolf Bay and Atlas Bay, just south of Luderitz, in one of Namibia's famed diamond areas.

De Beers, as we all know, is run by a canny bunch. They invented a massive market for essentially worthless shiny stones and built a worldwide network that still largely controls the mining and sale of diamonds. Since gem diamonds have so little practical use, their value is determined by the public's

emotional perception of these sparklers.

A good deal of De Beers' energy, then, goes into playing an eternal game of building positive associations between diamonds and buyers. They want men to believe that, with diamond offerings, they're buying lifelong loyalty from women (in exchange for sex and child-bearing), and women to think that they're getting glittering symbols of true love from those men.

What they don't want is for people to think they're being hoodwinked into buying sparkly pebbles that are associated with

armless West African infants, landless Kalahari Bushmen, or wilderness-less Namibian coastlines. Or skinless Cape fur seal pups.

Thus, De Beers spends a lot of time trying to prevent bad stuff being associated with diamonds – like gory seal hunts on land where diamonds are mined.

Their usual tactic is to monitor such

situations until things quiet down. They've learned that, the less you say, the quicker bad news goes away. Company representatives seldom give live TV interviews because they risk ambushes by smart journalists. When they absolutely have to communicate with the "pond-life" (as De Beers grandees tend to refer to the rest of us), they typically issue press releases which are short on clarity but long on bullshit PR-speak.

Which is why it came as a big surprise to NoseArk that the De Beers Group has suddenly made a very clear stand against seal culling.

In a recent letter to Francois Hugo of Seal Alert-SA, a Hout Bay-based seal protection group, Stephen Lussier (director, external corporate affairs) says that he "cannot help but be moved by the images [of seal culling]". "De Beers", he says, "has a real commitment as a company both to the environment and to conservation". De Beers also "are conducting extensive studies in Namibia to ensure our activities have no environmental impact on the biodiversity of the region" and "does not support any seal culling activities, and to be completely clear De Beers has no involvement whatsoever in the current cull in Namibia."

Lussier's ropey grammar aside, it seems that, after waffling ineffectually around



**Diamond empire distances itself from seal slaughter**



**Forever:** Aerial view of a short section of the 110km of Namibian coastline trashed by De Beers

other major human rights and environmental issues – the eviction of the Kalahari Bushmen from their ancestral land (*noses*39, 42, 44, 46, 49, 69,78 come to mind) – De Beers is finally taking a clear stand on an important point. Could it be that they are actually good guys with sound social and environmental agendas? Have we wronged them all these years?

The answer, unfortunately, is probably No.

It's more likely that De Beers thinks that Seal Alert-SA is getting far too much media coverage than is healthy for diamond profits. After all, they've not previously howled outrage against culling, and it's a safe bet that they know exactly what has been going on at Wolf and Atlas bays – and elsewhere – for a very long time.

As we've noted before, Wolf and Atlas bays are within a diamond area. Access to these areas is strictly controlled. Tourists are *verboden*. Thus De Beers could not have failed to notice employees of Namibian Venison and Marine Exporters, who have daily entered the diamond area armed with clubs, knives and rifles with silencers for five months of every year since 1990. Even though they might not have a legal right to stop the cullers exercising their Namibian government-granted entitlement to cull, their huge influence in that country would have allowed De Beers to orches-

trate a public campaign against the hunt.

De Beers' supposed concern for the environment has also not stopped their involvement in the trashing of about 110 continuous kilometres of land along the Namibian coastline – as reported in *nose*75. Thanks to Google Earth's spy-eye in space, any reader with fast Internet can now see the ugly scars created by mine pits, dumps and roads along a once-pristine shore.

But the world must not be allowed to see too much of what's happened just north of the Orange River – which is why, although guns and knives are allowed in diamond areas, tourists' cameras are not.

Also, from the early 1970s until 1990, when sealing was stopped in South Africa, the vast majority of South African

(about R650 million) for their 2004-2005 reporting period alone.

But their concern for Southern African seals is new.

In 1988, 1994 and 2000 there were devastating Cape fur seal die-offs along the South African and Namibian coasts. The cause is not certain – it might have been starvation, or disease, or both. Namibia reported that 300,000 seals died in the 2000 die-off. No comment or campaign from IFAW.

But 2000 was also the year of the notorious *Treasure* oil spill, near Cape Town. TV screens were filled with horrific images of thousands of suffering, oil-soaked penguins.

IFAW pulled out all the stops: Within days of the spill it had foreign and local experts, bedecked in IFAW-branded T-shirts, on the scene to help the penguins. It hired a photographer to make IFAW-positive images for the world press, and mollycoddled journalists of all stripes who covered the event. Who can blame IFAW? The rescue was costing the or-

**“So much media coverage might not be healthy for diamond profits”**

sealing happened on De Beers-owned land, in the Kleinsee seal colony just south of the Namibian border. De Beers owns the farms Annex Kleinsee 193 and Dreyerspan 192, which form part of its mining licence area. The colony is in a high security area, i.e. no public access. In 1977, all seal pelt exports to the US from SA were banned due to US authorities declaring the hunt inhumane, and because hunters were exceeding quota – but De Beers clearly didn't care about that. The annual Kleinsee cull ended a full 13 years later after a public outcry.

**A**NOTHER PARTY that's loudly disgusted at this year's Namibian seal cull is the International Fund for Animal Welfare (IFAW). Founded in 1969 to stop the Canadian seal hunt (still the world's largest), IFAW has grown into a massive multinational animal welfare NGO. Donor income was US\$91 million

organisation millions and it needed publicity-payback. (The Worldwide Fund for Nature – WWF – was there too, and a nasty catfight erupted behind the scenes when Mohammed Valli Moosa, then SA's popular environment minister, toured penguin facilities wearing a WWF T-shirt instead of an IFAW one.)

Ark cannot recall any IFAW-backed outcry around the seal die-off. Or an IFAW-backed seal-feeding effort, or a humane seal-killing effort, or even a research effort to figure out why seals were dying in such large numbers.

Why did IFAW make such a fuss about oiled penguins while almost ignoring a massive seal die-off just next door? Do pathetic oil-drenched penguins provoke donor wallet-opening behaviour more readily than do starving seals?

These are questions worth pondering. Watch this space.

■ *What's the gossip in your neck of the woods? Send your "green" skinner to [noseark@noseweek.co.za](mailto:noseark@noseweek.co.za)*

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# Cuddly quaffing

**HAVE NO IDEA** how people choose wine. I don't mean those who fancy themselves connoisseurs and buy only after much swirling and spitting and judicious mumbling, but proper people who just want something decent for their money. Failing experience or trusted advice (professional or not), the safest and most boring answer is to choose the big brand name. But the wines will generally be boring too, and probably over-priced, to help pay for all the advertising.

If a wine has pleased a judging panel, it is probably not bad – but I'm afraid that most big comparative tastings give results that are seldom more plausible than if all the labels had been tossed in the air and prizes awarded according to where the label fluttered down. This is something that a few wine-judges reluctantly admit, and that all surely know in the secret, sozzled recesses of their hearts.

Pretty labels? Perhaps as plausible a guide as most. Surely many wines are sold because the label complements the kitchen curtains or the host's eyes or ties, or bears a design that is inviting and unthreatening or (depending on your pretensions) one that suggests grandeur or chic. Why not? All other things being equal (or equally unknown) one might as well get something that pleases the eye – just in case it's not going to please the taste-buds.

Peering along the shelves of my local supermarket, though, I was struck by the poor design of most lower price-points labels. I was checking for a category of label that apparently does extraordinarily well overseas, particularly in the United States, where they speak of "critter wine" – in bottles bearing colourful labels representing some more-or-less charming animal – any animal, in fact, represented more or less charmingly.

The pioneering, and most successful, critter wine is a much-hyped Australian called Yellow Tail, which features a "primitively" drawn wallaby. A cynical, accountant-designed wine from well-made start to sugary finish, it has made vast amounts of money and spawned a large and heterogeneous progeny. (To the discredit of Woolworths' usually discerning wine-buyers, they dumb down their selection by stocking the stuff.)

**In the US they speak of 'critter wine', bottles with bright, colourful labels representing some more or less charming animal**

So now penguins, frogs, crocodiles and emus are crawling all over American wine shelves, trying to exploit that nation's susceptibility to cuteness. It's not a guarantee of a wine's success but, according to industry analysts, it helps a lot. (Strange, perhaps, to think of the hypocrisy whereby these appealing creatures will accompany meals featuring the cooked corpses of other animals – but heaven forbid such morbid or cynical notions.)

We in South Africa tend to be a bit blasé about wildlife, and so are less impressed when they appear on our wine labels. Quite apart from the calculatedly "primitive" illustrations, there are not many labels with proper animals, red in tooth and claw – though the occasional bird, leopard or whale does pop up.

As to the real "critter wines", they seem mostly destined for foreigners. The biggest-selling Cape wine of all, particularly in the UK, is the Kumala range, which features a winsome gecko. These wines are available here now – but their pricing is international (to prevent foreign tourists being irritated by the sight of their tippie being available much cheaper here than in Manchester), and not commensurate with their ordinariness.

Rather cheap (around R20 a bottle) is another critter range, produced by the mega wine company DGB. These varietal wines, coyly named Tall Horse, bear brightly coloured childish drawings of a giraffe. They're adorable labels. If the artwork is designed to appeal to infantile or sentimental tastes, then the wines are appropriate. To invoke an organoleptic category occasionally deployed by professionals, they are rather awful. But let's not be narrow-minded – they're only awful if you like good wine. You might love them if you enjoy sweetish, soft fruity drinks with a bit of oak flavouring that certainly didn't come from loving maturation in fine oak barrels.

When taking the stuff off the Pick 'n Pay racks, I check furtively that none of my friends are watching. If they should appear, I planned to glance contemptuously at the bottle, give a superior guffaw and replace it with the much better Alto Rouge – which is a bargain at little more than R40. The elegant label won't entertain the kids much, but it'll look more respectable, even if you're not a wine snob – and who is, after all? **■**

# Miss Featherstonehaugh

**WAS ALWAYS AN** admirer of Cyril Ramaphosa, and what a pity he didn't become president as Madiba suggested. You see, he didn't take his intellectual ass to England and get a university degree in wisdom as his contribution to the Humble People's Great Liberation Struggle, but took on Oppenheimer in a miners' strike, total, in 198-something, and ou Herrie taught him a thing or two about labour relations and won hands down, so to speak, and that's the sort of thing that makes you wise, I should say. Also tough.

So, in the middle of all that industrial *skiet en donner* I bought myself a beaut red T-shirt with a big slogan shouting SUPPORT THE MINERS' STRIKE, and just about that time, too, came an invitation from my old *bandiet boeta* Tobroek to take a nice holiday with him in his nice big house in High Barnet, north of London, where the toffs have their being. How he got from Pretoria Central to this classy place where, by law, horses and horseladies with big bums have precedence over motor traffic, like sail before steam, that's anybody's guess, but what a treat, and I can get in some lovely cool marathon training along sundry romantic country lanes and think of John Constable's paintings.

I don the T-shirt and sally forth towards St Albans early of a beautiful summer's morn 'midst foxes and bun rabs and things sunning themselves on the tarmac, and certain words from G F Handel run through my mind – "Let fleecy flocks the hills adorn; and valleys smile with waving corn" – since that's exactly as it is around here. At about 15 kays I turn for home and take a route through a truly cosy, sweet little village, I mean it really does have English country gardens and all, and there at a little inn stands a group of young people setting out for a jolly picnic somewhere, and as I come past one of them cries in a proper posh voice OH I DO SAY, just look at this fellow! and all cry Communist at me and shake their fists because, I reflect, Margaret Thatcher has but recently won the Falklands War and smashed up the British mineworkers' union and she's jolly popular.



Making a  
clean breast  
of it in T-shirt  
rainbow

So I let fly a volley of lavatorial expletives in German, this being best for that category of curses, also I remember certain Spanish ones from Hemingway, and cry: I piss in the milk of thy mother! and with suitable aurally-and-lingually-disadvantaged finger language tell them what they can do to themselves and, in Zulu, what they can do to their dogs. Even after 20 kays I can still run a bloody sight faster than any pudgy Tory fart, I reckon.

But to get so pumped up with venom is bad for one's training schedule. So I haul in at a tourist shop that afternoon and buy a Falklands celebratory Union Jack T-shirt, and next morning as I run a route towards London I come upon a bunch of disgruntled men seated in the sun outside a prole-looking pub, and they're already pretty legless by mid-morning and threaten to beat me with beer bottles because I am a no-good National Front fascist yob. So bending down a bit, with suitable Yiddish audibly/vocally-challenged hand-language I suggest they *Kush mir im Tochis*, and they can scarce walk, never mind run, so I'm okay.

Well, when I got back to Durbs I just ran in my Durban Athletic Club vest. I gave the Union Jack one to a veteran club-mate, name of Fihlokwakhe Zondi, who admired its brilliance. One brisk a.m. we set out on a half-marathon run along Ridge Road, then down the Burman Bush and on to Virginia Airport and back. Ridge becomes a little steep lane towards the end, and there on a neat little gate it says FEATHERSTONEHAUGH. What's ...er ... that thing? says Fihlo. No, that's somebody's name, say I, and even as I speak a mid-aged woman with gardening gloves and secateurs pops up from behind the hedge and declares cheerily I am she, Miss Fanshaw! And how lovely to see the old colours again, after all these years! she exclaims. Yes, says Fihlo, the natives are restless, we are going to show the flag in Matubatuba.

She goes blank. It's not that she disapproves or disagrees or anything, it's just that the words are blocked between ear and brain. She smiles a little, absently, because she is a lady. Fihlo cups a hand to his ear. Hear the throb of distant drums o'er the far-flung veldt! says he. She blinks. I don't want to delay you, says she. He puts his best foot forward, clenches a fist rearwards and throws back his head like Kitchener at Khartoum and points up ahead: On, on to Umbumbulu! he cries. I thought you said Matubatuba? says she. Yes, first Matubatuba, says he, but the drums are throbbing in Umbumbulu too, summoning the tribes to a Zooloo War Dance. She tinkles her fingers and further smiles, tentatively. Be careful, says she. ▣

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