

news you're not supposed to know

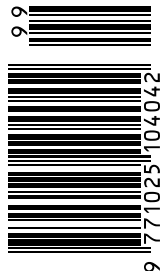
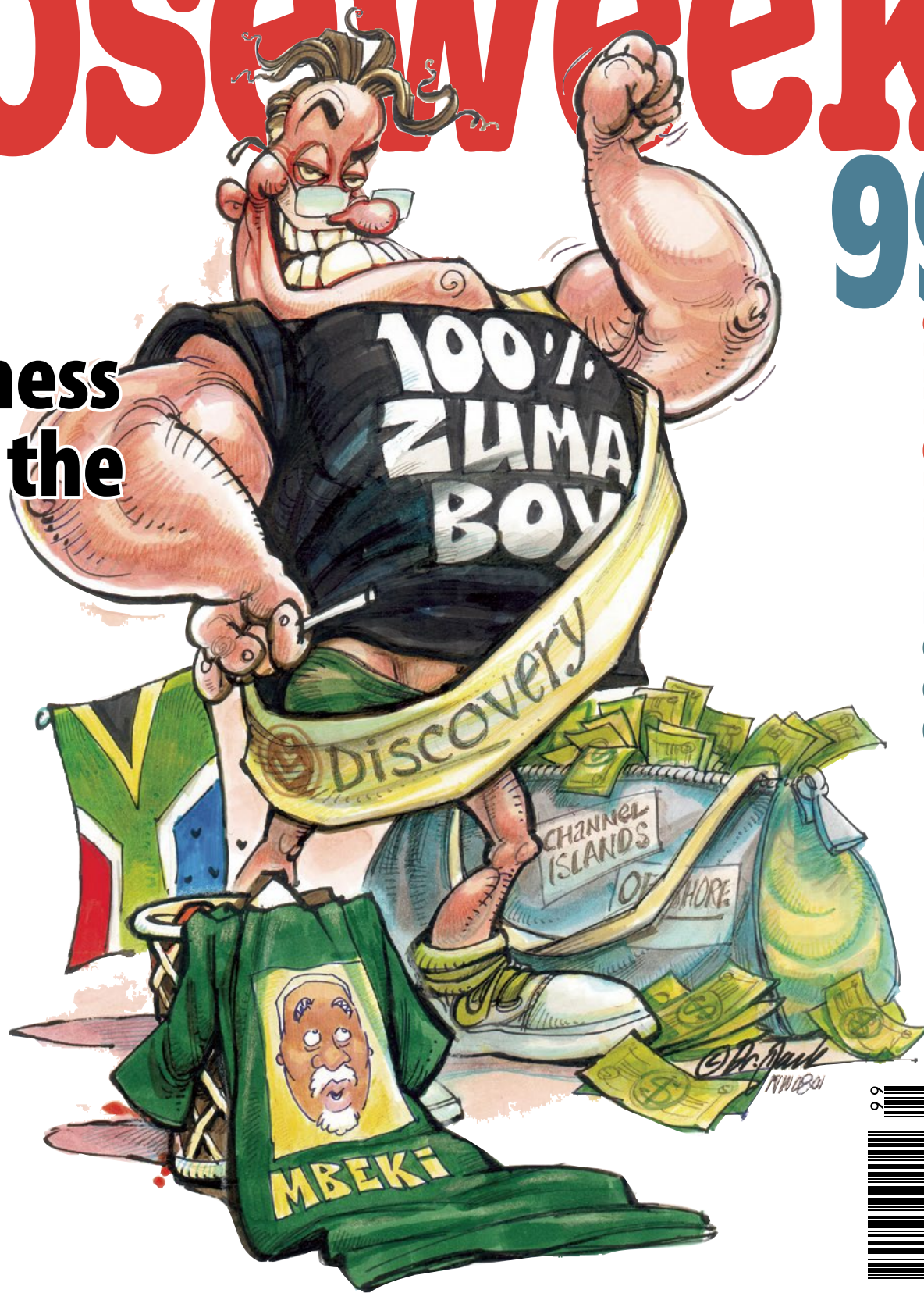
R29⁹⁰
(including VAT)

noseweek

99

JANUARY 2008

Does Business trust the ANC?



Billion-buck biker Sharemax: just another pyramid scheme?
Court decision defies logic Banks keep lapdog lawyers on tight lead



**JACK DANIEL NEVER USED A CALENDAR
TO JUDGE A BATCH OF WHISKEY. HE USED A SIP.**

SEVEN GENERATIONS LATER, WE STILL DO THE SAME.

JACK DANIEL'S  TENNESSEE WHISKEY

www.jackdaniels.co.za

©2006 Jack Daniel's. All rights reserved. JACK DANIEL'S and OLD NO.7 are registered trademarks.

Not for sale to persons under the age of 18. Please drink responsibly.



8 Does Business trust the ANC?



- 4 Letters** Ansbacher cheques out ■ Nine bent briefs hanging on the wall ■ Hard Cell ■ Making a hash of it ■ Is the Fund fair? ■ Accident or design? ■ Let the good times payroll ■ Above his station ■ Messrs Delivery ■ Rendition ■ Here's to Discovery's good health ■ Suckered by Rennie and Field ■ Absa pays up
- 6 Dear Reader** Discovery bosses' confidence trick
- 6 Mr Nose** Jackie's smuggler pal pitches up in Joburg ■ Hijacked by Imperial Motor ■ Go get him, Tiger ■ Been through the mill
- 9 How Fedbond bankrolled dicey developer** Shady businessmen show middle finger to public and investors
- 13 Billion-buck biker** A German tycoon is taking the Road Accident Fund to the cleaners for R1.6bn after he lost an arm and a leg in an accident in South Africa.
- 16 Sharemax: blue sky investment or good old pyramid scheme?** Property syndication schemes may be building on shifting sands
- 20 On a tight lead** Banks keep lapdog lawyers well-fed but firmly muzzled
- 22 Political gamble** How a fortune was lost on the KZN Lotto
- 24 I'll be the judge** When a court's decision defies logic
- 26 Notes and updates** Mark Brumer: Further developments ■ South Africa Sucks blog: Twisted foolishness ■ Rendition: You saw it here first ■ Shoprite Checkers: Big Hole of Hermanus ■ Barbara Jean Herman: The sheriff's gardener
- 30 Falling for it** A new book leaves you wondering whether any dives on the cricket field *haven't* been fixed
- 32 Bites and pieces** Hilary Prendini Toffoli eats the instructions
- 34 NoseArk** Poisoned relationships
- 36 Web Dreams** Reptilian Royalty
- 37 Wine** Not-so-green bottles
- 38 Last Word** Snare and delusion

Buy
noseweek
subscriptions
online 24/7
for
print and Internet
editions

www.noseweek.co.za

**noseweek online
gives you 14 years of
great news you're not
supposed to know –
easily searchable for
thousands of names**



Ansbacher cheques out

Following your go at FirstRand about their Ansbacher "division" (*noses96&97*), it will not surprise your readers to learn that Dave King, the scarlet pimpernel of SARS fame, pays his bills with Ansbacher cheques in the name of his wine estate. I wonder if the slow-to-act SARS team investigating him are familiar with these cheques?

Joe
By email

And King doesn't feature on the bank's supposed list of Ansbacher clients handed

Hard Cell

Please don't be so hard on Cell-C. It is not intentional that they promote an environmentally destructive vehicle, also used by the American military to stuff up Muslim countries: it is ignorance on their part. Their marketing department just doesn't know about the awful reputation of the Hummer. They (Cell-C) are not arrogant – they will apologise and move on to an environmentally friendly promotion. I hope. Actually, many of us hope.

Laurence
Blairgowrie

Hummer campaign – that Miya got Cell-C to pay for.

By the way, if Net-hash-work can win tons of awards ripping-off South Park (for Opel Corsa), and get away with it ... yup, I'll never work in this town again.

Lisa Simpson
By email

Is the Fund fair?

The contention (*nose98*) that the Road Accident Fund has a policy not to make lump sum payments for road accident victims' future medical cost, but furnishes undertakings in respect of such damages, is

Accident or design?

Thank you for highlighting the plight of Mr Walter Mkhize and thousands of other road accident victims (*nose98*).

For some reason the RAF keeps denying that the issue of Undertakings is official policy. These denials are not borne out by the facts.

I have been representing victims since 1993. In not one of the 1500-odd cases in which I have been involved since 2000, has the fund tendered anything other than an undertaking in settlement of a victim's claim for future medical expenses.

Judge Kathy Satchwell's 2002 Commission into the Road Accident Fund, reported that "during August 2001 the CEO of the RAF issued a directive to staff that future medical expenses were all to be settled by the issue of an Undertaking and not by payment of a lump sum." If that directive has since been withdrawn, then it is only my clients that are being discriminated against by still having undertakings foisted on them.

The policy is obviously working, so why would the RAF abandon it when it's pleading technical insolvency? How can they possibly deny that they have such policy? Is it pure coincidence that only 3% of victims are getting any sort of relief for their medical and hospital expenses?

Anthony Millar
Norman Berger & Partners Inc, Jo'burg

Let the good times payroll

In *nose98*, you ask: "Where does the [Road Accident] Fund's R19m-a-day income go?"

I can tell you where about R5m of it went – in a payroll bungle that delivered an extra R40 000 to R50 000 in the November 2007 pay packets of every single member of the fund's staff at Sanlam Centre in Pretoria!

Earlier last year the fund's CEO, Jacob Modise, dangled the lure of performance bonuses if specified targets were met. The toiling staff obliged, but Modise – was it at the urging of his rottweiler, er, manager Lyndsey Steele? – changed his mind.

At the end of November, the 100-plus Pretoria workers were ecstatic to discover the R50 000 salary top-ups. The boss had come through! Not a bit of it.

Cell-C will apologise and move on to an environmentally friendly promotion. I hope.

into court either (see nose97). Wonder why? Now see page 8. – Ed.

Nine bent briefs hanging on the...

It was with sadness that I read (*nose98*) of the unhappy fall of Scottburgh attorney Pierre Cronje. He was one of the few decent attorneys to have acted for me, years ago in Cape Town, before he left for Natal. Eight of my former attorneys have since been struck off the roll for dishonesty involving their trust accounts.

Richard Benson
Pinelands

Making a hash of it

Surely we must give Abdulla Miya (*nose98*) credit for honesty about his lack of knowledge of the car market. How much can he possibly be expected to know, considering that he was once a client service manager at BMW? One also wonders how much he's absorbed over the years that his agency Net-hash-work has had the Ford/General Motors account? (He didn't tell you that?) He's so modest when he says he's the MD of a "small fry" agency.

In short: GM/Hummer must be extremely pleased with the

incorrect.

The Road Accident Fund Act 56 of 1996 gives the fund the option to pay the present day value of expenses in a lump sum, or furnish the injured party with an undertaking to pay the expenses as and when the costs are incurred.

Such an undertaking eliminates the uncertainties that are involved in having to adjudicate a final lump sum for future medical expenses.

A lump sum payment more often than not fails to achieve the objective of compensating a person for such damages, as:

- the cash can be used for non-medical purposes;
- medical inflation may increase at a higher rate over the years than the inflation rate used at the time of calculating the lump sum payment;
- advances in medicine may result in treatment being available in later years that was not foreseen;
- the life expectancy applied when calculating a lump sum amount may prove to be incorrect.

But, while an undertaking does have these benefits, the RAF does not have a policy that lump sum payments will not be made for future medical expenses. Each claim is considered on its own merits.

Lyndsey Steele
Senior manager, on behalf of the CEO, Road Accident Fund, Pretoria

Gus

INTELLIGENT DESIGN



"And the Lord, in all His wisdom, gave us opposable thumbs that we might text our friends"

It was an administrative boob and staff were ordered to repay the bonanzas or risk a visit from the rottweiler. This presented a problem for some, who had already spent the extra cash on lavish Christmas presents and pre-paid holidays.

Cheesed off
Pretoria

Above his station

I read with interest your account of the Hermanus station-site battle (*nose98*), but express no opinion. I wish only to correct an historical error. Your suggestion that the roots of the drama are to be found back in the days when Sir William Hoy was general manager of the railways are probably right – but your dates are wrong. A Scotsman, he joined the Cape Government Railways in the 1890s. Wisely, in 1901, he married the general manager's daughter and by 1910 was himself the general manager. The railway from Cape Town to Caledon via Botrivier was completed in 1902. Hoy died in 1930. Your contention that he became general manager in the 1940s would therefore imply he was disinterred for the job – a proposition which, I fear, is not viable.

Murray Wilson
Bergvliet

And why not? I know of many such senior executives. – Ed.

Messrs Delivery

Having let my subscription lapse last year, I then realised that each month I was still buying the mag, as without it I'm simply out of touch. I have Scottish ancestors, know a good deal, and renewed my sub.

And then Christmas came early in the form of a gift pack containing two bottles of fantastic wine from Ken Forrester: I'd won the lucky draw for renewing my

subscription! Don't we all love a freebie!

You both deliver consistently. Thank you for that.

Jeremy Sampson
Illovo

Rendition

Many thanks for the movie invitation to *Rendition*. We're already an addicted bunch of *noseweekers*, but being able to put faces to names adds another dimension.

I expected it to be a fundraiser. In fact, it occurred to me that – heaven forbid – *noseweek* was in financial trouble. At times during your brushes with the law, I'm sure that was the case.

With all its flaws, *Rendition* powerfully brought home the full iniquity of the abandonment of due process.

I shall be transferring a small donation towards your costs as a gesture of appreciation.

Henk Rubidge
Sea Point

Thank you! The best gifts are the unexpected ones. – Ed.

■ Thanks for inviting us to the preview of *Rendition*.

Contrary to our expectations, it turned out to be a thought-provoking film.

Bennie and Irma Edelstein
Cape Town

■ Thanks for the opportunity of seeing how insidiously the US CIA/FBI operate throughout the world. *Rendition* was a frightening movie. More's the pity that most people are unaware of, or care less about what's happening at Guantanamo Bay. Governments tend to play dumb and lie. Now our government, too, has lied about its involvement.

Jo Maxwell
By email

Here's to Discovery's good health

For whatever the reason, one sometimes reads negative comments in *noseweek* about Discovery Health. To balance the scales, so to speak, I wish to note my positive experience and publicly express my gratitude to Discovery Health.

In November 2006, after submitting a letter of motivation, Discovery Health's ex gratia department approved the expensive year-long treatment I required. In February this year, when it became evident that I required additional and expensive supporting medication, their ex gratia department again came to the rescue.

Their generosity has assisted me in regaining my health and has relieved me of an enormous financial burden for which I am most grateful.

J Rosenmann
Cape Town

Suckered by Rennie and Field

I am one of the unfortunates that got suckered by Rennie and Field (*nose98*) and nearly lost everything.

My architectural practice was commissioned to do three developments involving them, which resulted in disaster for almost all the professionals and contractors involved. The three projects – two in Mount Edgecombe, and the Scottburgh shopping mall – were begun by a Rennie-controlled and Fedbond/Field-funded company called Wilbat, later changed to G C Rennie & Associates. It finally went into liquidation in the hands of the Craig Family Trust – and ended up belonging to Field's company!

Rennie and Field orchestrated the liquidation of the trust thus ensuring that they washed their hands of the

R9,6m debt to the professionals and contractors involved in the planning and construction of the Scottburgh Shopping Mall.

I have a letter from Field (Fedbond) personally assuring contractors that "a further bond of R4m was being registered to pay the professionals and sub-contractors". It turned out to be nothing more than a scam to entice us to do more work without payment in order to complete the centre before Field took it over. The bond was registered, but the funds were diverted!

The professionals involved in the project were not prepared to issue the required certificates of completion and compliance before they were paid. Field claimed it would be easy to "arrange" for all the necessary certificates elsewhere. I brought this to the attention of the Scottburgh Town Council at the time – to no avail. The required certificates have still not been issued and the tenants in the Scottburgh Shopping Mall have been allowed to trade despite the risk they run with regards to insurance or other claims resulting from fire or structural faults.

Louw Zietsman
Durban

Absa pays up

In *nose98* you reported that Absa had refused to hand over R50 000 promised more than a year ago to the Teddy Bear Clinic for Abused Children. (The donation was negotiated by the Wits Medical Students Council.)

I have investigated the matter and established that the amount at issue has recently been paid.

Deon Oosthuizen
Absa Group Communications,
Johannesburg

YOUR COMPLETE SOFTWARE SOLUTION

- Trust Accounting
- Property Transfers
- Bond Registrations
- Debt Collection
- Litigation
- Bills of Cost
- Trade Marks
- Electronic Instructions
- Case Management
- Client Billing
- Diary System
- Time Management
- Management Reports
- Admin Orders

LEGALSUITE SOFTWARE

"MAKING COMPUTERS WORK FOR YOU"

0861 711 150

FOR A FREE DEMONSTRATION.
WWW.LEGALSUITE.CO.ZA

Editor

Martin Welz

Production editor

Tony Pinchuck

Assistant editors

Hans Muhlberg

Gauteng bureau chief

Jack Lundin

Censor-in-chief

Len Ashton

Sub-editor

Chas Unwin

Senior reporter

Mark Thomas

Cartoons

Myke Ashley-Cooper

Gus Ferguson

Dr Jack

Meg Jordi

Godfrey Mwampembwa

Contributors

Tony Beamish

Tim James

Marika Roth

Hilary Prendini Toffoli

Harold Strachan

Hilary Venables

Subscriptions

Maud Petersen

Advertising

Adrienne de Jongh

Accounts

Nicci Joubert-van Doesburgh

Copyright All material in this issue is copyright, and belongs to Chaucer Publications (Pty) Ltd, unless otherwise indicated. No part of the material may be quoted, photocopied, reproduced or be stored by any electronic system without prior written permission. Disclaimer While every reasonable effort is taken to ensure the accuracy and soundness of the contents of this publication, neither the authors nor the publisher will bear any responsibility for the consequences of any actions based on information contained. Printed and Published by Chaucer Publications (Pty) Ltd.



SUBSCRIPTION RATES

Print

SA only	R276
Neighbouring states (airmail)	R350
Europe, Americas and Australasia	R400

Internet edition

1 year	R265
--------	------

Combined

Print+Internet (SA only)	R426
--------------------------	------

To subscribe

By post: Send cheque with name, address and phone no. to: noseweek, PO Box 44538, Claremont 7735.

Via Internet (pay by credit card):
www.noseweek.co.za

For further information call
(021) 686 0570 or
email maud@noseweek.co.za

Confidence tricksters

OUGHT BUSINESS to be terrified of losing Thabo Mbeki as president? And even more terrified of having Jacob Zuma as our new president? Relax. We suspect Jacob Zuma will be eagerly welcomed by many of the biggest players in South African business circles. Big business has traditionally used its financial muscle, generally in private but often enough in public, to influence government policy and policy makers. Bribery is too crude a word. Ubuntu and share-and-share-alike sound so much less aggressive – and we're all for peace.

All the evidence suggests Mr Zuma knows how to play the game. It won't require too much agonizing for business and government to come to terms. Mr Zuma has many wives and a large family to support. He has no time for crap. And he likes being generous, given the means.

But of course there are as many businessmen who will hail the chief – as they always have – because they have long hedged their bets. That's where our lead story begins.

Last year there was much controversy when we revealed that various Discovery Health directors and senior executives had been involved in suspect off-shore dealings through Ansbachers, FirstRand's so-called private banking division.

FirstRand spokespersons rushed to defend their executives, accusing us of ignorance and malice, and claiming, *inter alia*, that their use of the "Duisberg" loop structure – an illegal means for residents to move control of their South African assets offshore – had been an innocent, albeit unfortunate, mistake that has since been confessed to the authorities and put right.

In fact those denials and protestations of innocence make the true extent of their offshore

activities – as we have now discovered – all the more sinister and shocking.

The directors and senior executives of South Africa's largest health management company – a major bank in its own right – that we name in our lead story, clearly have no confidence in the future of the country, whoever the ANC might choose as president. For several years they've secretly been taking their substantial profits off shore. In short, they're ready to run at a moment's notice.

Also worth noting here: Ansbachers received instructions to set up offshore trusts for Discovery's directors and executives (to hold their Discovery shares) in May 1999. Yet they are not reflected in the Ansbacher accounts for that period "discovered" by FirstRand in the Spitz case. Why not? Were separate books kept for such special clients?

And we note that our friend Laurie Dippenaar, although a Discovery Holdings director since September 1999, does not feature on the list of that company's directors who moved their shares offshore. Was he too patriotic to consider such an option? Not really. Perhaps he was just that bit more discreet: we've found a document which reveals that on 17 April 2000 Mr Dippenaar consulted Ansbachers about a "bearer share company proposal". South African company law does not recognise bearer shares, the ultimate way of keeping the ownership of a company secret. They are, however, recognised in well-known offshore tax havens such as Liechtenstein and Zug. What did you have in mind, Mr Dippenaar?

Don't miss our next issue for more ...

The Editor

Selebi's ex-pal gets cosy in Jozi

WHO SHOULD HAVE pitched up in Joburg shortly before Christmas but Imran Ismail, the grey goods smuggler and money-lauderer who, it is said, orchestrated regular cash payments to national police commissioner Jackie Selebi (noses89,90,91).

Mr Nose's friends in smuggling circles say Ismail, who has been hiding out in India, was huddled in a series of tense meetings with the Scorpions soon after his arrival in Joburg. Like that other crime kingpin, Agliotti, Ismail hopes to secure

indemnity from prosecution in return for testifying against his former best buddy Selebi. It's called a Section 204, but indemnity is only finally granted at the end of any subsequent trial if the judge believes the witness has given full and truthful evidence. Ismail has been at the heart of the billion-rand cigarette and grey-goods smuggling business for the past decade. Letting both Agliotti and Ismail off the hook is a huge price to pay for nailing the allegedly corrupt police commissioner. But then again no price is too

big to root corruption out of the heart of our body politic.

Steven Ferrer – the smuggling syndicate's ex-paymaster who first told *noseweek* about the envelopes containing between R5000 and R10,000 he'd handed to Selebi on Ismail's orders, is not amused at the latest development. Marooned and broke in distant Atlanta, Georgia, Ferrer had hoped to secure immunity for himself, and thus be able to return to South Africa. But it seems Scorpions prosecutor Gerrie Nel believes that Ismail is the better deal.



Mr Nose puts it about

Hijacked by Imperial Motor

WHEN DEON DELPORT needed a big brother for his brainchild vehicle-testing company, Imperial Motor Holdings stepped in with the capital in exchange for a 66% share. Delport's SafeDrive set out to clean up (and make money out of) the rather hairy roadworthy vehicle testing industry, and it did extremely well. Franchisees queuing to join, and finance providers and insurance companies were more than pleased with the vehicle tests.

But then, Mr Nose hears, one fine day Mr Delport went on holiday, and Imperial got to work. On his return Delport found that

Imperial had contrived to get him suspended, got his bank account frozen and had set about putting the company into liquidation. Imperial claimed it had been shocked to discover that SafeDrive's liabilities exceeded its assets by R24m.

Impossible, said Delport, and brought in auditors Deloitte & Touche, who soon discovered some curious book entries – made by Imperial's henchmen. On reversing these entries, the shortfall was found to be less than R9m – quite manageable in the normal course of business.

The latest rumour has it that Imperial bosses

had re-read their contract with Delport and realised that if all went well they would have to cough up some R30m at the end of their seven-year deal. Much cheaper to chuck him off the wagon earlier with some nifty bookkeeping.

It's not only Delport's own fortune that's at stake; some 21 franchisors have their savings invested in the scheme.

Battle has been joined, and a public inquiry is set to begin at the Old Edwardians club in Lower Houghton at 09h30 on 31 January. Will the Imperial-nominated liquidator dare to ask the right questions? Be there. Mr Nose will.

Been through the mill

WHAT KIND OF business builds a fortress with gun-slit windows on a site with spectacular views of the Cape Peninsula?

Mr Nose was so intrigued that he visited the website of the Westlake-based company, Achievement Awards and discovered they're all about staff motivation, which seems innocuous enough, although hardly in keeping with the forbidding facade. But it was the CV of the CEO, Geoff Amyot, that gave Mr Nose pause.

On Media 24's "Who's Who" site, he discovered that Amyot has an impressive list of credentials, including a bachelor's degree, a master's and a doctorate in business administration from Rochville University, USA.

Rochville? You'll find all you need to know about it on the website www.phony-diplomas.com.

Rochville is one of the more notorious "diploma mills" which issue qualifications without requiring "students" to open anything more challenging than their cheque books.

It claims to be an accredited institution, but neither of the organisations it cites is recognised anywhere.

Mr Nose asked Amyot to explain, and he admitted that since acquiring his degrees, he had realised they were not worth the paper they were embossed on.

He couldn't remember how much he paid, but thought it was something like R42 000 apiece. According to the Rochville site, the fees are now between R84 000 and R98 000 a degree.

Straight after our chat, we revisited the Who's Who website to find that Amyot's dodgy qualifications are no longer listed.

Quick work, Doc.

Go get him, Tiger!

SAY "CORPORATE VISION" and Mr Nose develops a slight twitch in the neck. When an annual report presents shareholders with the board of directors' (invariably rosy) "vision", spread over many lavishly illustrated glossy pages – Mr Nose knows he'd best have a good hard look at the accompanying balance sheet.

In 2006 Tiger Brands' chief executive Nic Dennis declared that Tiger's vision was "to be the most admired branded consumer packaged goods and healthcare company." Well we know where the "healthcare" is headed – for a separate listing.

And we know where the "most admired" went once the world got to know that Tiger had for years con-

nived at taking bread from the mouths of the poor.

Now Nic Dennis heads for new visionary experiences elsewhere, just as the *Sunday Times* places him right near the top on the list of SA's big earners.

Two other directors on the same list have also quietly left Tiger. One of these, Franklin, headed the bread and milling divisions – both involved in the collusion around price fixing. My gosh, see what Mr Franklin's worth – crime *does* pay!

The other director, Norris, headed the FMCG and Healthcare divisions. Does this mean we should be checking out the pricing of products like Myprodol, where there is only one other competitor? Or hospital products where we

know the Tiger medical aid has an exclusive deal with Netcare? We already know that all is not right in the pricing structures between Netcare and suppliers.

Mr Nose would also love to know what share options were traded while the investigation was on the go – Tiger executives certainly had a much better idea of the likely extent of the fine than shareholders did. Are any other investigations underway that Tiger directors are not telling shareholders about?

And then, when Nic Dennis resigns, the head of the Black Managers Forum begins chanting the praises. OK, he's paid millions to do it, but Mr Nose can't help thinking, with all that singing, that there's another game being played ...

LAST YEAR (in *nose95*) we reported how, late in 2000, Eunanda Grobbelaar in Ansbacher's Joburg office had informed her colleague Adriel in the bank's Caribbean office that "the Discovery Health executives would like to redeem their shares in Duisberg". You may recall that Duisberg was an innocuous looking company registered in the Virgin Islands by Ansbachers for use in hiding the ultimate destination and purpose of South African funds sent offshore by its wealthier clients.

Named in her email were Aubrey Cimring, a director of Discovery Health until August 2002; Neville Koopowitz, at the time MD of Vitality, later CEO of Discovery Health; Alan Pollard, then Discovery's head of research and development and currently CEO of Vitality; Shaun Matisonn, a director from inception until March 2007 when he became CE of Discovery's British venture, PruHealth; and Dr M Goodman, Discovery's chief medical officer.

Had they simply, innocently, made the mistake of using a structure recommended by a respectable bank to invest their legitimate offshore investment allowance abroad? And were they now, like good citizens, bringing it back to undo the mistake?

Not on the evidence we've unearthed! Far more likely, they were hoping to obliterate tracks they might have left to a much bigger scheme: they had quietly, secretly, moved offshore their shares in Discovery Holdings – which, since 1999, has allowed them to accumulate their dividends offshore too.

Here's how it was done:

In 1999 when FirstRand Group insurer Momentum acquired the majority of shares in Discovery Health Ltd, it was decided to offer a chunk of these shares to Discovery Health management. The shares became available for take-up – at R43.59 per share – on 5 May 1999, and the executives got loans from Origin (Rand Merchant Bank's private banking division at the time) to pay for them. An Ansbacher memo explains: "The executives planned to hold the shares in offshore trusts as they believed that the share value would increase markedly once Discovery listed on the JSE." It was then decided that the shares would be "warehoused" on behalf of the executives until the trusts had been established. Ansbacher Trust Services was instructed to establish trusts in Jersey for each of the executives to take ownership of the shares.

Ansbacher manager Mark Booysen was called in to ensure that the structure had "the integrity to ensure the non-resident status of the shareholdings". Their future dividends would then flow offshore.

According to Ansbacher records, the



Why always me? Discovery director Laurie Dippenaar

Looping the Duisberg loop

trust deeds were signed by the settlors (the Discovery executives) and couriered to Jersey on 3 September 1999. Sending the necessary funds to Jersey took somewhat longer.

Meanwhile, on 12 October, the Discovery Health Ltd shares were issued in the names of the respective trusts, "notwithstanding that the trusts had not yet been settled." The shares had not been paid for.

(In order to be "settled" a Jersey trust must have received something of value, usually cash, from the settlor. No cash had yet arrived in Jersey. The shares could themselves not be deemed the settlement, as this would constitute a large donation to the trust on which the South African settlor would be liable to pay donations tax – should the taxman find out. The trusts had to be seen to buy the shares.)

Discovery Holdings was listed on 20 October. DHL shares had already been swapped for shares in Discovery Holdings. The value of these shares was substantially higher on listing than at take up – for every one DHL share they'd only just bought for R43.59, the executives – or their offshore trusts – got nine Holdings shares then already worth R373.32!

The Discovery executives needed to transmit their maximum offshore allowance offshore so their offshore trusts had sufficient funds to purchase the Discovery shares from abroad. Only then could the shares certificates be stamped "non-resident". But as the Discovery executives did not have the necessary cash [*They were still poor in those days.* - Ed.], they were obliged to borrow more from Origin.

In the course of the share purchase the funds would, of course, almost immediately return to South Africa and be available to repay Origin, so only short-term bridging finance was required, but Origin

insisted on elaborate security arrangements which took time to set up, disturbing the required sequence of events.

As a result the executives' offshore investment allowances – the monies needed to buy the Discovery shares – only reached Jersey ("from Duisberg Ltd") on 1 February 2000.

Ansbacher in Joburg were confident the transactions were still valid. The Jersey office and their London solicitor, Christopher Sly, had serious reservations. (Sly took the frightening view that, legally speaking, the trusts were holding the shares simply as nominees for the executives.)

As far as Joburg office was concerned, the Discovery executives ran only one risk: that SARS might notice that the shares being "sold" to "independent" offshore trusts were being sold at the original purchase price, whereas at the date of this transaction they were worth nearly nine times as much. If that happened, the taxman was likely to treat the difference as a donation by the Discovery executive to the offshore trust – and zap him with a bill for donations tax (maybe plus penalties!).

According to the Ansbacher memo, the Discovery executives were happy to live with that risk.

But what if SARS challenged the integrity of the entire transaction, on the basis that it was carried out using the notoriously illegal "Duisberg" loop structure? Which is, of course, exactly what they had done – their offshore allowance was in fact routed via a supposed investment in Duisberg Ltd in the Caribbean to obscure its ultimate destination: a Jersey trust that was promptly going to invest the money back in South Africa – in Discovery shares. **W**

How Fedbond bankrolled dicey developer

Shady businessmen show middle finger to public and investors

IN OUR LAST ISSUE *noseweek* introduced readers to shady property developer Craig Rennie and his “unholy” alliance with participation mortgage loan provider Fedbond. Now we take a closer look at their machinations involving a well-known KwaZulu-Natal shopping mall, showing how they have undermined municipal governance, putting their own investors, and the public at large, at risk.

In the late 1990s, and by means of some typically convoluted and crooked transactions – the subject of another story – the Craig Family Trust (trustees: George Craig Rennie, generally known as Craig, and his wife and two children) became the registered owner of several hectares of farmland on the outskirts of Scottburgh, between the old Main Road and KwaZulu-Natal’s new South Coast highway.

An application for subdivision and rezoning of the land from agricultural to commercial use was made, but before this was finalised (it still hasn’t been), Rennie contrived to get the Umdoni council to condone his building a shopping mall on the northernmost portion of the land. Plans for the Scottburgh shopping mall were approved by the Umdoni council planning department in March 1999. In fact, at that point, building had already begun – Fedbond (then still Fedsure), regardless of Rennie’s reputation as a defaulter, and despite the land being zoned for agricultural use, had granted Rennie a R21m building bond and the shopping mall was already taking shape.

Nevertheless, already in the first month of building, Rennie was struggling to pay contractors on the project. Had the bond money, contrary to the

rules of participation bond management, been diverted elsewhere? Yes, some millions had gone to settling the debts of another Fedbond-financed Rennie project, in Mt Edgecombe.

Meanwhile, to reassure jittery contractors who had laid out large sums of their own money to buy building materials, Fedbond boss John Field took the unusual step of issuing letters of undertaking directly to some of the Scottburgh contractors. Fedbond claimed to be holding funds for payment to them against progress certificates issued by Fedbond’s own valuator, or the quantity surveyor on site.

On closer scrutiny the undertaking was close to meaningless, since it was made subject to the condition that “there is sufficient amount available from the amount advanced in terms of the bond to complete the building works”.

Simple arithmetic would have made it clear to Fedbond management that there was not nearly enough of the bond money left to complete the building.

Cheques issued by the Craig Family Trust to contractors bounced as often as they were met. On 18 June 1999 Rennie informed the increasingly restive contractors that a delegation from “his bank” – Fedbond – were “down from Johannesburg” for two days, planning a rescue operation “so that we will be able to pay all the subcontractors the amounts owing them”.

Five days later Rennie sent them copies of “a letter from my bank manager which is self-explanatory.” In it Field wrote: “This serves to confirm that we will be granting a further bond



Craig Rennie

of R4m on the above property in order to assist the developer in meeting the payments to the subcontractors and professionals involved.”

But the contractors were getting tired of the sweet talk. On the morning of 30 June they gathered at Rennie’s offices to inform him that they had resolved not to go back on site if they weren’t paid by 9 July. They weren’t.

A month later Rennie told them: “Mr John Field from Fedbond has asked me to give him an assurance that the subcontractors will go back on site if we pay them now.”

On 20 August 1999 Fedbond issued letters of guarantee, signed by Field personally, to several of the subcontractors, guaranteeing payment of specified sums upon registration of the promised R4m bond. One of the conditions: “This guarantee is limited to a period of six months from date of issue.”

The contractors went back to work, the bond was registered – but none of the guarantees were met. The contractors had been suckered into doing another month’s work for nothing.

The bond and guarantees are never again referred to by Rennie or Field. Instead Rennie starts talking about a new investor who will “shortly” be

investing money with which they will surely be paid next week, next month, next year. In this way he managed to keep them building – without payment – for long enough to complete shops in time for Pick n Pay and Spur to open on 10 November. He'd told the contractors that, if they carried on, their workers would be paid for Christmas. They weren't.

As the original contractors walked off site, ad hoc new ones were brought

on site with fresh promises – or desperate tenants set about completing their own shops as best they could.

This prompted the original electrical contractor, KPD Power cc, to advise Rennie: "We will not be responsible if shopfitters carry out electrical work at the shopping mall. Should damages arise, we will not be responsible. An electrical compliance certificate cannot be issued by anyone but ourselves. We have not issued any compliance certifi-

cate [because] the electrical installation is not complete."

In November 1999, V3 Consult, the consulting engineers who had designed and overseen the project from the beginning, wrote: "Because of non-payment of our professional fees, we have withdrawn our services from the project. We have not been involved in any final inspections and are unable to confirm that work has been done in accordance with our specifications.

Fedbond's side

noseweek is pleased to have received a letter from Mr John Field, CEO of Fedbond, declaring his own and his company's innocence of any wrongdoing, particularly of the kind suggested in our lead story in *nose98*. We invite our readers to take note of it, so that when, in forthcoming issues, we canvass various case histories in some detail, they may judge the merits for themselves.

We have cut those paragraphs from Field's letter that were based on his incorrect assumption that our

report was written by a certain Mr Des du Plessis, who had apparently declared his intention to do so. While we have spoken to Mr Du Plessis (among many others) and have had sight of his documents, our reports are based on our own research and our own reading of the thousands of documents we have collected from various sources. When we get to Mr Du Plessis' story, we will deal with Mr Field's criticism of and cautionary remarks about him. – *The Editor*

We refer to the article "How safe are houses?" (last issue of *noseweek*). Our comment was not sought before publication and the article contains numerous allegations regarding Fedbond, and myself, that are factually incorrect. We are thus compelled to point out the inaccuracies in the article.

■ It is correct that the Financial Services Board instituted legal action against Fedbond in 2003. We were accused of non-compliance with legislation governing participation mortgage bonds. The areas of alleged non-compliance were mostly not dealt with in governing legislation. Two separate and independent monitors, nominated by the FSB and appointed by the court, found that there was no merit in the FSB's application, and that the application should be withdrawn. The high court ruled against the FSB and their appeal was subsequently withdrawn by them and the costs were tendered.

■ Mr Rennie is neither my closest "collaborator" nor is he a close personal friend and "frontrunner". Mr Rennie was the owner of the Scottburgh Shopping Centre which was financed by Fedbond. An electrician employed by Mr Rennie sequestered the operation and we were forced to acquire the property from the liquidator to ensure that our investors' interests were protected. The shopping centre was not finished and Mr Rennie, in order to limit his accessory liability as surety,

did his utmost to assist us in finishing the shopping centre and in dealing with the tenants. He did attempt to repurchase the centre by paying a deposit of R5m and financing the balance of payment through Nedbank, but the finance application was not granted and the offer to purchase lapsed.

We accordingly repaid the deposit and subsequently sold the shopping centre to a third party based in Bloemfontein. It was not sold to Sharemax.

■ We did not break the law at every turn. We were given a clean bill of health by two independent and highly reputable professionals nominated by the FSB. Not a single investor in Fedbond has ever lost a single cent of his or her investment. Even while the FSB was continuing with its application (and placed an embargo on the acceptance of any new investments) Fedbond continued paying investors their monthly interest on capital invested, on the first of every month.

■ As outlined above, we do not make a profit at the expense of our investors. When we purchase a property from the sheriff or a liquidator we do so to protect the investors' interests. No Fedbond investor has ever lost any capital or interest.

■ We deny in the strongest possible terms that I manage properties financed by Fedbond "dishonestly" either with or without Rennie.

When Fedbond finances a property, the owner manages the property and Fedbond has no involvement unless the borrower defaults and we are forced to foreclose.

■ We deny that businessmen "pull out of deals" when they learn of my (or Fedbond's) involvement. We conclude property transactions frequently and very often with institutional purchasers. We did partially finance the purchase by the third party of the Scottburgh Shopping Centre, within the limits allowed by the Collective Investment Schemes Control Act. When we did not approve additional funds for the further development of the property the third party sought other finance.

■ We deny that the purchaser of the Scottburgh Shopping Centre paid a penalty of approximately R3m simply so it could secure finance with another financial institution. They sought other finance for the reasons set out above. The penalty was in terms of the mortgage agreement for early repayment.

■ I have no involvement in the day-to-day operation of properties financed by Fedbond. The allegation that I am involved in "compromising municipal planning departments" is incorrect.

In the light of the above, please allow us the opportunity to discuss allegations of the nature contained in the article before you proceed to publish the next article.

John WB Field

We therefore cannot provide certificates of completion or occupation.” A copy of this letter was forwarded to the municipal planning department “to indemnify V3 from any incidents on site”.

Chief architect Louw Zietsman went to Johannesburg to confront Fedbond. He got short shrift from Field. (See Zietsman’s letter on the letters page.)

So what, meanwhile, had been going on in the Umdoni transitional local council’s planning department? Not very much. In January 2001 – more than a year after the main contractors walked off site, and Pick n Pay and many other traders had moved in, a municipal planning official tells a valuator commissioned to value the Scottburgh mall property that “the property has not been rezoned officially and no zoning certificate can [therefore] be provided”.

The valuator notes further that “the construction of the mall has not been completed yet, as is evident from the following: roof ridge covering absent; light fittings in arcade absent; a number of shops vacant and in process of fitment; restaurant is totally incomplete. Certain persons have informed me that some of the shop owners have had to fit their shops out of own pocket in return for rent-free periods on their leases”.

According to quantity surveyor M Coetzee, the amount needed to complete the centre was R3,5m. Taking this into account, he estimated the value of the entire property at R20,4m. (bonds totalling R28m had already been registered on the property – R25m in favour of Fedbond investors.) And, it would soon emerge, monthly interest payments on the bond were not

being made, so that by 2001 the debt exceeded R33m.

In February 2001, the acting municipal manager, Mr G Naidoo, drafted a letter to his bosses, pointing out that a “letter of compliance” – declaring the building fit for occupation – could still not be issued for Scottburgh shopping mall, as crucial safety requirements had not been met. Despite this, Naidoo observed, “a shopping mall is operating from this property.”

An engineer’s certificate was still outstanding for foundations, reinforced concrete slabs, structural steelwork, retaining walls and roofing. (Structural engineer Mike Brown, who designed and supervised the job, had walked off site, and later emigrated, leaving neither plans nor notes.)

The architect’s final “as built” plans for all buildings, showing sewerage and stormwater lines, as well as certificates for safety glazing, were still outstanding. A road upgrade required by the provincial department of transport had also not yet been done.

Naidoo reveals how this all came about: “Council was at first reluctant to act upon this issue as the shopping centre has been a big boost to the local economy. Council is now concerned that the lack of completion will pose a threat to the safety of the local community, and has thus resolved to take action.”

Too late. On 28 February 2001 the Craig Family Trust was declared insolvent by the Durban High Court. By then, contractors were owed R9,5m. The main contractor, National Construction, struggled for a year, then itself went into liquidation.

On 9 March the principal building inspector, Mr R Cole, asks: “What legal



“No, Thursday’s out. How about never—is never good for you?”

**INTRODUCE YOUR STAFF
TO EVERYBODY
WITH PERSONALIZED NAMETAGS**

SignMax

Please mail your request to: signmax@mweb.co.za

Create the life you want

Co-active Life Coaching
leading the field, changing lives

THE
creative
COACHING
PARTNERSHIP

contact: Anthony Rogers

cell: 084 0588218

fax: 088 0236141095

email: arc@tccp.co.za

**Who nose and 'ears
everything on
the Garden Route?**

ACTION ADS

Knysna

12 000 copies weekly

Tel: 044 382 6673 / 044 382 7010
ads@actionads.co.za • www.actionads.co.za

COMPANY DIRECTORS

Websec offers 24-hour online information on directors of all SA-registered companies.



Low volume searches
(1000 pa) for R2750 plus VAT.
Contact lennon@accfin.co.za



Discover the
transformative
power of story

www.storytelling.co.za

steps have we taken thus far to acquire all outstanding documentation, bearing in mind that the centre is basically illegally occupied?"

Not long thereafter building inspector Isabel Simpson places on record that the electrical compliance certificate handed in by Rennie in July 2000 was inadequate – the electrician had signed it when the cinemas and several shops were still under construction and could not be certified.

As curious: Elite Fire and Safety Services cc had issued a fire clearance certificate for the mall on 2 December 1999 – but six months later the council inspectors discovered that the fire hose reels had been connected to a domestic water supply and so had completely inadequate water pressure.

Which should have been no surprise, really, since the entire complex was still only connected to a 25mm temporary building supply pipe.

Adding insult to injury, the owners of the mall, the Craig Family Trust, had never paid their municipal bills – the Scottburgh mall's bill for rates and municipal services by then totalled

R232 000 (excluding penalties).

But for the next two years, little happens to improve matters. The council, it seems, has become the victim of its own laxity.

In March 2003 Ms Simpson writes an internal memo about Scottburgh mall to her planning department boss, Sagie Govender, informing him: "No fire and safety compliance certificate has been received by our office."

But in October 2004 George Craig Rennie is back on the scene – at Fedbond's request – and at his conning best when he signs an affidavit (before his drunken attorney Pierre Grové – see *nose98*), "confirming" and "undertaking to ensure" that the following documentation would be made available to the Umdoni municipality "as soon as possible": the electrical compliance certificate, the fire clearance certificate and the as-built plans (to be completed by Mr Des Rob of Homenet – an estate agent, not an architect or structural engineer).

On the same day the Umdoni council's Mr D Duma advised building inspector Simpson: "I've had two meet-

ings with Mr Rennie regarding his development, and I have an affidavit in which he promises to deliver to you the soil poisoning certificate, engineer's certificate and as-built plans. Please sign the rates clearance certificate for the property, to take this process forward." The Craig Family Trust insolvent estate had finally paid R2,5m in outstanding rates!

Why the sudden action? Because Fedbond was planning to take transfer of the property itself, in settlement of its bond debt claims against the insolvent Craig Family Trust. The curious bit is that, while the debt was owed to the Fedbond investors (in the name of Fedbond nominees), in December 2004 the Scottburgh property was in fact transferred to Fedbond Managers (Pty) Ltd – John Field's personal company. (See his boxed letter on pg10.)

Were all the outstanding conditions complied with as promised before the transfer took place? No. Were all the outstanding rates paid? No. Why was Mr Duma conciliatory and helpful? We still wonder.

To be continued



Roodepoort Country Club

Nestling in the tranquil countryside of Ruimsig, west of Johannesburg, lies one of South Africa's most challenging championship golf courses, Roodepoort Country Club. It is well known and recognised that condition-wise the course is consistently among the top 10 in South Africa.

The rolling bent grass greens are spectacular and similar to those that the world's top professionals encounter on the United States Tour. There are 72 bunkers to contend with and seven water hazards offering all handicap golfers a challenge yet the good golf shot will always be rewarded.

Golf House (Professional Shop) Tel: (+27) 11 958-1204 Fax: (+27) 11 958-0402
golfhouse@roodepoortcc.co.za

Besides being one of the finest golf courses in South Africa, Roodepoort Country Club accommodates several multifunctional venues that can host up to 350 guests. Any type of event can be catered for whether you're hosting a corporate dinner, wedding, 21st birthday, high school farewell, product launch, cocktail function or breakfast.

Roodepoort Country Club is ideal for booking your conference, training or brainstorm sessions. Breakaway facilities are available & conference rooms are stocked with all basic audio visual and presentation equipment.

Our colonial veranda is the perfect place to have sundowners before a lovely evening dinner/reception or for some relaxation after a hard days endeavour.

Weddings/Conferences/Functions Tel: (+27) 11 958-1905 Fax: (+27) 11 958-1202
functions@roodepoortcc.co.za

General Enquiries Tel: (+27) 11 958-1905 Fax: (+27) 11 958-1202
rcc@roodepoortcc.co.za www.roodepoortcc.co.za

Roodepoort Country Club, Hole In One Avenue, Ruimsig, Roodepoort, South Africa



Billion-buck biker



Uneasy rider: Joachim Schoss

IT'S THE LARGEST personal injury claim ever made in South Africa and, astonishingly, it's to be adjudicated in secret – in Zurich.

He has been described as a “criminal” in Parliament for lodging such a large claim against the fund, but until now the identity of the road accident victim who has filed a R1,6-billion claim against South Africa's publicly funded and already insolvent Road Accident Fund has remained a closely guarded secret.

The up-to-now reclusive claimant is multi-millionaire Joachim Schoss, 44, who five years ago was one of Europe's most successful Internet entrepreneurs. His meteoric career was brought to an abrupt halt when he lost an arm and a leg when the Harley-Davidson motorcycle he was riding was struck by a hit-and-run driver during a touring holiday of South Africa in 2002.

Schoss claims that his average income as “one of the successful European serial entrepreneurs” in the five years before the accident was more than R100m per year. It is his future loss of earnings on this global scale that accounts for the size of his claim.

The Road Accident Fund was established by government to provide a buffer to compensate South Africans who suffer losses from road accidents. Last year it paid compensation of R4,9bn to more than 260 000 claimants. Officials at the fund are furious at one rich foreigner's demand for the equivalent of a third of last year's total payouts.

Up to now, Joachim Schoss has been referred to in the RAF's annual report simply as an unnamed “visitor”. In February last year RAF boss Jacob Modise, presenting the Strategic Plan for 2008 to 2010 to Parliament's Portfolio Committee on Transport, referred to the fund's R18bn deficit and highlighted the R1,6bn claim “by a Swiss citizen”.

Modise told the committee that the present system allows foreigners to claim unlimited road accident compensation based on their personal circumstances. It was “most certainly” criminal, he said, that the system

A German tycoon is taking the Road Accident Fund to the cleaners for R1.6bn after he lost an arm and a leg in an accident in South Africa

permits a very wealthy individual to recover all his losses from the cash-strapped fund.

Most contested claims by road accident victims in South Africa end up in our high courts, where full details are available for scrutiny in the public record and anyone can attend the hearings. Experts say that if Schoss's claim were heard in a South African high court the most he could hope for would be R20m.

However, in 1998 the RAF embarked on a pilot arbitration project in the Western Cape, to investigate whether deciding claims by arbitration would cut settlement delays and costs. The fund canned the project in April 2005 – largely due, say legal sources, to enormous awards being made by arbitrators, much to the displeasure of the RAF.

Schoss's epic R1,6bn claim was filed when the project was still running. Arbitration hearings are strictly private affairs, and his will be even more so – a behind-closed-doors South African arbitration to be held in distant Zurich.

Reinsurance will cover most, but not all, of Schoss's claim – the fund refuses to say how much, or disclose its

“confidential” reinsurance arrangements. But its annual reports show how much it pays in reinsurance premiums – R32m in the year to 31 March 2003 (when Schoss had his accident); R38m in 2004; R43m in 2005; R18m in 2006 and down to just R5m last year.

So why is the arbitration to be in Zurich? RAF boss Modise tells *noseweek*: “The witnesses who will be required to testify include medical practitioners who have treated Mr Schoss; medical experts who have examined Mr Schoss and provided medico-legal reports; work colleagues of Mr Schoss and experts on remuneration in Switzerland. As these witnesses are in the main either Swiss or German nationals, it is more practical and much less expensive to hear their evidence in Zurich than in Cape Town.

“The arbitration is scheduled to commence on 30 September 2008. It will

obviously only proceed if the parties are unable to reach a settlement prior to the date of the hearing.”

At present the appointed arbitrator is Cape Town advocate Boet Smit SC. But the London reinsurers are insisting on a retired judge with long experience on the bench. Modise confirms that Smit “may well be replaced by a senior retired judge”.

In the meantime, Schoss’s advocate, Hennie Carstens SC, has ordered that no details of the millionaire’s epic claim are to be released, on the fatuous grounds that the matter is “*sub judice*” (yawn). The breakdown of the claim – especially the crucial claimed loss of earnings portion – must remain under wraps, insists Carstens.

Fortunately, the Road Accident Fund is in more transparent mode and has given *noseweek* full details of Joachim Schoss’s claims.

The first, lodged six months after the accident, on 8 May 2003, was for R81,5m, of which estimated future loss of earnings totalled R80m. In a statement of claim a year later the total had increased to R97,5m. This amount included R8m for “past” loss of earnings, R70m for future loss of earnings and R17m for future medical expenses.

At a subsequent unspecified date Schoss amended his claim to the present record figure of R1 681 451 252. This breaks down as R1 677 677 511 for loss of earnings/earning capacity, R2,7m for past hospital and medical expenses, R1m for general damages and R99 052 for “incidental expenses”.

To this must be added future medical costs, still to be quantified.

So who is Joachim Schoss, and what life changes justify his unprecedented claim?

Born and bred in Germany’s Essen, Schoss made his first fortune in 1996 with the sale of his TellSell marketing and sales company to Metro Holding AG. Schoss became the biggest private shareholder and first CEO of Scout24, which became the leader in Germany as a web marketplace for cars, real estate, finance, friends and jobs. At the time of the accident he had directly or indirectly invested in more than 20 companies, including 30% of Beisheim Holding Switzerland AG, where he was chief executive. He’s still the cornerstone investor of 6S Capital, a quantitative hedge fund firm.

In 2003, a year after his South African accident, Schoss sold Scout24 for R1,8bn.

It was a split second after 4.50pm on Saturday, 23 November 2002, that his life changed for ever. The 39-year-old multimillionaire and a friend, 50-year-old businessman Dieter von Aspern from Düsseldorf, were on the last day of a week’s touring holiday of South Africa on hired Harley-Davidsons. Previous motorbiking trips to California, Greece and Spain had passed without mishap. This was Schoss’s third visit to South Africa.

The friends’ 2000kms route covered the Cape, the Garden Route to Port Elizabeth and back through the Karoo. They had turned off the N2 and were just five minutes’ ride from returning the hired Harleys to the Antique Tractor guest house in Stellenbosch. Von Aspern was leading the way, with Schoss following some 500m back.

Driving towards them on the R310, otherwise known as Baden Powell Drive, in the heart of picturesque Stellenbosch wine country, was an Opel saloon. Welmoed Winery employee Enrie van Staden was in the front

Moving on

IN HIS DAYS as a top European Internet entrepreneur, Johan Schoss lived in style in a large villa in Zurich. But after his South African accident his wife left him, taking with her their two sons, now aged three and six.

Now home is a “new, smaller and remote” property 30km from Zurich, where the divorce settlement allows him to have his sons for “about 50%” of their time. “I also have a new girlfriend,” he confides.

It’s painful for the multimillionaire to talk about the accident that has changed his life. “Nobody from the RAF or the person who caused the accident has ever asked how I feel,” he says. “It’s definitely nicer to be able to play with your children or do sports with them like other fathers; it is nicer not to be marginalised; and it is nicer to be able to do the things that a healthy man with two legs and two arms can do.

“But I am still an optimist and a positive thinker, as anything else would lead to depression.”

These days the grounded entrepreneur devotes his not inconsiderable energies to his charitable

foundation myhandicap.com, which offers information for the disabled and seeks donations via the Internet. He’s donated R20m of his own money to MyHandicap – and committed another R100m. There are already more than 70 people working for the foundation, which sponsors two professorships at Switzerland’s University of St Gallen.

On top of this, Schoss discloses, he intends to donate the entire proceeds from his R1,6bn claim against the RAF to “bolster our activities and serve as a global platform for all disabled people in the world”.

Schoss explains: “We’ve won Bill Clinton as a supporter, but for the international rollout we will need much bigger funds to do this in a professional manner. One day we will also be in South Africa, which answers another question of yours: Yes, I still love South Africa.”

Touching words. And a commendable new venture for the disabled millionaire. But will South Africans approve of his novel form of capital-raising at the expense of our insolvent Road Accident Fund?



Bill Clinton with Joachim Schoss



Flattened: Joachim Schoss with hospital staff at the Stellenbosch Medi-Clinic

passenger seat; his father was driving. In his side mirror Enrie van Staden noticed a red VW Golf rapidly catching up with them until it was hovering right on their tail – he thought barely a metre or two behind them, impatiently jockeying to overtake. Mr Van Staden senior got nervous and wanted to pull over, but the road shoulder was too narrow.

The first oncoming Harley-Davidson passed. The driver of the Golf pulled out to overtake the Opel – and slammed straight into the second Harley.

“I heard a loud bang,” reads Van Staden’s police statement. “The VW Golf was in the middle of the road, on the wrong side. It had six or seven people in it: a man who was the driver and the rest women. My father and I gave assistance to the injured bike rider lying on the side of the road. Other bystanders said they had already summoned an ambulance. Before the ambulance or police arrived the Golf and its driver had left the scene.”

The statement of Schoss’s travelling companion, Dieter von Aspern, describes how he turned back to find Schoss lying near the edge of the road, his right leg almost torn off. “He was bleeding severely. His backpack was torn off. I took one of his jeans to try to stop the bleeding.”

Schoss was rushed to Medi-Clinic in Stellenbosch, where his right leg and right arm were amputated. There was also serious kidney, lung and brain damage. When he was in intensive care he heard doctors say he was going to die.

The driver of the VW Golf who caused the accident and fled the scene was traced by police. Mzuvukile Nana, a 27-year-old floor manager at the nearby Spier wine estate, was prosecuted and fined R500 for reckless driving.

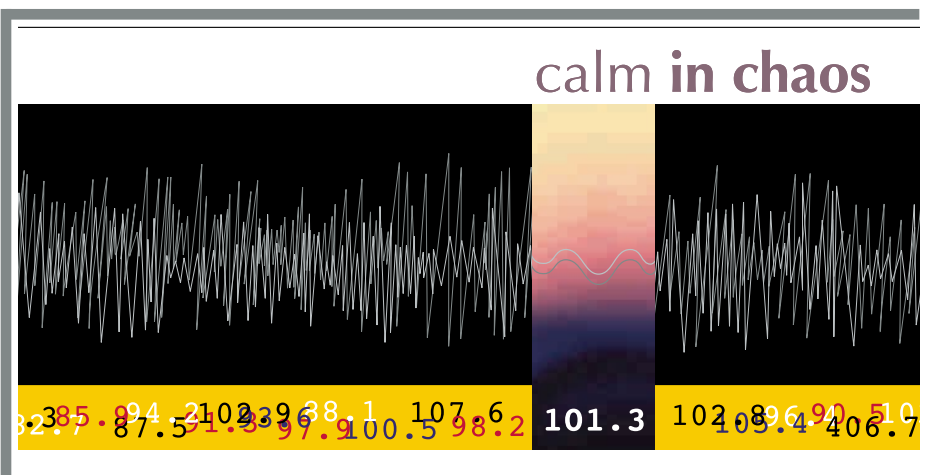
Schoss was fully covered by the Swiss government’s accident insurance

scheme, which provided an air ambulance plus doctor to carry him home to Zurich. Months in hospital followed. The generous state scheme, compulsory to everyone working in Switzerland, pays him a daily allowance, invalid’s pension and a disability allowance. It has also paid for his medical treatment, including a prosthesis. Despite all this, he’s opted to sue South Africa’s cash-strapped RAF for catastrophic damages – although if successful he will have to hand back what he’s received from his own government.

Asked how he justifies a claim of R1,6bn, Schoss replies: “That’s part of the lawyers’ work, so I won’t answer in depth. My average income as one of the successful European serial entrepreneurs in the five years before the accident was more than R100m per year. Loss of earnings is over 95% of the claim.

“It is difficult to understand why the RAF calls such a claim a crime. If the claim is justified, it cannot be a crime. If the claim is not justified, they could call it ridiculous or should not even give it any attention. It is also difficult to understand why this claim is used with regard to the financial situation of the Road Accident Fund, as the RAF is reinsured and – as far as I know – close to 100% of the liability will be paid by the European reinsurer.

“Although there is little doubt about my injuries, I had more than 15 additional appointments with medical scientists during the last quarter – because the RAF asked for this. The accident happened more than five years ago and yet I personally have not received one single Rand from the RAF. If I had no savings – as many other victims have not – I would be in huge financial trouble.” (*Though let’s not forget the benefits received from Switzerland’s lavish accident insurance scheme – Ed*). ■



When in Cape Town

Refining the art of leisure.
Calming life’s tempo.
Striking the right chords.
Fine Jazz. Fine Classics. Fine Radio.

**Fine
Music**



315641



Sharemax: blue sky investment or good old pyramid scheme?

A **NOTABLE LEGAL BATTLE** begins in the Pretoria High Court on 15 April – one that property syndication investors should watch carefully. Eminent financial journalist Deon Basson will be defending his views on property syndication group Sharemax (*nose98*), who accuse him of defaming them in a deliberate campaign to ruin their business.

Basson, six-times winner of the Sanlam Financial Journalist of the Year award, made his claims in a series of articles published between 2003 and 2006 in *Finance Week*, *Finansies & Tegniek*, *Beeld* and *Finweek*.

He showed there that Sharemax was making excessive profits in a manner that endangered their clients' investments and had, in its early stages, contravened the Companies Act.

He also made the qualified suggestion that Sharemax's model of property syndication looked suspiciously like a pyramid scheme.

Sharemax, formed by Pretoria businessmen Willie Botha, Andre Brand, Stefan Schoeman (since resigned), Frans Viljoen (since resigned) and Gerhardus Goosen, is claiming R20m damages.

Sharemax has syndicated at least 30 properties – including Highveld in Centurion, Oxford Gate in Durbanville, The Bluff in Durban, Comaro Crossing in Johannesburg, Whale Rock Residential Estate in Margate, and various centres in Pretoria, including Waterglen Shopping Centre, Magalies Mall and Groenkloof Plaza. The total value of these syndications by now exceeds R4bn, invested by more than

Some property syndication arrangements are as stable as desert sand

20 000 investors.

Property syndication may broadly be described as a method for small investors to invest in large-scale property developments – shopping centres, office blocks and the like. But Basson's forensic version is that property syndication a la Sharemax is a highly dubious investment platform that can only guarantee profits to the "promoter" company (ie, Sharemax itself).

It works like this: Sharemax (the "promoter") registers a new public "holding" company in which it invites investors to buy shares for, say, R40m. It then registers a second, private, company which it sells to the public company for, say, R10m. This pays commissions and provides an upfront profit to Sharemax, some of which may

be paid into a reserve fund.

Next, the public company lends the remaining R30m to the private company, which uses this to buy a property, rental income from which pays investors their annual interest.

Among Basson's main gripes is the large gap between the syndication value (the investors' input) and the considerably lesser amount Sharemax actually pays for a property. This, he says, reflects an immediate capital loss for investors, which may or may not be made up – there are no guarantees. In his article "Goodwill's New Name" Basson recorded that in the case of Highveld, only R21m of the R29,1m collected from investors was spent on the property, the balance being written off as "goodwill" – that is, as marketing costs and Sharemax's fee.

Basson showed that, on six syndications, some R120m was collected from investors but over 27%, around R32m, was written off as "goodwill".

Basson further claimed that, due to factors that include write-offs, the various syndications' liabilities often exceed their assets, which means they are technically insolvent. They only retain their solvent status because the repayment of loans to investors is subordinated to the repayment of other debts. In fact, the loans are never repaid to investors unless the syndications are voluntarily liquidated.

In addition, he says, Sharemax subsidises investors' interest payments for an initial period, in order to keep them sweet (a la Masterbond, using the investors' own capital, or that of other investors in other syndications, to do

so).

Perhaps the most compelling part of Basson's case is a report compiled by forensic accountant Adriaan Prakke, who concluded that Sharemax syndications contravene the law in numerous ways. For example, investment occurs on the very day that a prospectus is registered (presupposing that it will be authorised), whereas the law requires a waiting period of at least three days.

Funds are withdrawn after a cooling-off period, to help Sharemax finance the marketing costs before the property is even purchased, without any undertaking that the investors will be reimbursed should insufficient funds be raised to buy the property. Funds are drawn in advance of the allotment of shares. Past history isn't disclosed properly. Marketing costs exceed 10% of the capital raised.

And Sharemax plays a number of roles – property management, a share trading platform for buyers and sellers of existing units, the management of various syndications, and the promotion of new property syndications – leading to conflicts of interest and, he says, contraventions of the law.

Prakke ends his report by saying: "Investors' capital has been prejudiced unknown to those investors and the

scheme borders on fraud".

In 2006 Sharemax made an intervening application (to silence Basson), and their affidavit, signed by Willie Botha, makes much of the fact that Sharemax is a registered financial services provider under the Financial Advisory and Intermediate Services Act 37 of 2002 (FAIS). Botha claims that "the Registrar of Financial Services Providers and his Advisory Committee were satisfied in regards to the Applicant's competence and operational ability as well as Applicant's financial soundness".

The FSB were also "satisfied under the Act as to the personal character, qualities of honesty and integrity and the competence and operational ability of Applicant's key individuals".

In fact this appears to be a total fabrication. As part of Basson's answering evidence, FSB Deputy Executive Officer Gerry Anderson said that Sharemax had no relationship with the FSB, and the FSB does not support the property syndication business.

In Anderson's words, Sharemax "is over-emphasising its authorisation under section 8 of the FAIS to persuade this Honourable Court and possibly also potential investors that the FSB has approved the applicant's product".

Sunshine journalism

THE SHEER COMPLEXITY of property syndication and participation bonds may explain why the risks people run when they invest in Sharemax have failed to generate banner headlines in the press.

But there's a more sinister reason, at least where the country's biggest Afrikaans newspaper, *Rapport* is concerned. *Rapport* HAS reported on Sharemax – but only favourably, as its CEO, Mr Willie Botha was pleased to point out in his court papers.

But then the defendant in the case, Deon Basson, himself a former *Rapport* employee, explains why: the paper's "Money" supplement has long been guilty of "sunshine journalism", producing reports favourable to its major advertisers – such as Sharemax – even putting a golden glow on reports involving companies notoriously involved in corporate fraud.

In 1999, *Rapport-Geld* editor Fanus Gouws wrote an article headlined "Subdivision helps Tigon to shine on JSE". In 2002 the supplement carried

large advertisements for PSCCG accompanied by a glowing report titled "Fund quickly doubles investors' money".

The following year, both companies collapsed, taking R250m of investors' money with them. Their founding directors, Gary Porritt and Jack Milne, were arrested and charged with fraud.

Rapport's shocking deal with Sharemax emerges from a letter written by Gouws to Sharemax boss Willie Botha in January 2006.

In it Gouws declares: "The relationship between *Geld-Rapport* and Sharemax has always been very important to us." He then sings the praises of Sharemax before arriving at the punchline: "I have therefore asked *Geld-Rapport's* Johan Geertsema [a former PR-manager who frequently also consults to Sharemax] to as quickly as possibly clinch the deal for Sharemax's continued involvement in *Geld-Rapport*. We are looking forward to an exciting year. We want to keep our readers updated about investment opportunities from the horse's mouth."

PROPERTY MANAGEMENT

maxigroup

COMMERCIAL PROPERTY BROKERS

Cape Town and suburbs

PROPERTY BROKING Tel: 0861 422 427
E-mail: reception@maxigroup.net
PROPERTY MANAGEMENT Tel: 0861 422 426
E-mail: admin@maxigroup.net

Want to invest in quality start-up businesses?

Venture capital opportunities
for private investors

www.quickberry.com
021 465 7021

quickberry
unlocking ideas

CHELSEA TOUR 2008!

Gardens of Delight

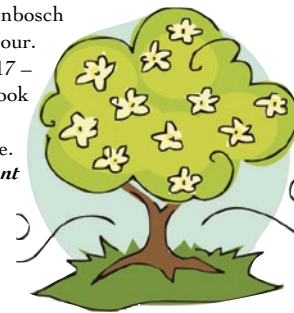
It gets better every year!

Celebrate the next annual horticulture extravaganza.

See the finest English gardens on the 13th Anniversary Kirstenbosch Chelsea Flower Show Tour.

Departure date is May 17 – But it's a good idea to book early for this swirl of flowers, food and theatre.

Inquiries: Gillian Durrant
(021) 685 2838
or 085 261 3961



Convert debtor's & credit sales into CASH!

Confidential Invoice Discounting & Bridging Finance to SME's.

Alcrest

OUTSOURCING (PTY) LTD

Tel: 011 467 0285 or 083 458 0805
Email: dale@alcrest.co.za

He points out that Sharemax had previously structured its property syndication schemes as trusts, so contravening the Collective Investment Schemes Control Act 45 of 2002. Sharemax was forced to restructure its schemes from trusts to public companies.

On this point, Basson says that Sharemax's earlier attempts at syndication through trusts contravened section 30 of the Companies Act, which provides that no association for gain which consists of more than twenty people can be formed unless it is a registered company. The advantage of circumventing the Companies Act, says Basson, was that proper disclosure could be avoided, with marketing brochures not needing to disclose syndication costs.

Botha's affidavit deals with the discrepancy between syndication value and purchase price by arguing that syndication in excess of acquisition cost is standard practice worldwide, and that the excess is used to pay costs and deal with contingencies.

He claims that Sharemax syndication costs have averaged 20%, but the

promoter's fee has "almost always" been less than 10%. This, he says, compares favourably with Australia, where, he claims, syndication costs are in the order of 36%.

The Waterglen Shopping Centre was purchased for some R65m and syndicated for R80m. The syndication cost came to 8,6% and the promoter's fee only 6,17%. He dismisses Basson's view that a profit shouldn't be made upfront as "puritanical", and says earning it upfront is much simpler than deducting it over time (*undoubtedly!* – Ed.).

Botha accepts that capital growth is hampered because the syndication value exceeds the cost of the property, but says that investors go into these schemes for income and long-term capital growth. He claims that every Sharemax investor has received interest in line with first year projections.

On subsidisation, Botha denies the (qualified) suggestion made by Basson in "Pyramid Accounting" that this is a sophisticated pyramid scheme, and claims that only money invested in a particular company is ploughed into

that company. Later schemes never fund interest payments of earlier investors, he says.

As for the creation of a reserve fund out of the promoters' fee, he says this deals with contingencies (he mentions as an example a R400 000 airconditioning repair bill), and is not used to ensure that investors receive the promised interest payments.

Botha says that Sharemax successes make Basson a laughing stock. For example, Groenkloof was syndicated for R35m and sold for R46m two years later. He claims that three others – Homefront, Highveld and Glen Gables – were sold at premiums of 30%, 36% and 43% over initial syndication values.

The Botha affidavit claims that Basson's articles are part of a campaign aimed at ruining Sharemax, and says they've had a serious impact on their business. On 18 January 2005 the Pretoria Council for the Care of the Aged wrote to Sharemax that "we cannot associate ourselves with a company under such direct public attack".

Pro Nordic Motors



Johannesburg VOLVO Specialist

"Compare our price and service levels"

90 000km major service from R 4,500

105 000km oil service from R 650

12 Month Guaranteed Volvo Repairs

**46 Turf Club Road
Turffontein**

Tel : 011 434 3914

E-mail : pronordic@iafrica.com

When Basson finally got hold of the financial statements of 20 Sharemax syndication companies, he realised why Botha was keen to keep them secret

On 23 January 2006 Standard Bank wrote: "We regrettably advise that due to the serious allegations made publicly towards your Group, the bank is placed in a very difficult position to continue servicing your Group under normal relationship conditions ... until such time as the allegations made have been proven incorrect, the Bank will not consider proposals for further finance or pledge our support in your prospectuses etc."

Another of Basson's damaging charges concerns Sharemax's lack of transparency. In the Highveld case, for example, the marketing material doesn't mention the "goodwill", which only appears as a note in the accounting policy. Sharemax, says Basson, are not disclosing "who skims off the cream".

He further claims that Botha and Sharemax have tried to suppress information regarding Sharemax schemes. In 2005 Botha and his colleague Douw Breytenbach tried to keep information about failed and liquidated syndication Oude Molen out of the public eye, with an affidavit being removed from a court file. Sharemax director Andre Brand also offered to reimburse Basson for loss of revenue if he killed his article "Die Sharemax-roomkan", an offer that Basson refused.

Basson says he asked Sharemax for (but never received) audited financial statements for six syndications, as there were gaps of up to 51% between syndicated amounts and valuations, mainly due to undisclosed profit margins for Sharemax and undisclosed

commissions to brokers.

On 26 May 2004, Basson requested copies of financial statements but they never materialised, and he was refused entry to an AGM of the Oxford Gate syndication company.

On 25 July 2005, AGMs for 15 syndication companies were scheduled, but they failed to comply with section 302(1) of the Companies Act, which requires financial statements to be sent to shareholders at least 21 days prior to the meeting, and section 302(4), which requires copies to be sent to the Registrar of Companies. Only annual reports were sent out, and these did not comply with section 286(2).

In the meantime, Sharemax kept on rolling out further syndications. According to Basson their prospectuses didn't comply with the Third Schedule of the Companies Act, in that there wasn't proper disclosure of profits earned by earlier schemes, nor any history of the directors, nor any record of recent transactions on the properties. Waterglen is a good example of just how relevant information about prior transactions can be, says Basson: the property syndicated for R80m was bought for R62m (not R65 million as claimed by Botha). And a mere two years earlier (when it was already generating income) it had changed hands for just R30,5 million! How, asks Basson, could the rental income finance the additional R50 million?

When Basson finally got hold of the financial statements of 20 Sharemax syndication companies in December 2005, he realised why Botha was keen to keep them secret – 15 companies recorded lower profits than anticipated. The statements also proved what Basson has always maintained – that a number of companies cannot fund their own interest payments and Sharemax either subsidises shortfalls or allows cross-subsidisation between syndication companies.

The statements show clearly that Sharemax itself provided so-called "guarantee payments" of R10,5m to thirteen syndication companies in 2005, with outstanding loans to syndications running at R5,1m at 28 February 2005.

Says Basson: "Given the gap between syndication values and the purchase price of properties, coupled with the gap between assumed profits and actual profits, it is reasonable and in the public interest to caution members of the public that, despite buoyant property markets, there are risks for prospective investors in property syndication."

Another transparency issue relates to syndication costs. Whereas Sharemax says these are around 20%, with 10% reflecting brokers' fees, Basson says brokers' charges are typically around 6%. So what happens to the other 4%?

■ ITI News Online recently reported that Andre Matthews of Avocado Investments has warned the public to be wary of Sharemax's latest syndication, Zambezi Retail Park. One concern is that Sharemax believes it can drive the net rental income up 44% higher than the valuers, Rode Associates, believe reasonable. Botha denies this and, in his pleasant way, claims that Matthews is not to be trusted because he is linked to a company which competes with Sharemax. He also suggests that Matthews is not very intelligent and that he "has plucked most of his conclusions out of the air". ■

Tired of Losing by a nose?

The CSR will give you the necessary tools to outrun your competitors.

The CSR is a practical, relevant, research-based business improvement tool that builds your competitive strength and maximizes your competitive advantage.

Contact Steve Woods +27 (0) 82 320 2199



Competitive Strength Report



www.competitivestrengthreport.com



NEWLANDS VILLAGE R 3.4M

Spectacular 2 bedroomed home with magnificent mountain views in the heart of Newlands Village. River frontage and beautiful garden for those with an eye for property with the irreplaceable 'x' factor
Call Anton du Plessis - 083 234 2909 or www.vineyardestates.co.za for more info.

VINEYARD ESTATES (021) 674 4444

On a tight lead

Banks keep lapdog lawyers well-fed but firmly muzzled

READERS WILL RECALL that in *noseweek's* recent *contretemps* with First Rand, the editor ended up arguing much of the case himself, after our attorneys withdrew at the last moment. Why did they withdraw? To get conveyancing work from FNB, the firm had signed a contract not to act for anyone against the banking group.

Well aware of the vulnerability of smaller legal practices, we offered to allow their withdrawal to pass without protest, provided they gave their reasons in writing and let us look at the restrictive clauses in their contract with the bank. They agreed, then left us waiting. So back we went...

Initially we were all rather nice to each other. But when the senior partner decided it would be "inappropriate" for us to see their contract with FNB, things suddenly got less genteel. Senior Partner accused us of blackmail and declared that we hadn't actually been prejudiced by the withdrawal, since we'd won the case. Unusual that – lawyers admitting you didn't need them in the first place. Goodbye Claremont-based firm, Tinklers.

Some say it's nigh impossible to get a firm of any substance to act against a bank. We know Cobus Potgieter didn't have much luck: he's suing Absa for having him blacklisted as an insolvent (he isn't), but was told by seven Western Cape firms, including Jan S de Villiers, Cliffe Decker, Mallinicks, Cluver Markotter and, of course, the firm formerly known as "Nedbank" (Edward Nathan Sonnenbergs) that they couldn't act against Absa.

The small firm that eventually accepted his brief wasn't exactly his first choice to handle a complex multi-million rand case against a major bank.

It's also hard to get attorneys to talk about these deals, but Potgieter put us on to a friend who would, on condition of anonymity. The way he tells it, the banks have separate panels for conveyancing and commercial work and firms apply to a regional office to get on to them. Applicants undertake not to act against the bank in the future – and confirm that they haven't done so in the previous six to 12 months! Which is why even those aspiring to do conveyancing for a bank won't represent you against that bank.

These contracts are renewed annually, so banks can discreetly "discipline" anyone who steps out of line

by not renewing. Our attorney friend undertook to send us a copy, but weeks later we're still waiting. You, dear reader, are in terror of criminals; attorneys live in terror of banks.

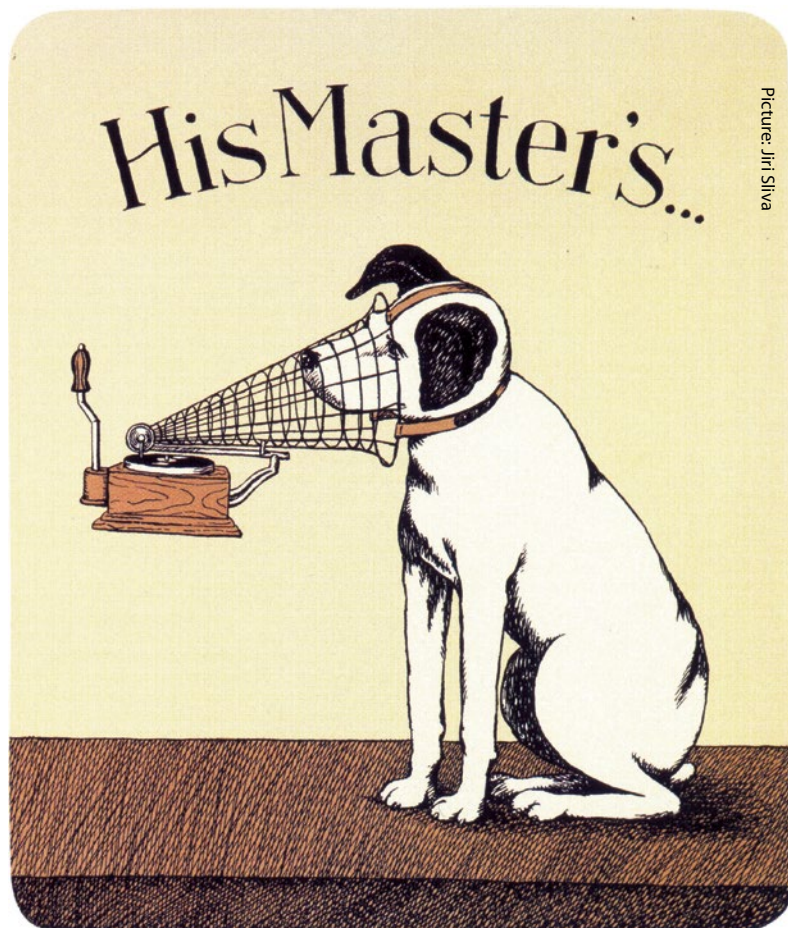
noseweek then wrote to the senior partners of ten major South African law firms (if you didn't crack the nod, may we offer our sincerest apologies): Jan S de Villiers, Hofmeyrs, Deneys Reitz, Mallinicks, Routledge Modise, Cliffe Decker, Bowman Gilfillan, Webber Wentzel Bowers (Webbers), Werksmans and Edward Nathan Sonnenbergs. We asked simple questions we were confident

attorneys could handle:

"Are you on the panels of any of the four major banks: Absa, First National, Nedbank and Standard? Are you contractually or otherwise precluded from acting against them, or restricted in your ability to do so?"

The response was decidedly underwhelming. Mallinicks said sorry no can do, contractual confidentiality, attorney/client confidentiality and all that. There you go – attorneys can't reveal the names of their clients.

Edward Nathan Sonnenbergs had slightly more to say: yes we act for all four – but we can't discuss "private



Picture: Jiri Silva

Putting them on their legal panels allows the banks effectively to tie the hands of any law firm that counts

contractual arrangements” that we may have with clients. Needless to say “our professional and ethical obligations to our clients preclude us from accepting instructions against our clients”.

The others didn’t bother to respond (despite reminders). May we surmise that a number of phone calls were made shortly after our faxes went out, with the general consensus that we were best ignored?

So there it is: large firms do have contracts with their clients. Nice to know that, at least.

We also wrote to the four banks, thinking that, since everyone knows bankers are smarter than lawyers, we might get better answers. And we asked: “Please furnish a list of the law firms in Johannesburg/Sandton and the Western Cape who are on your conveyancing panel or who act for you in other matters? Are those firms, by contract or otherwise, precluded from acting against you, or restricted in their ability to do so? Please provide a list of advocates at the Johannesburg and Cape Town bars with whom you have agreements that preclude them from acting against you, or restrict their ability to do so.”

We did get a bit more from the banks, perhaps because they’re trained to be slightly more polite than law firms. Standard didn’t give much – but they may be sulking because we sometimes call them by a funny name. Standard has a conveyancing panel, but there are no contractual restrictions on their attorneys and advocates. Any conflict would be dealt with by the attorney or advocate in terms of their own conflict management procedures.

Nedbank, we learned, do use the services of many firms of attorneys for a variety of matters (really? we’d never have guessed). And they say

“attorneys and advocates are bound by their professional rules of conduct to ensure that they avoid conflicts of interest when dealing with a client’s matter”. How helpful!

First National doesn’t have a panel, but business units of the bank choose their own lawyers, some of whom may be on a “preferred list”. First National “fully supports the independence of the legal profession”. (Not according to our erstwhile attorneys, Twinkles!)

Absa have panels of attorneys, but the names can’t be disclosed without their consent. (Imagine a firm of attorneys saying “we act for ABSA but would rather nobody knew”). And, said Absa, “our arrangements with these law firms are also confidential and we can therefore not provide answers to your questions”.

But what’s the issue? you ask. Well, clearly no-one wants lawyers to act against clients in linked matters. We’d be mightily pissed off if a firm we’d used in a media matter acted against us in a later media matter.

But where’s the conflict where a firm that gets a few conveyancing scraps referred by a bank, acts against that bank in a totally unrelated matter?

Doesn’t the fact that all the major law firms seem to act for all the major

banks in conveyancing matters highlight what a sham the whole thing is? Effectively, it allows the banks to tie the hands of any law firm that counts. Isn’t there something anti-competitive about such an arrangement? It looks rather like an abuse of a dominant position, where a company with market power requires suppliers not to deal with a competitor. It may even circumvent the constitutional right to have a dispute decided in a fair public hearing.

Yes folks, that major financial institutions have the country’s legal establishment in thrall has been yet another dirty little secret.

■ Update: A recently retired conveyancer has come up trumps with the document containing those “confidential arrangements” Absa so regrettably could not tell us about. Titled “Criteria for Entering the Absa Home Loans Panel”, it reveals that, as part of the application procedure, an Absa “attorney liaison consultant” will visit the applicant attorney to ensure that the bank’s “minimum criteria for appointment” have been met.

Top of the list of criteria: “The firm should not be in the process of representing a customer against Absa and has not in the last six months been involved in such a matter.” ■

Your problem



Our solution



maxibin

NO BUTTS ABOUT IT

- Perfect for keeping building entrances & exits clean
- Cigarette butts are kept out of sight
- Outlasts alternatives
- Effective in demarcating smoking areas
- Weather resistant
- Never gets filled with other types of litter
- Encourages smokers to stand where the bin is placed

ORDER NOW!

0861 422 426 or

blaine@maxigroup.net

www.maxibin.co.za

The Stompie Bin is serviced and sanitised at regular intervals & all removed butts are incinerated.

Political gamble

How a fortune was lost on the KZN Lotto

IN THESE TIMES, when political factions are contending for power, a cautionary tale:

Everyone knows that having friends in high places is a bonus for any business tendering for government contracts. But there's the bit you might need to be reminded about: if your friends are voted out of office and replaced by people less amicable, the consequences can be ruinous. Ask Durban businessman and former IFP MP Senzo Mfayela.

Senzo's company Kwazulu CMS was awarded a juicy provincial tender by the KwaZulu-Natal Gambling Board just before the 2004 provincial elections. Unfortunately for him, the ANC trumped the IFP-led council at the polls and Mfayela suddenly found himself R14m down, with nothing to show but a garage full of useless equipment and a string of broken agreements with would-be suppliers.

The contract, awarded to Mfayela's company Kwazulu CMS, was to supply a computerised monitoring system for corner-shop slot machines throughout Kwazulu-Natal. Perhaps he should have understood the risk. The IFP government of the time had been

embroiled in a long-running dispute with the national authorities over the issue of how the slot machines should be monitored. Pretoria has consistently pushed for all machines to be connected to a single, national network. KZN, on the other hand stubbornly insisted on its own provincial system.

So it wasn't altogether surprising that one of the first things new ANC premier S'bu Ndebele did was to reverse this policy and sign the province up for the national network.

This network, you won't be surprised to know, is operated by Zonke Monitoring Systems, a division of Tokyo Sexwale's Mvelaphanda Group, and includes among its shareholders the Women's Development Bank, headed by Zanele Mbeki.

With Zonke holding all the cards, the KZN Gambling Board informed Mfayela that he was out of the game. No compensation was offered. To the board's obvious amazement, Mfayela refused to fold. Instead, he upped the ante by taking the board to court, claiming R137m in damages. After a succession of postponements and abortive attempts to reach a settlement, the case was eventually heard in the Natal High Court in June 2006.

But before Mfayela could mention the money, the board mounted a preliminary defence claiming that the contract was invalid because the board had had no authority to enter into such an agreement. Such matters, it argued, were strictly the province of the ... uh, province.

The judge, Phillip Levinsohn, now Deputy Judge President of KZN, agreed that this admission, of what sounds like either gross incompetence or fraud on the part of the board, was sufficient reason to deny Mfayela the opportunity to gain redress.

The Appeals Court in Bloemfontein came to the opposite conclusion, ruling in September this year that the Gambling Board, as a "licensed entity" of the province, had been perfectly within its rights and that the contract



Holding the cards: KZN Premier S'bu Ndebele

was therefore legitimate. The plaintiff can now proceed with his suit for damages, but he will have to wait until at least May this year for a court date.

Mfayela says he has already spent R1,3m on legal fees and has no idea if he is just throwing good money after bad.

"My actual outlay was R14m. I spent R5m on the hardware alone. It's highly specialised equipment. It would only be useful to someone in the same industry. But it's already obsolete. I will probably have to sell it for scrap.

"But my losses are much greater than that. It's a 10-year contract. I employed an actuary to value it and he tells me it is worth R137m. But even if I win, I'll be lucky to get 60% of that back."

He said that he had been given no warning that the contract was to be cancelled, and no-one from the Gambling Board had called him to discuss the impact this would have on his business.

"I am very sorry to live in a society where government feels it can cancel contracts at whim. It's very scary for anyone who does business with the government. The attitude is that I am



Flush: Schabir Shaik

Mfayela concedes that he is a loyal IFP supporter, but denies that had anything to do with winning the tender

too small, and I won't have the money to fight this thing through the courts. If the government thinks that way, we're in trouble."

Understandably, Mfayela blames party politics for his predicament.

"I feel that in the whole decision-making process the province stopped looking at me as a citizen of this country and started treating me in terms of political affiliations. That's what defines what you get and don't get."

On the other hand, one could make exactly the same point about his winning the contract in the first place. Mfayela concedes that he is a loyal IFP supporter, but denies that that had anything to do with winning the tender.

"I am open to all scrutiny. If they found anything underhand in the granting of the licence, they would be using it against me. It would be making major headlines in all the newspapers."

Perhaps he has a point. But at least one newspaper has run a story implicating his company in political cronyism and worse.

A couple of years ago, the *Mail & Guardian* reported that, in 1999, the forerunner of KwaZulu CMS, a now-defunct company called DSE Technologies (of which Mfayela was a director), had bribed officials at Vista University for a R33m contract to supply IT equipment. The report refers to a cosy relationship between both companies and the IFP.

It comments: "The evidence emerging from the Vista case suggests KwaZulu CMS should never have passed a probity check to win the [monitoring] contract in the first place. Either no proper investigation was done by the gambling board, or political considera-

tions overrode any serious scrutiny of the companies and individuals behind the bid."

On the subject of political affiliations, it is interesting to note that Zonke's rival in the bid for the National Gambling Board's Central Monitoring System was a company called Malini, part of Schabir Shaik's Nkobi Holdings.

Shaik was so miffed at losing the R300m contract to Zonke that he took the matter to court. Although he won an interdict against the board, he suddenly dropped the case. Of course, he had a lot else on his mind at the time.

Apart from the ethical issue, we know to our cost that decisions based on party interests are only coincidentally in the interests of the public. Many will argue that encouraging people to throw their money away at every street corner does not coincide in any way with the public interest.

But even those who enjoy a flutter would want these aptly-named "one-armed bandits" to be regulated as tightly as possible. National Government argues that a centralised system provides stricter controls, especially against cheating and money laun-



Wrong horse: Former IFP MP Senzo Mfayela

dering. But, as Mfayela points out, the provinces have the authority to monitor the casinos, where the really big bucks are won and lost. And since the slot machines are licensed and inspected by the provincial boards, it would seem to make sense for them to be monitored at the same level.

It certainly would have been in the public interest to test both theories in action. But now it looks like we won't get the chance.

The KZN Gambling Board agreed to answer our emailed questions within four working days, but didn't. **Z**

For all your electrical requirements

SCHMIDHAUSER

ELECTRICAL

CAPE TOWN: 021 424 4588
WWW.SCHMIDHAUSER.CO.ZA

VERISURE™

IT'S COMMON KNOWLEDGE THAT MANY PEOPLE "FUDGE" THEIR CVs!



It's not so sweet when you are the sucker!

How sure are you?

**BE SURE.
BE VERISURE™**

Another exciting innovation from Quiver Corporate Solutions (Pty) Ltd

www.verisure.co.za

noseweek
ADVERTISING
noseads@iafrica.com

JANUARY WINNERS

Martin Attwell, Benoni 1501
M J Scheckterm, Mill Park 6001
Deon Toerien, Montanapark 0159
Mr C G Burton, Calitzdorp 6660
Mr F B Eggert, Hermanus 7200

Each month **5** new subscribers stand to win a wine pack from Ken Forrester Wines

I'll be the judge

When a court's decision defies logic

WHEN WE REPORTED in *nose98* that the public tends to have a skewed notion of the role of forensic science in solving crimes, we hardly thought to include high court judges among the mystified – until a recent case in the Pretoria High Court came to our attention. Or was Judge Willie L Seriti just having a bad day?

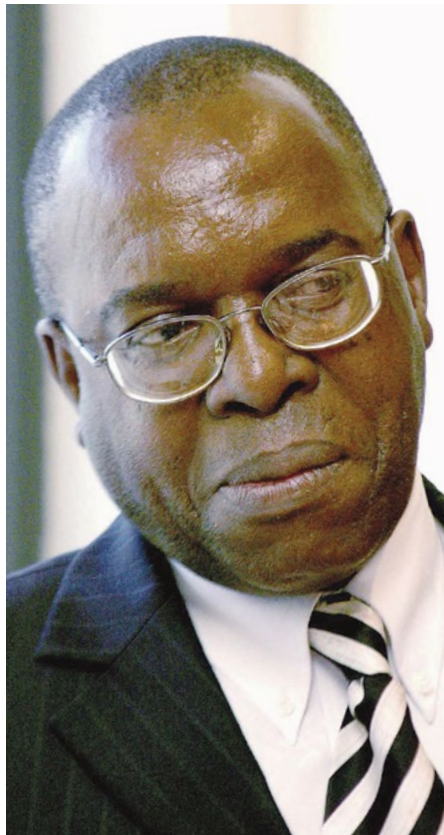
On the afternoon of 10 October 2003, Mr and Mrs Hennop of the Brits district were travelling in a light delivery vehicle towards the town of Brits when they were forced to stop by two men. One approached the passenger side while the other, armed with a gun, headed towards Mr Hennop in the driver's seat. Fearing for their lives, Hennop asked his wife to pass him his own firearm – a small 6.35mm Browning.

According to court files, the thug aimed at Hennop's head and fired, but Hennop leaned backwards and the bullet hit his wife in the neck.

Mr Hennop then shot at the assailant, hitting him twice about the head. Instead of going down, the man and his companion fled the scene, and the Hennops headed home to call an ambulance. Mrs Hennop died of her injury six weeks later.

Later in the afternoon of the shooting, Eric Mtshweni sought treatment for two bullet wounds to his head at Ga-Rankuwa hospital, saying he'd been robbed and shot in Soshanguve township, some 45kms north of Pretoria. Detective Inspector van Tonder didn't buy Mtshweni's story and placed him under arrest for the attempted murder of Mr Hennop and the murder of Mrs Hennop.

At the trial Mtshweni denied being the assailant, and for his part Mr Hennop testified that he couldn't identify the individuals who had attacked them. It was therefore incumbent on Inspector van Tonder to place Mtshweni at the scene of the Hennop attack, and the prosecution to convince the court that he had been the attacker.



Ballistic: Judge Willie Seriti

The state built its case on DNA evidence and on the testimony of Mtshweni's aunt, Martha Motsweni, with whom he had been living at the time. Three blood samples collected from the crime scene matched Mtshweni's sample at the hospital where he had sought treatment, and Martha Motsweni testified that Mtshweni had confessed to her that he'd been involved in the shooting.

Although Dr JM Mchenga, a dentist in training as a maxillofacial surgeon, had removed a bullet from Mtshweni's right cheek, the other, lodged behind the left ear, could not be extracted. Inspector Van Tonder explained in his testimony that ballistics experts at the police unit in Pretoria could not

determine whether or not the removed bullet had been fired by Hennop's Browning.

But on this point Judge Seriti appears to fall into that category of South Africans whose understanding of forensic science is unduly influenced by the CSI television series – he assumed that the answer would arrive in clear either/or terms.

Prosecuting attorney DWM Broughton had asked the inspector: "Can it be determined whether the bullet from the accused's face was fired from Mr Hennop's firearm?" To which Van Tonder replied: "No."

Judge Seriti took this to mean that the bullet was *not* fired from the gun. Mtshweni's attorney appears to have perfectly understood the difference between saying "wasn't fired by" and "could not be determined whether or not", but he, of course, didn't question the judge's interpretation.

A heated argument ensued between the judge and the prosecutor, as can be seen in the following edited excerpt from the trial.

Judge Seriti: "Where did the accused get injured? According to the ballistic report, the bullet that was removed from his face was not fired from the firearm of Mr Hennop. If he was not injured at the scene, then it means that he must have been injured at Soshanguve. That is the only evidence which is on record. Once I accept that he was shot at Soshanguve, then of course the entire evidence of Martha Motsweni [the aunt] must go down the drain."

Adv Broughton: "M'Lord, it is important to bear in mind that the evidence was that it could not be determined whether the bullet extracted from the face of the accused was fired from Mr Hennop's firearm. Now, there is a big difference between 'it was not fired' – a categorical statement that it was not fired from the firearm – and 'it cannot be determined'."

Judge Seriti: "The ballistic expert examines it and he cannot tell me that this bullet came from this firearm, and

The judge maintained that what he had in his notes was the correct translation of the testimony

I have got another version this side which says, this bullet was shot by people at Soshanguve.”

Adv Broughton: “M’Lord, there can be various factors that can lead to the ballistics expert not being able to determine whether a bullet was indeed fired from a certain firearm. The bullet might be so damaged that one cannot determine whether there are sufficient identifying features – in Afrikaans we note it as ‘klaskenmerke’. It might be that there were not enough identifying features on the bullet.”

Judge Seriti: “You are speculating on that point. I do not have any evidence.”

Adv Broughton: “M’Lord, the evidence is that it could not be determined. There is a difference between it could not be determined and a categorical statement that the bullet was not fired from the firearm.”

Judge Seriti: “Let us go to the evidence of the investigating officer as far as that is concerned, unless I am the one who did not understand him.”

Adv Broughton: “M’Lord, his evidence was to the effect that it could not be determined whether the bullet that was extracted from the face of the accused was discharged or fired from Mr Hennop’s firearm. His evidence was not that the ballistics expert indicated that the bullet was not fired from Mr Hennop’s firearm.”

Judge Seriti: “Let me tell you what I have in my notes, unless there is something wrong with my notes. Ballistic report was received and it says the bullet removed from the cheek of the accused was not fired from the gun of Mr Hennop.”

Adv Broughton: “M’Lord, my notes clearly show that the evidence of the inspector was that it could not be determined whether the bullet was fired from the firearm of Mr Hennop.

There are various factors that can lead to that. The evidence of Inspector van Tonder was clear in this regard. Now, surely, if it turned out according to the ballistics tests that the bullet was in fact not fired from the firearm, then the ballistics expert would have mentioned this.”

But Judge Seriti maintained that what he had in his notes was the correct translation of the testimony of the detective inspector, and not even the transcript of the testimony played back to him could convince him otherwise.

Since the honorable judge believed that the ballistic evidence was vital to reaching his judgment, he should have called the ballistics expert to explain why a determination of the origin of the bullet had not been possible.

Instead, he chose to believe that the accused had been shot at Soshanguve – and the aunt’s testimony did indeed go down the drain. Mtshweni and his co-accused were acquitted.

The state appealed against the judgment, questioning the judge’s failure to call the ballistics expert. The appeal was heard by Appeal Judges Farlam, Cloete and Lewis, who unanimously ruled in favour of the state and ordered the retrial of Mtshweni and his co-accused by a different judge.

The summary of their judgment reads: “Where the presiding judge at a trial believes that the evidence of a witness is essential to the just decision of the case, and fails to call such witness, he makes an error of law. If the error is one on which the acquittal of an accused turns then there is a grave irregularity in the proceedings and the court of appeal is bound to order a retrial on the same or amended charges.”

In his judgment, Judge Lewis wrote: “In my view it is clear from the record that Judge Seriti did believe that the evidence of the ballistics expert was essential to the just decision of the case, and acquitted Mtshweni because there was no explanation of the inconclusive finding. He had a duty, in view of his belief that it was essential to the just decision of the case, to call the witness. Moreover it is apparent from the argument quoted above that Judge Seriti did not understand the import of the ballistics report. He said as much. All the more so, therefore, did he have an obligation to call the witness [the ballistics expert] in order to understand that evidence.”

Perhaps our learned Judge Willie Seriti should take time out from watching crime programmes, and register for a refresher course in logic. **Z**



PALMS!

LARGEST STOCK AVAILABLE!

We Transplant and Transport

www.palmsupplies.co.za

CALL DAVID FROST 082 574 3766

BASED IN THE WESTERN CAPE

Powerful Presentation Masterclass
Conflict Resolution Diversity Training
Effective Business Writer
Business Etiquette Hiring Smart
SOFT SKILLS TRAINING SOLUTIONS

HR for the non-HR Manager

Energizing your customer workforce
The Effective Manager: Business Leadership
Understanding Project Management

www.assessmentwarehouse.com
ph: 021 685 0533 fax: 086 684 2608
courses@assessmentwarehouse.com

the Assessment Warehouse[®]

WATER LEAKS FOUND



Underground & in walls
Flow logging done to establish extent of water leak
Thermal imaging done using infrared camera for predictive maintenance in the industrial environment.

www.findaleak.co.za
(011) 763 6306

MARK BRUMER

Further developments

IN NOSE97 WE TOLD the story of Mark Brumer, the Hermanus-based developer who felt that he had been taken for a ride by the Overstrand Municipal Council regarding the sports village it wants to build in Hermanus.

The story inspired a flood of calls about the Overstrand Municipality of the “You don’t know the half of it!” variety – most of which didn’t provide much that was new. But then a man in the Free State provided us with one rather unexpected response.

Our source, who must remain unnamed, claimed that Brumer is involved in a golf estate development on the Vaal River, called Heron Banks, having contrived somehow to buy land worth R17m for only R5m from the Metsimaholo (Sasolburg in old-speak) municipal council. The municipal manager has apparently now been fired, the chief financial officer has been suspended and the auditor-general of the Free State has completed a report.

The source put us onto the speaker of the Metsimaholo council, one William Bulwane, who was never available (and whose receptionist told us “we aren’t allowed to take messages”). We were then given the name of a DA councillor for Metsimaholo who, somewhat surprisingly, also insisted on anonymity.

This councillor described the deal as “an outrage”, claiming that this was some of the most valuable land in the country. He referred us to Pieter Frewen of the DA’s provincial legislature in Bloemfontein, who said that the auditor-general would “probably hand this matter over to the Scorpions”. (For good measure he added a tidbit about something else being investigated: that the council pays R500 000 per month for the lease of photocopying equipment, whereas the real figure is closer to R50 000.)

So back we went to Brumer, for his version of the Metsimaholo land affair – which was a little different.

The Heron Banks development comprises three separate pieces of land, explains Brumer. The middle piece was the private farm De Rust, which Brumer bought for R15m. The pieces on either side were owned by the municipality, one being called Grootfontein and the other known as Erf 1294.

With De Rust to his name, Brumer approached the council to buy the other pieces. The council already had other offers and proposals, including ones for townhouses, casinos and hotels – but only Brumer, owning the land in the middle, could propose a golf estate. The council invited a new round of proposals, and Brumer offered R16m for the two pieces of land.

The DA, who have only five seats on the 33-seat ANC dominated council, objected to Brumer’s proposal – which he thinks is not unrelated to the fact that one of their number, Tharina Classens, had also put in a bid for the properties. An adjudication committee accepted Brumer’s offer of R5,5m in cash and R10,5m in community projects (like clinics) to be nominated by the council.

It was agreed in addition that Brumer would compensate the lady who had previously owned a house on Grootfontein and who, as it happened, was Tharina Classens’ mother, one Tannie Tokkie. Brumer offered her what he believes was the market value, R1,9m, but she

demanded R4,5m. When she applied for an interdict to stop the sale, Brumer and Tannie Tokkie settled on three river-front plots in his proposed golf estate, worth some R4,5m.

So Brumer’s story is that the deal cost him R16m plus three plots, and more – he’s discovered that the municipality, apparently heavily in the red, can’t provide the electrical connection, and he’ll have to install an 88kV overhead line at a cost of some R15m.

He took transfer of the land in late November 2007, and he is expecting the municipal council to let him have a list of the required community projects in 2008.

Sounds feasible enough, though we are a little surprised at the manner in which the agreement handles the

R16m purchase price: clause 3 (“Purchase Price and Sale”) puts the price at R5,5m payable on transfer, whereas clause 10 (“Community Project Funding”) simply says “the developer undertakes to make available R10,5m to the Council for community projects, the specific terms and conditions of which will be agreed upon by both parties and reduced to writing within 12 months of the effective date”.

The effective date was 17 November 2004 and, as far as we know, the projects have yet to be finalised.

Anyone out there with further info – please feel free to call us.



Mark Brumer

SOUTH AFRICA SUCKS BLOG

Twisted foolishness

BLOGS ARE, in the main, fairly innocent little things, stuck out into cyberspace by people desperate for an audience but who have nobody to talk to. But some blogs can be quite nasty. Take www.southafricasucks.blogspot.com (please take it anywhere!), which

seems to be a virtual meeting place for some seriously bitter and twisted South African expats.

There’s absolutely no reason for you to go online because we can tell you all you need to know about this blog. It describes itself as follows: “This blog chronicles the slide of a once magnificent, thriving First World country into that of a crime ravaged, Stalinist turd world hell hole.”

Still struggling to build up a mental picture? OK, the blog’s motto is *Azania Delenda Est* (“Azania has been destroyed”, for the benefit of those who didn’t get a classical education), and it

About SAS

This blog chronicles the slide of a once magnificent, thriving First World country into that of a crime ravaged, Stalwart turd world hell hole.

In times of universal deceit, telling the truth will be a revolutionary act.
George Orwell, 1984

AZANIA DELENDA EST!

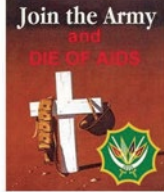


South Africa Sucks Big Time. I want to get the Fuck out of here, so I choose:

- USA
- Australia
- New Zealand
- Europe
- Middle East
- Canada

Wednesday, December 05, 2007

Stick your job where the sun don't



Now fathom this

"... the force targets ..."

Bullshit, the SPIE totally fucked and salvage this case corruption.

Pretoria - A decision out jobs such as it come back to haul (SANDF), its newly Lieutenant Genera

Mgwebi said the recruitment camps people - and it was

In the military.

"We want people with high marks in maths and physics." Mo

This forms part of an effort to rejuvenate the defence force, would also fill highly skilled positions in the force including doctors, pilots, air traffic controllers and explosives technicians

Mgwebi said the military also needed people to fill chefs' jobs SANDF currently has about 56 000 uniformed personnel wo

force, navy and medical health service.

Challenges

The SANDF has received more than 102 700 applications fo

advertises links to "White World News" and "Boere Jeug/Boer Youth". Visitors are encouraged to indicate whether they live in or outside "Arsezania".

On 26 November 2007, when we paid this blog a little visit, there was a story titled "Wild Savage Attacks White Mother, Seizes Child" (words like "savages" and "munts" appear frequently), and an obituary of Ian Smith, entitled "A great man passes beyond the Veil".

So what were nice people like us doing in such a nasty little virtual world?

Well a reader had given us the distressing news that *noseweek* material was appearing on the blog. And, sure enough, we found our entire article dealing with the dispute between Dulare-Leiyilah Markelle and Pam Golding Properties regarding the little cottage in Napier.

The article had been posted by one Dark Raven and was headlined "Must See". It featured photos of some squatter shacks, one supposedly in "Crossroads Upper". From which we deduce that Dark Raven must be an ex-Capetonian - one with no understanding of copyright law, as he had also lifted an article by media and advertising guru Chris Moerdyk on political correctness.

Now copyright infringement is one thing. What worries us more is that some misguided people might believe that we approve of, or even endorse this appalling bilious racism. Which we clearly don't. We happen to think South Africa's quite a cool place. Even if it does house an extraordinarily large number of corrupt arseholes of all shades of colour and opinion.

We're still trying to figure out a way of dealing with Dark Raven's theft of our property.

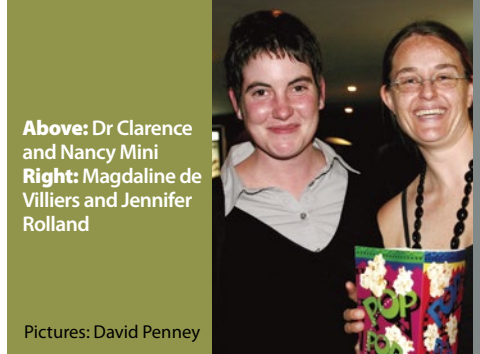
Until then we'd like our readers to be reassured - there is absolutely no connection between your favourite publication and these twisted fools indulging their hatred out of range of any legal guns.

RENDITION
You saw it here first

NOSEWEEK'S FIRST-EVER movie premiere brought hundreds of readers to Nu-Metro cinemas in Cape Town and Johannesburg to see director Gavin Hood's first Hollywood movie, *Rendition*.

Most of the people we spoke to were impressed with the local boy's efforts to bring the horrors of state-sponsored abduction and torture to a wider audience, in spite of certain weaknesses in the script.

Thanks to Nu-Metro for inviting us to host the screenings, and giving us a chance to meet so many of our readers. What a charming and intelligent lot you all are.



Above: Dr Clarence and Nancy Mini
Right: Magdaline de Villiers and Jennifer Rolland

Pictures: David Penney



Above: The popcorn-munching, Coke-swiggling audience at the noseweek/Nu-Metro premiere of *Rendition* in Joburg
Right: Jacques Els and Justin Eglng

SHOPRITE CHECKERS

Big Hole of Hermanus

THERE'VE BEEN SOME interesting developments in our story (*nose98*) on how Shoprite Checkers got its hands on some prime Hermanus real estate for a paltry R3m.

Firstly, contractors have been furiously digging a huge hole on the site, no doubt for the underground parking garage. Secondly, the review hearing has been scheduled for 24 April 2008. Thirdly, residents opposed to the development brought an urgent application for an order interdicting Shoprite Checkers from building pending resolution of the review.

In its answering affidavit, Shoprite Checkers undertook to refrain from building until the end of April 2008 (but reserved the right to continue digging an enormous hole).

On 7 December Judge Deon Van Zyl decided the undertaking was sufficient and dismissed the application for an interdict, holding that the issue of costs should be reserved.

The proceedings brought to light that the municipal council and Shoprite Checkers signed a deed of sale on 9 May 2007 – a few weeks prior to the minister approving the rezoning. The deed was subject to approval being granted and it gave Shoprite Checkers the option to withdraw if it didn't like the conditions imposed by the Western Cape government. Why they decided to sign an agreement in such a hurry is anyone's guess.

The proceedings also revealed that Hermanus residents have been led a merry dance on the issue of the price. First it was R3,05m, then the news leaked that the price had been waived and that Shoprite Checkers had been granted a five-year rates holiday to compensate for having to do some expensive blasting to provide for underground parking. Then residents learned that these generous concessions had been withdrawn.

Well, the agreement of 9 May 2007 apparently makes it clear that Shoprite Checkers will be able to claim back the cost of the underground parking (so the land's free if the parking costs more than R3,05 million). Also, there is a

five-year tax holiday of a sort (Shoprite Checkers will pay undeveloped land rates of some R60 000 pa, not the R1m-odd it should pay for developed land).

The municipal council did not oppose the application and agreed to abide by the court's decision. However, it did file an affidavit in which it displayed the kind of stupidity for which it is fast achieving national notoriety.

Of the order of: We deny the allegation that we contravened the Municipal Finance Management Act when we sold municipal land without holding a public meeting of the full committee; land is only alienated when transfer takes place; and we intend to hold a public meeting on 31 January 2008 at which the issue of whether or not the price is market-related will be discussed. And no, we don't mind if Shoprite Checkers hands us back a great big hole if the review succeeds, we'll just build our own underground parking.

As interesting is the conduct of the local newspaper, the *Hermanus Times*, and its editor, one MC Botha.

No impartial observer of small-town issues this. For a man who apparently takes the pro-conservation line on many local issues, his unstinting defence of the municipal council on the issue of the historic station site has been

nothing short of remarkable. But then, according to our source at the municipal council, MC Botha gets private writing commissions from the council and is little more than the council's official mouthpiece. In the words of one

resident, "his head is so tightly wedged up the mayor's arse that all semblance of cerebral activity has ceased".

So what's Botha done to support the cause? Well he's allowed the mayor to give the town a totally flawed version of why the former financial director was removed from office and why the municipal manager resigned (*noses97 & 98*). He's also more or less told those who oppose the Checkers development, many of whom are highly educated, genteel retirees who simply want a quiet life, that they are retards who should get out of Hermanus.

He's allowed taunts and veiled

threats aimed at objectors (of the "we know who you are, hey" variety) to be published in the paper's anonymous gossip column. He's published the address of the retired geologist who is leading the opposition, which, given the extent to which emotions are running, was negligent, if not malicious. And he won't publish letters which don't accord with his view of the council.

On the day before the court hearing, Botha published a photo "survey" of eight people, all but one of whom supported the Checkers development (odd in a town where opinion is sharply divided). On the same day he warned readers that opposition would cost the town some R1m, or R500 per ratepayer, in legal fees (also odd, as the council doesn't appear to be opposing the proceedings). And when all else fails, there's the race card, in this case the dreaded "*swart gevaar*". Given that the station site was originally sold as part of a covert policy of keeping the town white, how's this for a threat: If you keep opposing the Checkers development you smug, rich, bastards, the site will be used for hostels for 5000 homeless people from Zwelihle township (probably subterranean hostels, the way that hole's going).

Odd behaviour. But not unexpected

from a man who, in his pre-Rugby World Cup edition, published a front-page photo of a freshly-lobotomised resident brandishing a banner exhorting the Springboks to "*Onthou*

die Konsentrasiekampe" ("Remember the [Anglo-Boer War] Concentration Camps").

In Hermanus, the battle against racism has clearly been suspended so the unforgotten war between Afrikaner and English can continue. Curiously, back in the first decades of "The Union" (the 1910 version of the New South Africa), commentators referring to the "battle of the races", meant the ongoing antagonism between exactly those "two white races".

"History," as that old fox Karl Marx noted, "repeats itself: first as tragedy, and then as farce".



A very big hole similar to the one in Hermanus

BARBARA-JEAN HERMAN

The sheriff returns fire

FORT BEAUFORT SHERIFF Barbara-Jean Herman, still crying defamation, has written to *noseweek* to clarify points she previously declined to comment on (*noses97&98*).

She begins by explaining why she referred our questions on to Owen Huxtable of Wheeldon Rushmere, the instructing attorneys in the matter.

She writes: "Yes, I did get agitated, but not for the reasons put by you, but because the questions were so ridiculous, and I had instructions from Mr Huxtable to refer any questions to him."

Explaining why the date on the return of service was recorded as 00/00/0000, Herman writes: "My system prints out returns of service for the magistrate's court only, and not the high court.

Therefore, all high court returns get typed out separately and sent back to the attorneys, together with the magistrate's court return which reflects my costs, as per my computer program, and the high court return does not. That is the reason for there being no date and reflecting the magistrate's court."

She also counters the charge that the summons was not served on Verwey: "As far as summons never reaching Verwey, this had to be served on the defendant's *domicilium citandi et executandi*."

And on Arrie Johannes' situation she writes: "All I can say is that Mr Johannes was indeed 'taken for a ride' by Mr Verwey, but that cannot implicate me in any way whatsoever. For Mr Johannes to say that he 'did not know about the house being sold' is absolutely ludicrous. Why on earth would he keep going to Hanesworth and Nienaber and why did he come to me to ask my advice as to what he should do? He came to me when he received the warrant of attachment and I advised him to seek legal advice from any attorney as there was nothing that I could do, and being a Sheriff, one has to remain on neutral territory. This was the reason he went to Mtotywa attorneys in the first place, but it is plain to see that they did nothing to assist him, for reasons known

only unto themselves."

She also questions *noseweek's* version of the sale of Verwey's house: "Mr Verwey [she must mean Mr Johannes] had the money available to bid for the house on the auction, as a certain businessman in Fort Beaufort, Mr Graham Berry, came to my office the day before the sale, asking how he could stop the sale, and offered to lend Mr Johannes the money to buy the house on the auction. Everyone, including myself, was very surprised that Mr Johannes was not at the sale the next morning.

"Even after the sale, when Mr Huxtable and the Mtotywas were signing the necessary documentation,

Mr Johannes came to my office again asking what could be done. Mr Huxtable, who was acting for Standard Bank, and knew the story surrounding the sale, felt so sorry for Mr Johannes that he offered to help him getting his money back from Mr Verwey and arranged to see Mr Johannes at his Grahamstown office the following Monday. Mr Johannes did not bother turning up."

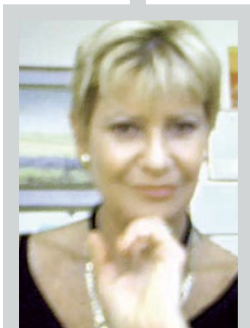
In fact, *noseweek* has learned, when Johannes visited Mr Huxtable as appointed, the attorney realised that, because he was representing Standard Bank, he could not, as offered, represent Arrie Johannes.

On the issue of what names appeared on the deed of sale, Herman writes: "There was an error on the deed of sale but this was rectified that very same afternoon. In the confusion with Mr Johannes being at the office with the Mtotywas, the deed of sale was handed to me upside down on my desk, and I simply signed in the wrong place, with Mr Huxtable signing as witness. It was an error anybody could make."

In the course of researching the story *noseweek* did try on numerous occasions to get Sheriff Herman's side, but, as she admits, she simply declined to comment.

She does have a curious response to the allegation that on occasion she instructed her gardener to deliver summonses for her: "Please get your facts straight and check with the Board for Sheriffs that Lionel Sanadayo was not a gardener but a deputy-sheriff [...] for the past six years."

The man *noseweek* referred to was Mr Sonwabo Mama – who was indeed Herman's gardener, and who claims to have been sent on various occasions to deliver summonses.



The Sheriff

Private Apartments TO LET

FULL FACILITIES • TV • SECURITY

LONDON £80 per day*
between Park Lane and Grosvenor Square

NEW YORK \$100 per day*
Midtown/E63rd & Madison Ave

PARIS €100 per day*
206 Rue de Rivoli on Tuileries Gardens

Cell 082 445 1804 or Tel/Fax: 021 712 1712

Costs for year 2008 to increase by 20%

*Costs apply for stays of 3 or more days.

Cost of 1 or 2 days extra 25%.

EMAIL: ddn@iafrica.com

NEED TO CATCH A SNAKE?

Africa's premier snake catchers
(We're not bad at sharks either)

Mercantile Investigation
Litigation support
Recoveries & resolutions

Tel: +27+83 357 8555
mark@vumbu.com

VUMBULULA
RESOURCES PTY LTD

SITUATED NEAR WHITE RIVER...

...fine food, accommodation, and functions in a beautiful 6 hectare garden!



I-GWALA GWALA
A COUNTRY HOUSE IN THE LOWVELD

www.igwalagwala.co.za (013) 750-1723

IN A BOOK THAT is bound to depress cricket fans everywhere, the odd touch of humour is welcome, be it ever so black.

Like the account of a game between Pakistan and Australia in which each team was in league with a rival bookie.

According to disgraced former Pakistan captain Salim Malik (in an unwitting interview with two undercover tabloid reporters), this is what was really going on in the second One Day International of the 1994 Singer Cup:

“Both sides were wondering what the hell was happening. We were trying to get them to score runs against us and they wouldn’t. We were trying to get ourselves out and they wouldn’t get us out. I was the captain in that game. What a lot of aggro that was! It was like we had to kick the ball just to get their runs up.”

As it happened, Australia set Pakistan a modest target of 179, and still won by 28 runs. They must have been gutted.

Of course, that was all a long time ago. The cricket industry has assured us that everything’s all right now. That since Hansie’s fall from grace (and the sky), the thought of underperforming in exchange for filthy lucre has never crossed a Protea’s mind. Or the mind of any other professional player.

But after reading Laurie Claase’s compelling account of crooked cricket through the ages, you’ll find that hard to believe. Even if you still feel inclined to follow the current series against the West Indies, you will do so with a thoroughly suspicious mind.

When a commentator uses a word like “inexplicable” to refer to the fact that the captain has set an offside field and the bowler is aiming at leg, you will wonder if he’s trying to tell you something.

Every dropped catch, needless run out, loose ball and bad decision will have you speculating how much money has just changed hands.

That’s the great thing about cricket, at least from a crook’s point of view.

Its complexities provide almost unlimited opportunities for a wager. Apart from the outcome of the match, you can take bets on who will win the toss, how many runs each batsman will score and when each wicket will fall. You can gamble on how many LBWs or caught behinds will be given.

Or the number of boundaries that



THE LOWDOWN: Nicky Boje has been fielding questions from the Indian police in their inquiry into match fixing

Falling for it

A new book leaves you wondering whether any dives on the cricket field haven’t been fixed, says Hilary Venables

will be scored in the first 20 overs after lunch on the second day.

So even if a bookie can’t swing the critical mass of a team behind engineering a loss, even one bad apple can earn himself (and the bookie) a barrel of money.

And it’s not just the cricketers. Administrators, umpires, coaches, physiotherapists, groundsmen and even

sports journalists have been implicated in the corruption of the game.

But it’s the cricketers who break our hearts.

Claase, a lifelong fan of the game, admits that she shared the nation’s reaction of shock and denial when the Indian police fingered our beloved captain in 2000.

But unlike the huge majority of the cricket-loving public, she could not find it in her heart to forgive him once the truth came out.

And when the King Commission was indefinitely suspended, after merely scratching the surface of the muckheap, she felt compelled to hold her nose and dig as deep as she possibly could.

As an outsider, Claase has been forced to rely largely on information already in the public domain, much of it taken from media coverage, police reports and the findings of the King Commission and similar inquiries in Pakistan, India and Australia.

But by joining the dots, she has been able to sketch a coherent and credible picture of the massive fraud perpetrated on the cricket-loving public over the years, illuminated by some of the most famous names in recent cricket history. What’s more, she raises serious doubts about how much has changed.

Gambling on cricket is a multi-billion dollar industry. So it’s no surprise

When the King Commission was indefinitely suspended the author felt compelled to dig as deep as possible

that death threats have been issued and murders committed in the quest to keep this vast criminal enterprise thriving. No wonder none of the official investigations has got to the bottom of it. As Claase points out: "Despite the decades of match-fixing rumours, inquiries and life-bans, there has never been a successful criminal prosecution of any player or official involved in match fixing."

This book will make you wonder why. It will have you asking questions about the integrity of certain members of our current national squad, and the honesty of certain prominent former administrators. You will replay in your mind that suicidal mix-up between Klusener and Donald in the semi-final of the 1999 World Cup.

And doubt the unexpected results of any number of international cricketing

contests over the years.

You will also be pretty confident that crooked cricketers have knowingly or unknowingly contributed to Al Qaeda's war chest.


And then there are the murders. The cause of the death of Pakistani bookie Mohammed Hanif "Cadbury" Kodvavi is hardly a mystery. He was shot 67 times in a Johannesburg street in 1999 by unknown assailants and then chopped into little bits. Which illustrates just how dangerous the international match-fixing fraternity can be.

But some deaths are less clear cut. As this book reveals, there are still those who are convinced that that plane crash outside George in May 2002 was no accident.

And then, of course, there's Bob Woolmer. Claase has assembled a thoroughly fascinating dossier on all that is known, unknown and rumoured about what happened in room 374 on the 12th floor of the Pegasus Hotel in Kingston last March. And it just doesn't add up.

Unless and until there is a believable official explanation for all the strange things that have happened, both on and off the cricket pitch, for the past decade and more, we are entitled to draw what conclusions we may from the evidence we have.

The danger is that those conclusions may put many of us off cricket for good.

● *Caught Out* by Laurie Claase is published by Umuzi and retails for R165. 

ASSOCIATION OF ARBITRATORS (SOUTHERN AFRICA)



The Association has been presenting arbitration for over 20 years, for which the locally and internationally. The following Members of the Association and those

- Certificate Course in Arbitration
- Fellowship Admission

Registration:

- Certificate Courses: 15 February 20
- Fellowship Courses: 15 March 2008

For further information, kindly contact the Association at: PO Box 653141, Benmore 2010,

3rd Floor, Sandown House, Norwich Close, (off 5th Street), Sandown

Tel: (011) 884-9164/5 Fax: (011) 884-9167

di.arbitrators@gmail.com

www.arbitrators.co.za

correspondence courses in arbitration qualifications are well respected both locally and internationally. The following courses are now being offered to those wishing to apply for membership.



THE BOND MAN®
Sourcing the best home loan for you

Gary Peterson
082 453 7374
gary@bondman.co.za

www.bondman.co.za

THERE IS ONLY ONE BOND MAN




XA!mini
AFRICAN WILDLIFE SAFARIS

GORILLA SAFARIS

Small groups - enjoy the comforts and safety of these personally guided experiences!
* Only 340 gorillas left in Uganda.

Lisa: +27 83 448 4476 +27 21 434 7184
limar@iafrica.com



**AN IDYLIC PROPERTY
IN BOOMING CHARTWELL
AGRICULTURAL ESTATES**

This is a rare Eden for outdoorsmen – the hunting & shooting fraternity to note – providing a spacious character home set in 1.5 acres of well established garden & 4 morgen of pristine veldt with subdivision rights into 4 portions. This magnificent property will appeal to the space lover with its open surrounds, plentiful bird life (120 species), blesbok & springbok on the adjacent property, & majestic uninterrupted views.

For full details visit
www.sahunt.co.za/en/chartwell.aspx



Marc Lottering with Andi Berghouse and (above) Sumien Brink with Etienne Hanekom

how did Riboville, a restaurant that's helping drive the regeneration of Cape Town's inner city, get left out of the guide altogether? It's an elegant multimillion revamp of a Cape heritage building that's drawing the crowds. Its head chef is Evan Coosner, ex Ginja and Reuben's, and its restaurateur is George Sinovic, whose other Codfather offshoots made Eat Out's pages. Curious.

Meanwhile, there's quite a bit of Oscars emotion being expressed on stage by some of the Top 10 chefs. The eyes of The Showroom's shaven-headed Bruce Robertson are shining as he

Bites and
hugs
his diminutive
sous-chef Lee and mutters
"Thanks mate, couldn't do it
without you." And Bread & Wine's
celebrated self-taught charcutier
Neil Jewell can barely hold back the

THEY MIGHT LOOK LIKE confident, beef-fed beasts, all these swaggering chefs who've been nominated for the Eat Out awards in Camps Bay tonight. But cheffing is tricky. Just when you think you can't possibly better your buttery veloute, along comes some hocus pocus genius turning out codfish foam. And suddenly you're a bit passé. No wonder France's three-star Michelin chef Bernard Loiseau got so burned out that on the eve of the launch of the 2003 Michelin guide he killed himself.

South Africa is of course a nation that defines itself not by its food but by its world rugby status. So the culinary geniuses who fall off Eat Out's Top 10 list every year aren't subject to the terminal pressures of *haute gastronomie française*.

Still, the tension tonight at what editor Abigail Donnelly describes as the "foodie Oscars" is palpable under the Rotunda's festooning black and white ribbons, colour co-ordinated with Abigail's flowing Gavin Rajah. And a few chef knives are being sharpened...

A lot of people are wondering for example whether it isn't time Eat Out's review panel cast their nets a bit wider. George Jardine of the Bree street restaurant Jardine might be an undeniable miracle in the kitchen – and a great guy to work for reportedly, as well as a hunky Alpha Male, especially in his kilt, and with those legs – but doesn't it smack of bias

to make him Chef of the Year for two years running? We all know there's no such thing as absolute objectivity. And there's a whole country out there...

And what does it say about the dilettante flavour of this review panel that Margot Janse, whose Tasting Room at Le Quartier Francais this year got both the Restaurant of the Year and the Service Award, was last year not even in the Eat Out's Top 10 – even though her place was voted Best Restaurant in Africa and the Middle East by the UK's Restaurant magazine in 2005? Moreover, might the fact that journalist Donald Paul publically pointed out the omission explain why he's being schmoozed at the main table tonight?

Talking about significant omissions,

I manage to eat the instructions that come inside my fortune cookie and sit there with smoke curling from my lips



George Jardine



tears as he describes how, in between turning out the chorizo and smoked impala, he and his wife have had "a pretty fucking rough year and that's putting it politely".

Some people have made a special effort to be here. Justine Drake, the BBC food presenter whose crocodile braais in Zulu villages are a hit even in Worcestershire, has pitched although she's about to give birth to another indomitable elf. Eat Out founder Lannice Snyman has just been through a serious operation

pieces

and the death of her famous mother, but here she is, rooting for the woman who's getting the Lifetime Achievement award she got last year – food and wine writer Jos Baker.

Naturally the meal tonight is superior. But the dessert is a mystery. I manage to eat the instructions that come inside my fortune cookie, so instead of mixing the dry ice with the chocolate to freeze it, I pop it into my

mouth, thinking it's sorbet, and sit there with smoke curling from my lips like a rock star stage show.

Two nights later I'm back in the Rotunda at an infinitely more earnest affair. Four members of the Ackerman family – Raymond, Wendy, Suzanne and Robin – are on stage receiving public recognition for their commitment to the community.

The Inyathelo awards are an attempt by philanthropy activist Shelagh Gastrow to encourage a culture of social giving among emerging tycoons. Can she stretch ubuntu into financial support for hospitals and universities?

Other role models include Amanda Bloch, who's been a fund-raiser for the

Red Cross Children's Hospital ever since they saved her son's life, and art patron Vivi Cohen, who looks more like Gertrude Stein every day and has brought a clutch of praise singers that include Brent Meersman, author of a *roman a clef* based on life with Patricia De Lille.

Best dinner this week though is at an endless table in the i-Art Gallery in Loop Street, celebrating an unlikely artistic collaboration. Who would've thought Louis van Vuuren's vibrant paintbrush on the thoughtful black and white photographs of Zwelethu Mthetwa could produce artworks so original that this opening night is a virtual sell-out? To the tune of a few million? No wonder the bubbly is flowing. **T**



Above: Woolworths' Richard Eskinazi, Nomahlubi and Simpiwe Siyata of Beluga (Simpiwe won the Woolworths Taste bursary), and Eat Out publisher Lani Carstens. **Right:** Bridget McCarney, Justine Drake and Irma van Zyl



SUBSCRIBE TO NOSEWEEK



Be first on your block to know what noseweek says about you. Have the news your neighbours aren't supposed to know delivered straight to your letterbox....

At least you'll know when it's time to make your excuses and leave. You'll save yourself 23% on the shop price – and lashings of embarrassment...

SAVE 23%

Recipient's details (in block letters, please)

Title..... Initials..... Surname..... Year of birth 19.....
 Postal address.....
 City.....
 Postcode..... Profession/Business.....
 Tel(.....)..... Email.....

This is a gift from (if applicable):

Title..... Initials..... Surname.....
 City..... Tel/email:.....

This is a New subscription Renewal – now for 12 issues!

Rate South Africa @ R276 Southern Africa @ R350 Overseas @ R400
 Noseweek Internet edition @ R265 Local Print + Online @ R426

Payment details Cheque enclosed Direct deposit – First National Bank; Vineyard Branch; Code 204 209; Acc: Mag Marketing; No: 620 2477 9623. (Fax deposit slip with this form.)

Credit card: Master Card Visa Diners Club

Card number

Last three digits on reverse of card: _____ Expiry date: _____

Cardholder's signature

For more information (or to subscribe online) go to www.noseweek.co.za or tel: (021) 686 0570

Poisoned relationships

Are the vineyard kings of Riebeek Kasteel dirty rascals?

TO MANY CAPETONIANS, the small vine-besieged dorp of Riebeek Kasteel is an ideal getaway. One look at the gently sloping valley, fynbos-covered hillsides, quaint church and the soporific locals is enough to entice them to stay awhile (the place has a half-decent restaurant or three, and you won't run out of vino).

Some urban types even move here permanently, exchanging the Mother City's increasingly clogged traffic, tik-addled murderers and mediocre architecture for Riebeek's abusive neighbours, clouds of nerve poison and hyperactive rumour mill.

But if you're dreaming of relocating to a small agricultural town to "get away from it all", pay serious attention to the ongoing battle of Riebeek Kasteel – in such small town soapies lie dire implications for you, your children, and your children's children. [*There goes our advertising from Pam Golding's Riebeek Valley branch.* – Ed.]

On one side of the bar fight are Johan Vlok and Eric Venter. Most vocal locals are on their side.

Vlok is the biggest local farmer and owns virtually all the vineyards in the immediate vicinity, claiming to employ 700 people. He specialises in export table grapes, but also runs a touristy shop called "Het Vlock Kasteel" named after his ancestors who settled around here a few generations ago. Venter, Vlok's pesticide supplier, is a wealthy agrochemical dealer who owns commercial property in town.

Hurling bottles from the other end of the room are Jurgen Schirmacher and David Bellamy, and a few – mostly silent – supporters. Schirmacher is an accomplished architectural and interior designer, while Bellamy runs a quirky, art-littered guesthouse, and sells imported fabrics. Both are relatively recent arrivals and both live on the borders of farmer Vlok's vineyards.



Although Riebeek's ding-dong battle had already run for scores of rounds by that time, the real trouble started in mid-2004, when Jurgen Schirmacher's month-old son, Kristofer, was rushed to Cape Town's Constantiaberg clinic with respiratory difficulties. On arrival the child stopped breathing altogether, and was only revived after a dramatic 50 minutes of resuscitation. The incident left deep emotional scars on Jurgen and his wife Laetitia.

The Schirmachers soon had reason to wonder if Vlok's regular use of pesticides on the recently-planted vineyard adjacent to their house wasn't behind the event. The whole family began suffering from headaches, skin rashes and other complaints following "spray days", when tractors – increasingly often as the vineyard matured – hauled chemical mist-blowers up and down the rows, mere metres from their historic home.

Schirmacher began trawling the Internet, and discovered that many of the chemicals used by local grape farmers (including Vlok) – chlorpyrifos, endosulfan, formetanate and the like – were implicated in causing cancer, nerve damage, genetic defects ... and breathing seizures like the one that had almost killed his son. Until then he'd assumed that the vineyard sprays were essentially harmless. Certainly no-one else in the town had mentioned any problems with the spraying.

A little up the hill and also adjacent to one of Vlok's vine blocks, David Bellamy started developing headaches and intermittent pains in his joints. He noticed that his symptoms worsened dramatically immediately after spraying, and he too began asking questions. Bellamy and Schirmacher later formed some kind of loose alliance in their probing of the situation.

Vlok continued to insist that his

chemical sprays were legal and not harmful, but did finally agree not to use certain of the more obviously poisonous chemicals in those vineyards immediately adjacent to Schirmacher, and to issue notification before spraying. According to Schirmacher, Vlok broke the agreement and a series of legal battles ensued.

To prove that Vlok's spraying is both illegal and harmful, Schirmacher then invested in a white chemical suit, and, dressed up like a spaceman, began charging out into his backyard to film the mist-blowers as they laboured past leaving clouds of chemicals to drift into town. This seems to have seriously irked farmer Vlok, who began hanging around Schirmacher's house and photographing him running around in his suit. He also took to hurling verbal abuse, including a chilling "jy gaan vrek" one day while Schirmacher was filming a spraying operation. (It's the kind of threat you take seriously: Vlok is a big guy.)

Schirmacher also says rocks have been thrown on the roof of his house at night, and threats issued over the phone from a number belonging to Dries Vlok, Johan's brother.

While Vlok plays the aggressive buffoon and won't talk to the media, Venter plays the "reasonable, objective anti-alarmist". He loves telling people that he and Vlok are highly qualified to use agrochemicals, and that the spraying is utterly normal. He's written in a local newsletter that "if you should see a spraying operation, the toxic potential in most cases will be comparable to the toxicity of sugar or salt".

Venter suggests that Schirmacher is merely an ego-maniacal troublemaker with (unspecified) ulterior motives; if he was genuinely concerned about his family's health, he would have left town. He comments: "What does Schirmacher expect? If you go and live next to the Milnerton oil refinery you mustn't be surprised that fumes pollute your air! Why doesn't he go live somewhere else?" Interesting analogy. Except that no-one, presumably, pays good money to go and live alongside an oil refinery.

A neighbour of David Bellamy's, Willem Smuts, is now attempting to deny Bellamy access to the back of his property by fencing in the driveway – a servitude that technically falls on Smuts' land but has been used by occupiers of Bellamy's property for decades. Smuts recently told Bellamy that his actions are damaging agriculture in the town.

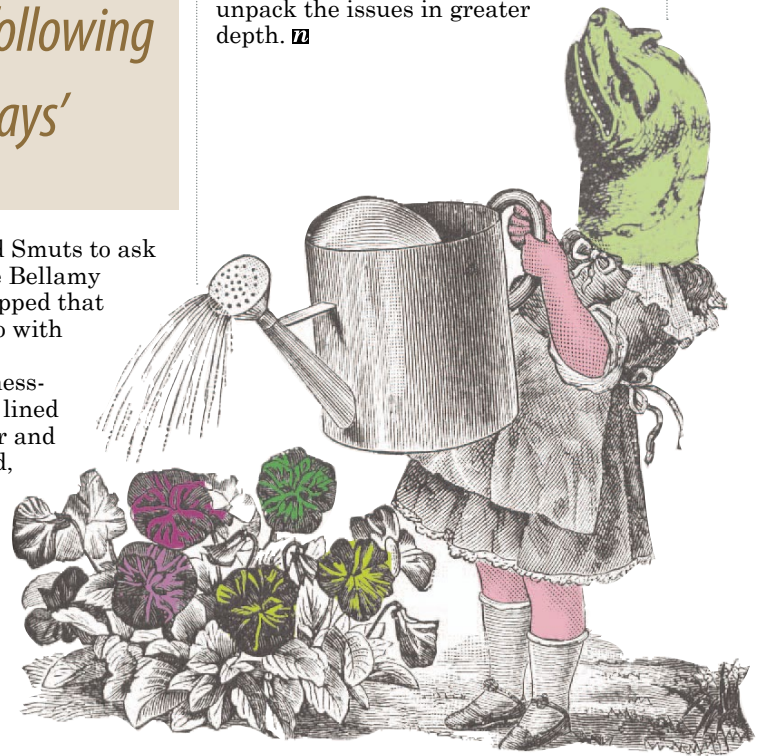
The whole family began suffering from headaches, skin rashes and other complaints following 'spray days'

When NoseArk called Smuts to ask why he wanted to fence Bellamy off his property, he snapped that it had "bugger-all" to do with anyone else.

The majority of business-people in Riebeeek have lined up against Schirmacher and Bellamy. Allan Barnard, Kfm Radio DJ and owner of Riebeeek's Kasteelberg Country Inn, thinks Schirmacher is damaging the town's reputation and should shut up unless he has scientific proof that his family is being poisoned – video

evidence that pesticides are illegally wafting into the town is not enough.

Is Schirmacher simply a neurotic freak? Is Vlok an evil mass-poisoner? Does Venter have a valid point? Let's just say that reaching substantive conclusions about the battle of Riebeeek Kasteel – and the remarkable case in Mpumalanga of five-year-old girls and boys growing breasts – is nowhere near as straightforward as you might think. In the next NoseArk we'll unpack the issues in greater depth. ▣



KEN FORRESTER Stellenbosch
2003 SHIRAZ GRENACHE

KEN FORRESTER Stellenbosch
2003 MERLOT

KEN FORRESTER Stellenbosch
2004 SAUVIGNON BLANC

KEN FORRESTER Stellenbosch
2004 CHENIN BLANC

TEL +27(0)21 855 2374
FAX +27(0)21 855 2373
marketing@kenforresterwines.com

KF
KEN FORRESTER
VINEYARDS

PO BOX 1253 STELLENBOSCH
SOUTH AFRICA 7599
www.kenforresterwines.com



Reptilian Royalty

SOMETIMES, when I don't feel like doing anything constructive, I ponder the mysteries of our vast universe and how unlikely it is that earthlings are the only form of life in existence.

No, really: I have the Internet – I look such things up.

Somewhere, I learned that infinity is really, really big, and that the universe is infinite, or close enough to infinite to make the distinction moot. Surely in all this hugeness there must be other places as hospitable to life as our own little planet?

Carl Sagan often made this argument, and much better than I can. Some scientists even postulate that life on earth originated a few billion years ago as bacteria hitching a ride on the back of a comet or meteor. How cool is that?

I am impressed by scientists and I tend to trust the scientific method, though I must say I find few opportunities to utilize it in my daily life.

Many non-scientists take the assumption regarding extraterrestrial life a step further. They maintain that ancient humans couldn't possibly have built the pyramids or Stonehenge without help from aliens, and that crop circles are really sophisticated communications from extraterrestrials. I just love crop circles. (www.circlemakers.org)

Perhaps the most popular aliens are the Greys, long-armed little creatures with large craniums and huge lecherous black eyes. They abduct humans for scientific experiments, then set them free to tell traumatic tales of mind-control and anal probes.

Some are convinced that extraterrestrials are living among us already and have the ability to shape-shift from reptile to human. Such beings are called Reptilians and are known for drinking the blood of blue-eyed blondes in order to maintain their mammalness. Go ahead and look it up at www.the-night.net/blood/drinkblood.htm.

Queen Elizabeth II, George W Bush and Boxcar Willie are said to be Reptilians. I'm not sure how believers know that to be so, but once during a US presidential debate I saw Dubya's brain go dead for 43 seconds, just like reptiles are prone to do. (Watch Dubya's iguana moment: www.youtube.com/watch?v=Jt-ac6pstmM&feature=related.)

And I can't be sure, but I could swear I saw him try to lick his eyes. Coincidence? Maybe.

Although I don't buy into their delusions,

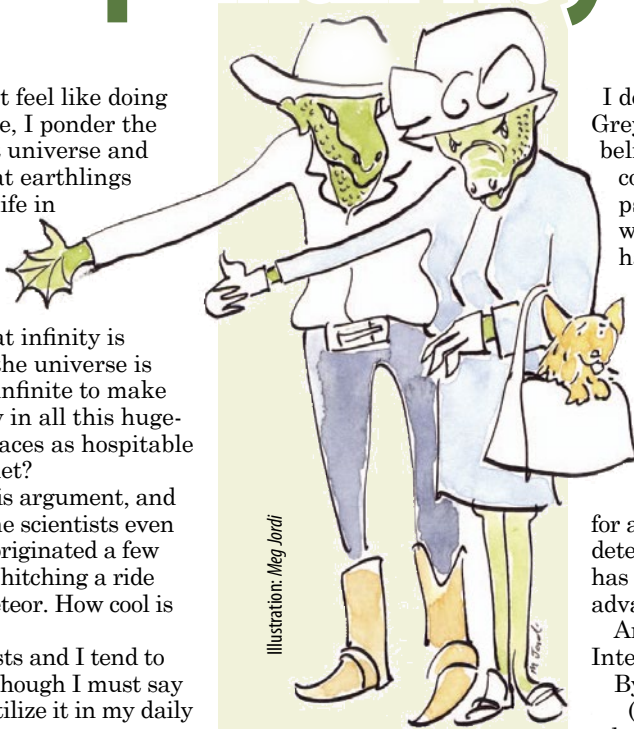


Illustration: Meg Jordi

I don't worry about people who believe in Greys and Reptilians. The UFO nuts and believers in alien abduction have another common denominator besides a need for psychotropic medication. They think that whatever advanced intelligence which happens to exist is likely to be up to no good, which seems to me to be a sound hypothesis.

I'll tell you what really worries me: it's the Seti Institute (www.seti.org). Seti is an acronym for Search for Extraterrestrial Intelligence, and that's just what these scientists are up to.

By using the world's largest and most powerful telescopes, they scan deep space for artificially produced radio signals, trying to detect evidence of cosmic habitation where life has evolved to a technological level at least as advanced as our own.

And now anyone with a computer and Internet connection can participate.

By downloading a free program (www.setiathome.ssl.berkeley.edu/) that downloads and analyses radio telescope data, you can join the quest to find intelligent life on other planets. The Seti program, using the power of thousands of home computers, enables searches that cover greater frequency ranges with more sensitivity.

Isn't the Internet wonderful? But what if we actually find intelligent life out there? The next step will undoubtedly be to send a signal saying, Yoohoo! Here we are! And what's wrong with that, you ask? I'll tell you.

Chances are any galactic neighbours would have evolved just as we did, through the survival of the fittest. We are who we are today because we are a ruthless species. We are competitors. We don't care how we win as long as we do. Just ask any Neanderthal you meet on your next Spanish holiday.

Or consider the great nations of Europe since the 16th century. And if you think colonization and slavery were bad, pity our cousins the great apes, with whom we share almost all of our genetic material. We're wiping out their habitats, imprisoning them in zoos, using them for medical experiments and savouring bush meat.

Any hypothetical aliens are most likely just as successful a species as we humans. So download setiathome at your peril.

But if we do become enslaved to some extraterrestrial race, or find ourselves tastefully spread out on some alien deli counter on planet Quaxar, don't say I didn't warn you. **■**

*Queen Elizabeth,
George W Bush
and Boxcar
Willie are said
to be Reptilians.
I'm not sure how
believers know
that to be so*



Not-so-green bottles

HYPOCRISY OR SELF-DELUSION, or at least resolutely looking the other way, seem occasionally inevitable for those who try to behave with a little decency in a world which tries to make mere consumers of us. You can pick your way around as carefully as possible, but it's hard to opt out.

I sadly realised long since that if my drinking were to be solely guided by a concern for squashed vineyard chameleons or squashed vineyard workers, I'd go pretty thirsty.

Nowadays, those with delicate consciences must also think (or carefully avoid thinking) about the carbon footprints of their indulgences. To help them feel less guilty about their next plane flight many in Europe particularly are now worriedly examining the global-warming implications of such matters as food and wine. Local producers should take note, and tremble a little.

Or do as Backsberg is doing, sequestering its carbon emissions and becoming the first carbon-neutral wine farm in the country.

Some months ago New Zealand winemakers did some serious trembling, partly in anger, at a *London Times* article. The paper was running a series urging readers to put their lives on a low-carbon diet – including choosing goods in the light of how much fuel it had taken to bring them to market. Along with advice on insulating attics came the suggestion to buy French wine rather than a bottle that had travelled all the way from New Zealand.

It's not quite as simple an alternative as that, as Kiwis quickly pointed out – a lorry-load of wine from Lyons to Dover might well be more carbon-guilty than a shipping container from Wellington. But logic is not always the last thought process to be jettisoned when the average *Times* reader wants to buy a sense of virtue at low personal cost.

It is true, though, that wine is guiltier of packaging sins than many products, especially when it comes in glass bottles. They are recyclable, yes, but not always convincingly so when it comes to saving energy, especially when the bottles are emptied at a great distance (London, say) from the place where they're filled (Paarl, say). There's apparently already vastly too much green glass in England awaiting recycling.

The worst offenders are those producers

Expensive wines are obliged by the perverted values of the market to come in much heavier bottles than they need to be

for whom size matters. It's difficult to think of a more egregious example of irrelevant pomp than some of the ultra-heavyweight bottles around. This obesity is a thing of the last few decades, but few prestigious wines anywhere in the world are now immune to the need to look imposing. Only some of the long-pedigreed ones can get away with the equivalent of an aristocratically-tatty tweed jacket.

Locally, it's probable that all expensive wines are obliged by the perverted values of the market to come in much heavier bottles than (by any rational standards) they need to be. Some are truly monstrous. The most wrist-cracking examples I can think of quickly are Vergelegen V, the flagship red from Capaia; Ashbourne (the brilliant pinotage made by the Hamilton Russell team); and Mvemve Raats De Compostella – but there are others just as grotesquely absurd. All good wines, incidentally, that should be able to get by without each 750mls being packed in two bottles-worth of glass.

White wine also plays the pretention game: there's a Reserve white blend shortly coming from Vergelegen in a bottle that is a vitrified hymn to conspicuous consumption. The bottle's punt – the depression in the base – swallows my fist virtually up to the elbow. Its sole purpose is to add weight and, thus, impressiveness. (Originally punts probably developed to supply strength to the base of the bottle or to help give stability to hand-blown bottles by providing a non-rocking bottom.)

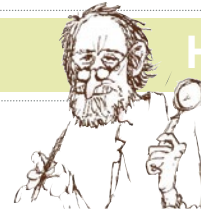
Worse, from a carbon-producing point of view, these massive bottles are all imported. So some will travel here from the factory in Europe, get filled ... and go all the way back. If the readers of the *Times* find this all a ridiculous waste of the earth's resources, who could do other than nod in agreement?

It's perhaps something that consumers here should think about too. Whether they'll be willing to swop their heavy bottles for the avowedly carbon-friendly (and rather attractive) two-litre plastic "pouches" of Arniston Bay and Versus, let alone the Distell wines in garish "Prisma packs", is another matter.

But by the time Vergelegen V appears in a pouch, global warming may well have already turned the Western Cape into a summer-rainfall (or no-rainfall) area, and Stellenbosch will be growing agaves for tequila. ■



Illustration: Meg Jorliff



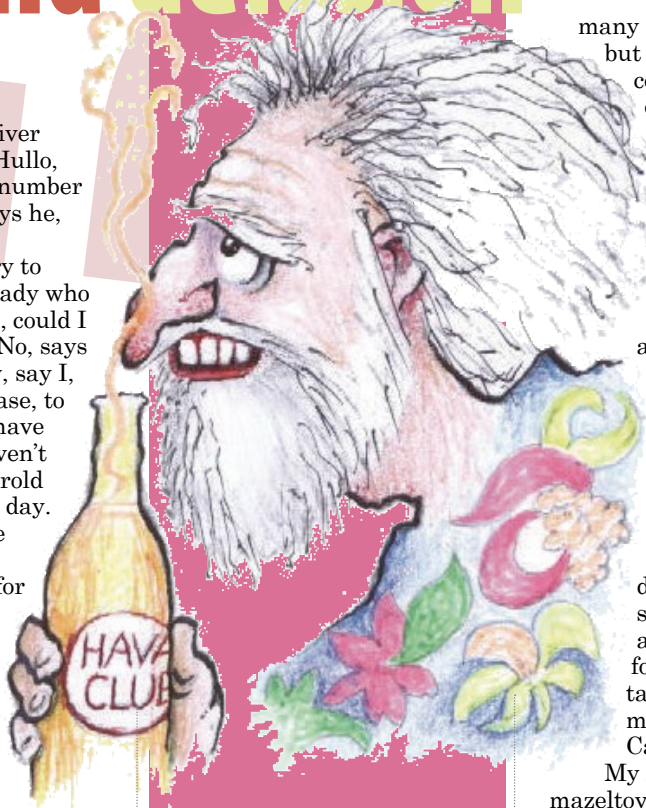
Snare and delusion

THE PHONE RINGS. I put the receiver to my ear and a voice says Hullo, same number there? Same number as what? say I. No sorry, says he, wrong number.

I mean what does it MEAN? I try to phone Ronnie Kasrils and I get a lady who must be his secretary; Hullo, say I, could I speak to Minister Kasrils please? No, says she, he is not here. Never to worry, say I, could you give him a message, please, to say that I phoned? Yes, says she, have a nice day. No no, wait! I cry, I haven't told you who I am yet; tell him Harold phoned. Yes, says she, have a nice day. Okay, say I, so what's the message then? Herod phoned, says she. No no, not Herod, say I. Harold. H-A for Apple-R-O-L-D. Okay, so what's my name then? Herod Apple, says she. Ummm, say I, I'll tell you what, just tell him I'll send an email. No no, on second thoughts just don't tell him anything. I'll write him a letter. Have a nice day, says she.

Already I'm having a lovely day. I doubt other folks get phone calls as otherworldly as mine. I mean the phone rings, I put the receiver to my ear and say Hullo, Strachan here. Aaah, says a proper ladylike upper middle class English voice, I am telephoning from Cambridge. Mass? say I. AAaah no, says she, Protestant. C of E to be precise. No no, say I, I mean are you in Cambridge Massachusetts? I think I have the wrong number, says she, with some hauteur, like I've just suggested she is phoning from Hell, and rings off. But after a bit, long enough for the steadying of her nerves, it rings on again. Hullo, say I, same number here. Oh dear! says she, bracing up. Are you Mister Strachan the art conservator, restorer, and commentator? In the flesh, say I, and at your service. She eases off. I found your number in an international register of art restorers, says she. I puff up a bit at this, who wouldn't? I knew I was world-famous in Durbs, but this now is something else, it's the big league, man. Your wish is my command, say I.

The Society for the Conservation of Contemporary Informal Art, situated here in Cambridge, is seeking a person of suitable qualification and sensibility to attend a week-long conference in Havana, there to present a paper on meaningful graffiti in the Developing World. There are, of course,



*Oh dearie
me, says she,
I seem to
have made a
mistake*

many art commentators of great merit, but after considerable discussion the committee concluded that an art conservator or restorer would best fill the rôle, many of the good graffiti being on raw concrete or impermanent slum walls and the lacquer of the aerosol, a medium still relatively new to outdoor art, so consideration would have to be given to its permanence in harsh climates andsoforth. The Society will provide transport, accommodation and two thousand pounds for preliminary research. Would you consider such a proposition? Considering such propositions is what I'm best at, say I, and I accept.

Ohboyohboyohboyohboy! Hey diddledeedee! I'm off to the bookshop for a Spanish/English dictionary and the ethnic clothing shop for a couple of Madiba shirts and I take numerous pics of Durban with my cheapo digital camera for new Caribbean friends. Callooh callay!

My family hugs me and says mazeltov. Cuba, here I come! The phone rings. I put the receiver to my ear and say Hullo, Strachan here. Aah, says Proper Ladylike Voice. At last. I have to struggle to make contact with you, you seem to have such a long telephone number. Yes, that's because you are in Cambridge and I am in Durban. DURBAN! she exclaims. But that's on the Persian Gulf! No no, say I, that's Dubai. I am down the bottom end of Africa. AFRICA! she cries. But I have before me the very register of conservators I spoke of, and here is your name: Dr Hamish Strachan, Durham. Ja, fine, say I, except I am not he. I'm Harold. I suppose his number is next to mine in that register and you got all confused. I can hear her murmuring as she runs a finger down the page. Oh dearie me, says she, I seem to have made a mistake. I stagger my voice; artistically. You mean – you mean I'm – you mean I'm not – not going to Havana? I emit a studied sort of sob. Well, says she, oh dearie dearie me, it seems I used the wrong number, in a manner of speaking.

So I am once more off to the Bottlestore Galactica, which for me is a bit like that place in Lourdes for healing body and spirit, and there run a discerning eye along the ranks of bottles all standing to attention on parade. Got it! Havana Club Anejo Blanco, *fondada* 1878, and the nearest I'll get to Cuba. World fame sucks. A snare and a delusion. ■

PAYMENT & TERMS FOR SMALLS

Deadline for smalls is the 1st of the month prior to publication.

Smalls ads are prepaid at R120 for up to 15 words, thereafter R10 per word.

Boxed ads are R200 per column cm (min 3cm in depth).

Payment by cheque should be made to Chaucer Publications, PO Box 44538, Claremont 7735.

Payment by direct transfer should be made to Chaucer Publications; Account 591 7001 7966; First National Bank; Vineyard Branch; Branch code 204 209.

Payment online at noseweek.co.za or email noseads@iafrica.com

PERSONAL

Campaign to highlight injustices against mothers of young children in the Cape High Court in Divorce matters. Liz Davis: 082 823 8413.

US Democrats Abroad SA Voting assistance and activism post-Bush-Cheney disaster. demsabroadsa@hotmail.com; 021 531 4966

Merry Xmas to all *noseweek* readers from Maud.

Happy New Year to all *noseweek* readers from Nicci.

To the Brits who are coming Watch out for Dad's day out. – M.J. Pegler

You are the love of my life – Jan.

As a South African I owe loyalty to the state and it owes me protection.

Superstars: Schareie, Nicole & Taryn. Total 9 Varsity distinctions. Luv you girls stax. Karl/Dad.

HOLIDAY ACCOMMODATION

Arniston Stunning seafront home perched on cliff top overlooking beach. Breath-taking position and panoramic sea views. 5 bedrooms, 3 en-suite, serviced. 082 706 5902.

Clarens Near Golden Gate in the beautiful Eastern Free State: Rosewood Corner B&B offers all you want for a break from it all. 058 256-1252.

Cape Town, Observatory Attractive cottage near sweet café for breakfast R315 per night 073 080 5787.

Marina da Gama, Cape Town Self-catering apartment on water's edge. www.cootslanding.co.za

Simonstown Top of Redhill. 2 Bedrooms. Quiet, small and beautiful. Suit hikers. 082 802 9868.

Swellendam Two bedroom cottage up against the nature reserve. Stunning views. Ideal for hikers. James Scott. 0834525829

Plettenberg Bay River Club Cottage sleeps 8. Call 021 851 2859.

Tulbagh Villa Tarentaal for peaceful 4-star accommodation. Magnificent views. Only 75 minutes from Cape Town. Call 023 230 0568.

PROPERTY TO BUY, SELL OR RENT

KZN For stunning properties in Upper Highway. Contact Delaine Cools on 083 949 2837 or 031 765 3833.

Pinelands 3 bedroomed house available from 1 Feb 2008 Call Nico 021 531 5544.

Bushveld Your own place in the bush for sale just 90 mins N/W of Sandton. 10 ha. 4br d/s house, pool, eskom, great birdlife etc. Robert 082 490 7868.

Twenty five percent shareholding offered in small recreational farm on Crocodile River, Schoemanskloof, Mpumalanga. Beautiful setting. Email director@exhibitionsafrica.com.

Craighall Park Two-bedroom home in cluster cottage/office pool. Small six-house complex available Feb 2008. Email director@exhibitionsafrica.com.

TRAVEL & LEISURE

Guided casual walking in beautiful South West France. Be our house guests enjoying excellent cuisine. www.frenchcooks.com. +44 20 8776 2045.

Catamaran Sailing Cruises from the V&A Waterfront, Cape Town. Daily Schedules or Private Charters on the new "iQ" catamaran. Tel: 021 421 5565; email: fun@cruiseiq.co.za; www.cruiseiq.co.za

Run an international marathon with Penthouse Travel. Phone Marie on 021 976 8111 for more details.

LEGAL, INSURANCE & FINANCIAL

Muhlberg Attorneys, nose IP. 011 465 5600 or 083 947 0903. mail@muhlberg.co.za.

Adrian Gary Skuy Attorneys Johannesburg. Specialising in litigation, commercial, labour, tax, matrimonial. 011 646 4367 or 0824515779. taxlaw@telkomsa.net

Convert term debtors into cash with 80% advance upfront on a non-disclosed confidential basis. Call Dale @ Alcrest Outsourcing (Pty) Ltd on 011 467 0285 or 083 458 0805.

FOR SALE

Tinus and Gabriel de Jongh paintings bought, sold and valued. Art prints sold. Gallery open by appointment. dejongh@yabo.co.za or call Tinus de Jongh 021 686 4141.

Secondhand plastic pallets bought and sold www.premierpallets.co.za or 083 756 6897. See www.samiltrucks.co.za

Pure Water by Reverse Osmosis. Dealers required earn up to R100 000 pa. Call PJ. McWilliams 072 609 7091; coolpexsa@gmail.com; www.coolpex.com.

Tent Pro cc for New 5m x 5m Army Tents "ripstop" canvas, complete, R4980 inc. VAT Tel 082 537 2694 ; Fax 011 316 1053.

Unpeeled dried peaches, 10 kg minimum. R20/kg plus postage. Call 082 899 0214.

Whisky and brandy collection for sale. chikomo@iafrica.com.

Best prices for Rolex watches. Phone Greg 083 261 1662.

MISCELLANEOUS SERVICES

Pet pawtraits Have your best friend preserved for posterity in watercolour by fine artist Meg Jordi. www.megjordi.com 021 788 5974 or 082 926 7666.

Silver Spoon Function Hire Hiring of cutlery, crockery, linen, glasses, marquee, heaters etc. For all your hiring requirements. 011 262 2227 or 011 706 7884.

Biological treatment for Septic Tanks, Grease Traps, Drain Odour, Oil Stains. Bio-Systems SA 021 786 2972.

School governors The Governing Body Foundation is your support organisation. gbfound@netactive.co.za.

Designer corporate ID manuals, logos, brochures, catalogues, full service. Concept to print. Call Rodger on 082 900 1580.

Low and Petersen Personal Injury Attorneys, Cape Town. Call 021 465 2037.

Theme decor For corporate functions, launches or parties. Vincent 082 553 0438. Visual Creations Cape Town.

HEALTH, BEAUTY & FITNESS

Avoid back pain and retain flexibility in classes based on Pilates exercises and the revolutionary Feldenkrais Method. Wynberg, Cape Town. Barbara McCrea, 083 745 7086 or 021 788 9626.

Chiropractor Dr David Dyson (USA) Treatment of neuro-muscular-skeletal disorders. NEED A BED? Visit www.chirobed.co.za or call 031 469 4192.

Homeopath Dr Richard Steele. Gentle Health. North Beach Medical Centre, Durban, I also do housecalls. 031 332 6060 or 082 928 6208.

Fight the flab Reduce stress with your own personal fitness training programme, one-to-one with Master personal trainer. Lose weight, correct body alignment and posture at Sandton's newest gym. Free assessment.

Hearing tests and hearing aid fitting – Somerset West, Cape. Call 021 867 1837 for appointment.

BUSINESS OPPORTUNITIES

Organization looking to invest in & promote RSA venture suitable for expansion into the UK & Europe. If you feel your company has the suitable products/services to be successful, email angloafrican-venture@telkomsa.net

Mining in West Africa is booming. Many opportunities exist for suppliers. For details, e-mail director@exhibitionsafrica.com.

Newly Established Model and Promotion Agency in Sandhurst, JHB for Sale. Owner leaving country, just started the agency. Prime Offices, Website, Software, Girls and Guys all in place, R250 000 for all shares. Call Ryan 082 945 7548

PUBLICATIONS

Research and writing for your publication, then trust MANE Consultants cc to provide it. For all your publications' requirements visit www.maneconsul.com.

Triple distilled.
Twice as smooth.



Not for sale to persons under 18.



JAMESON
IRISH WHISKEY