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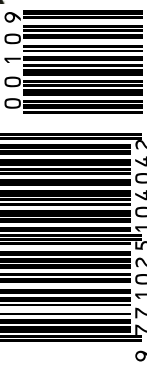
# 109

# NOVEMBER 2008



## Perfume baron's fashion-junkie wife fingers top shrink

Max du Preez in the Balkans **Douw faces Steyn removal** Estate agents still in bed with lawyers Reinventing Denel **Dealer totalled my Audi**



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NOVEMBER 2008

ISSUE 109

## COVER STORY:

**Fashion, passion  
and the shrink page 8**



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- 4 **Letters** Library lies
- 6 **Dear Reader** Reinvent Denel
- 7 **Mr Nose** Durban's millionaire Metro cop: Plot thickens
- 12 **No place like home** Max du Preez takes a turn in the Balkans and gains some insights about South Africa
- 15 **Rooivalk goes to war** After gathering dust for a couple of decades and swallowing R8bn, SA's attack chopper will finally see action in Sudan
- 18 **Steyn removal** Life behind bars could take on a different meaning for high-living billionaire Douw Steyn if private charges brought against him by a former lover succeed
- 20 **When the wind blows** People living near an Mpumalanga chipboard factory are incensed by its nauseating emissions
- 22 **Bones of contention** Relatives of dead buried in a Gordon's Bay cemetery want to know where the remains went after bones were removed to make way for flats
- 24 **Improper relations** Estate agents still in bed with lawyers
- 25 **Stonewalling** Audi dealer keeps shtoom after righting off client's car
- 26 **Riding roughshod** The Schoss case is the last of the big bucks RAF settlements – the courts will make much more realistic awards in future
- 28 **Notes & Updates** Not-so-friendly kwagga Rootman ■ Thick as intellectual property lawyers ■ Fanfare for the Common Man ■ Miracles do happen: R1000 reappears in FNB bank account ■ Join a pyramid scheme and be a whiner
- 30 **The price of action** Pity the minor officials who miss out on land-use bribery
- 32 **NoseArk** Pesticide wars in Riebeeck-Kasteel
- 35 **Web Dreams** Losing the plot
- 36 **Wine** Café culture
- 37 **Last Word** Best is Moore

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## Library lies

I have just read the scurrilous article on the National Library by Max du Preez. I happen to know, better than Mr du Preez, that his allegations amount to lies and slanted half-truths.

These were presented as if verified, and the NLSA's responses were given short shrift at the end of the article. It seems that your

attempt to check on the veracity of the complaints against Mr Tsebe and the Minister, and you would apologise for this article and print a retraction. I wait to see whether you have the guts to do that.

By the way, Mr du Preez should stop whingeing when he's called a racist. The responses from readers and from the DA were as expected: "Put a black man

company, although quoted on the Australian Stock Exchange. MRC have terminated their Sierra Leone diamond mining ventures and have negligible net assets, with cash resources of only A\$600,000. (Info on MRC is available on the Australia Stock Exchange website [www.asx.com.au](http://www.asx.com.au) – then follow the prompts on the code MRC.) Why is it that while

To Carina Coetzee, the prosecutor – you are an absolute champion! I salute you!

**Gerry Robinson**

QI Logistics (Pty) Ltd, Johannesburg

## No credit to Mastercard

On the subject of refunds to Nationwide ticket holders (*nose108*): I bought two return tickets George/London in April on my credit card, but before I'd paid, Nationwide folded. I asked the bank whether I needed to pay, since the tickets were worthless, and was told I had to. So I filed in a dispute claim, but paid, to avoid interest on my card account.

Not a word from Mastercard about any possible refund. I then put in a claim with the Nationwide liquidators. No word from them either. An article in the *Mail & Guardian* in July alerted me to the possibility that we might have a claim against Mastercard. So with the help of a wonderful lady in our local bank, I again filled in the necessary forms, and after three months of her phoning Mastercard once a week, the money was finally returned to my account.

**Rosemary Etellin**

Knysna

## Contingency fees: The other side

I'm an attorney who does motor vehicle accident work and charges the contingency fee of 25% plus VAT referred to in "Head on" (*nose107*).

While I agree with your approach to exposing crooks, you might have changed your mind on contingency fees with a bit more research.

There's nothing secret or illegal about them. On large claims, 25% may be excessive, but parties are free to contract and the claimant may have struggled to find an attorney who would accept less. Both parties gain from the arrangement: there is a risk for the lawyer if the case fails, while for the claimant if there's no win there's no fee.

## Baby Michael's parents ought to be sterilised and then sentenced to some good time in jail

magazine gives credence to the rantings of disgruntled employees – and I don't care whether they are white or black or purple. If you had any integrity, you would make more than a feeble

in a top job and what can you expect but failure."

You won't print this comment, of course, as I'm not a subscriber, and I can assure you that I never will be if gutter journalism is what you practise.

**Monica Seeber**

By email

*It's clear who you're sucking up to – and it's not the people who are deeply distressed about the state of our national library.* – Ed.

## Farewell Deon Basson

And now all we have is *noseweek*... With the sudden death of Deon Basson, the scourge of boardroom and other *skelms*, an era has passed. He will always be remembered for his passion to see crookedness exposed. We financial folks will remember him (even more so the crooks!).

**Hannes Senekal**

By email

## Dept of Minerals vs the people

Why does the Department of Minerals and Energy grant a mining licence without regard for the total opposition of the local inhabitants and our own Department of Environment and Tourism (*nose108*)?

Transworld Energy, a mere shell company with a very impressive name, is owned by Mineral Commodities Ltd (MRC), itself actually a minor

everyone else who wants to do business with government is required to undergo intense financial and capacity scrutiny, this minnow with no capacity at all is granted a licence to undertake a mining venture that will require hundreds of millions in investment and sophisticated teams of people to implement?

**Andre Jensen**

Port Elizabeth

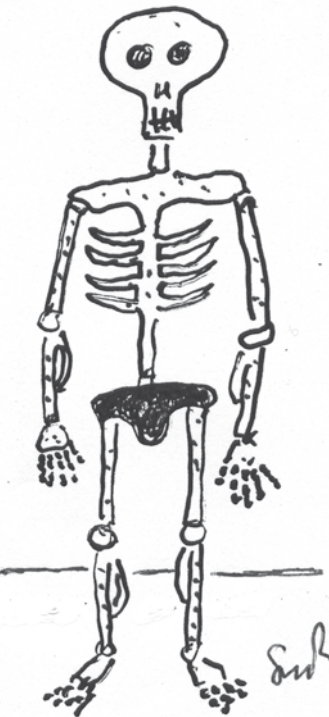
*Because bigger fish will be eager to buy up those rights once they are acquired – without having to do the dirty work apparently required in these parts to get them.* – Ed.

## Baby Michael: Sterilise the parents!

I have just finished reading your article on baby Michael (*nose109*), and it leaves me absolutely outraged. The parents ought to be sterilized and then sentenced to some good time in jail. And this so-called mother has had further babies? Hopefully the authorities will take heed and do extensive checking on the welfare of these unfortunate children.

I have been in touch with Sylvia Haywood at the Avril Elizabeth home to arrange a monthly donation and have been advised that *noseweek* has organized a top eye surgeon and a neurologist to examine baby Michael. Well done!

Gus



DEATH CAME IN A SPEEDO

The Road Accident Fund want to exclude attorneys from the claims system – but this would severely prejudice claimants, most of whom want the services of an attorney in dealing with the Fund. Typically when claimants institute claims directly with the Fund they receive a fraction of what they would receive when represented by an attorney.

**Jeremy Manton**

By email

### Storm in a tree cup

In several articles relating to the Bryanston tree you have gone out of your way to describe me as “arrogant” and “abrasive”, and to ridicule me and my wife. Please allow me to set the record straight.

At a meeting in February 2007 it was agreed with the Reillys that we would access our property over a small portion of the Reilly property, and the tree would be saved. However, that May, for reasons unknown to us, the Reillys reneged on the agreement. We were unable to resolve the matter amicably.

The trust was compelled to launch a court application to enforce its rights in the right of way servitude. In the application we again, in an attempt to save the tree, suggested that we should have access over the Reillys’ property, but this was again rejected by them.

The good news is that the matter has now been settled and the tree has been saved. In brief, the settlement is that the Reillys abandon the court judgment and the trust

withdraws the appeal, and that those residents affected by the position of the tree will have access over the Reillys’ property.

Save for the legal costs incurred, we are now exactly where we were in February 2007.

**Alec Brooks**

Bryanston

*The matter of the Bryanston tree is now closed.* – Ed

### Wine amateur – and proud of it!

In *nose108* your wine columnist, an associate editor of the Platter wine guide, mistakenly calls me a “self-styled ‘rich fatty’” and accuses me of waging a relentless onslaught against his guide for daring to suggest that blind, as opposed to sighted, tastings are fairer. Of course his real problem is that I am an independent commentator, an enthusiastic amateur even, which drives insiders like him wild.

In a new oral biography of English composer and eccentric Lord Berners, published by Peter Dickinson (Boydell, 2008), Harold Acton makes the point that Berners “was always treated as an amateur, which was really a pejorative term in England... it really means that you love what you are practising. (Igor Stravinsky had previously made the point that Berners “was an amateur in the best, literal, sense” and called him the best composer of his generation.)

Berners bowed out in 1950, long before the hideous hot air balloon of wine writing inflated, which is a great pity as he made a career out of

# Don't call us...



Picture: Justin Nurse

mocking the boring and the pompous.

After a week spent in the super-efficient, climate controlled, über-bling Cape Town International Convention Centre at the trade show Cape Wine 2008, I am more convinced than ever that it's time to bring Bacchus back off the bench and into a game that has for far too long been the domain of Mammon and his midfielders.

CW2008 was very much a supermarket vision of SA wine: seminars on the impact of the 2010 soccer World Cup and ROI (Return On Investment), featuring pompous Professors of Wine Marketing and International Wine Executives talking return on brands and equity.

No wonder foreign media coverage to date has focused

on SA politics, the sprawling squatter camps surrounding Cape Town International Airport and the cardkey security system at the R4500-a-night Westin Grand where many of the invited delegates dosed down. SA wine mostly escaped mention, left as it was back on the farm in Koekenaap and Kranskop – the scheduled media tour to the Robertson Wine Valley being cancelled for lack of interest.

Of course one of the perils of arguing against the status quo is the risk of being called mad by those already suborned by the system. But, as Berners said, “better be mad than dull”.

**Neil Pendock**

Knysna

*As I recall, the complaint was that you take yourself too seriously.* – Ed.



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## Editor-in-chief

Martin Welz

## Acting editor

Max du Preez

editor@noseweek.co.za

## Production editor

Tony Pinchuck

## Assistant editor

Hans Muhlberg

## Gauteng bureau chief

Jack Lundin

jack@noseweek.co.za

## News editor

Mark Thomas

## Censor-in-chief

Len Ashton

## Sub-editor

Chas Unwin

## Cartoons

Myke Ashley-Cooper, Colin Daniel,  
Gus Ferguson, Meg Jordi

## Contributors

Tim James, Marike Roth, Hilary  
Prendini Toffoli, Harold Strachan  
Hilary Venables

## Subscriptions

Maud Petersen

noseweek@iafrica.com

## Marketing

Rob Cowan

## Advertising

Adrienne de Jongh

## Accounts

Nicci Joubert-van Doesburgh

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# Reinvent Denel

**M**ORE VISION AND ACTION, less politicking – is that too much to ask of our politicians in South Africa? We spend thousands of hours arguing whether we should

replace the springbok as emblem on the national rugby jersey – and nothing at all on building new rugby fields and stadiums in townships, or scouting for young township talent and putting them through a rugby academy.

Politicians of all factions and persuasions fight each other tooth and nail over who is really the champion of the poor. And then they get into fancy BMWs and four-wheel-drive monsters, desperately look the other way when beggars approach them at the traffic lights, and drive to the wealthy suburbs where they entertain their friends on single malt whisky and Cuban cigars.

ANC leaders make solemn statements about the cruel legacy of the past and the dire need to correct injustices through affirmative action and black empowerment. But they have consistently and criminally neglected the education of black youngsters, to such an extent that we are running out of literate people to affirm and empower.

It was the Rooivalk helicopter story in this edition that stimulated my thinking on this topic.

Our leaders (pre- and post-1994) believe military might determines the prestige of a nation. They've squandered billions – and utterly corrupted our centre of political power in the process – buying submarines and attack aircraft we have no need for. And they are stubbornly refusing to let go of that ultimate black hole into which so many billions have disappeared, and are still disappearing – Denel.

I'm told that the Rooivalk was actually a spectacular and advanced military helicopter at the time it was launched and it really should have been bought by many countries worldwide. But they haven't. Denel hasn't sold a single Rooivalk apart from the twelve bought by the SANDF.

I have long hoped that Denel would cut their losses on the Rooivalk and let it go. Now they're pumping more money into the project, as if R8bn wasn't enough. But perhaps there is a case to be made that it would be cheaper to keep the remaining choppers serviced than to buy new ones.

Some of my peacenik friends have long argued that the government should sim-

ply close Denel down because this country simply shouldn't be in the arms business, and because we can use the billions and billions spent on keeping Denel afloat in much better ways.

I'm more inclined to go with the argument that South Africa really does need to cherish its high tech capacities, and that Denel would be the ideal place to do it. In other words – keep your top inventors, engineers and scientists inside the country, and give them enough funds to push the limits of technology.

We have a little story on page 16 about the South African electric car, now stirring much interest overseas, which was the brainchild of three people who were formerly with Denel. That's what I'm talking about.

Denel should be making electric cars, not missiles and attack helicopters. The company should apply its skills and resources towards cheaper and more efficient ways to harness solar and wind energy; it should lead the way in developing appropriate technology for small farmers; it should make cheap, reliable electric scooters, for use by ordinary people in our clogged cities.

If our politicians can get their snouts out of the trough long enough and find the capacity to ponder the future rather than insulting each other and each other's constituencies, they will realise that as long as we see our mineral resources and our cheap labour as our major assets, we will not grow and prosper.

Our greatest gifts lie in our people – in their minds, energy and innovation – not in the minerals under our soil or the sweat of our labour.

Is it too much to hope that during this time of political turmoil our politicians will think about our children's future rather than about next year's election?

**N**OSEWEEK has chuckled for some two years now over Marike Roth's witty **Web Dreams** column (page 35). In this edition she pens a rare and courageous thing – an acknowledgement of her own mortality. She has decided to abandon her cancer therapy after being told there was little chance of her survival.

And yet, despite the sadness, her message is affirmative. Many others, she notes wryly, have greater miseries.

**The Acting Editor**



## Durban's millionaire Metro cop: Plot thickens (or, at least, extends)

**M**ULTI-MILLIONAIRE DURBAN traffic cop Wiseman Mpisane (*nose103*) recently began enlarging his already sizeable mansion in the upmarket suburb of La Lucia.

Mpisane, a sergeant in the Durban Metro Police and a good friend of Durban city manager "Metro Mike" Sutcliffe, owns a fleet of luxury cars, and his home is already worth around R15m. Unchallenged media reports have linked the traffic cop to taxi violence and to a failed attempt to commit murder inside the Durban High Court, which left several people dead on the pavement outside.

Some months back Mpisane acquired a plot bordering his mansion and began to extend into it. Construction work clearly hasn't been hindered by the R4m he allegedly stumped up to bury his mother-in-law, Durban town councillor

Flora Dumazile Mkhize.

Mkhize was a founding member, along with her daughter Shawn, of Zikhulise Cleaning, Maintenance and Transport, but a month after being awarded their first big contract by the municipality, worth R10m, she resigned from the company. At the time of Flora's Mkhize's death the city council had awarded over R170m in contracts to her daughter, mostly to build low-cost housing.

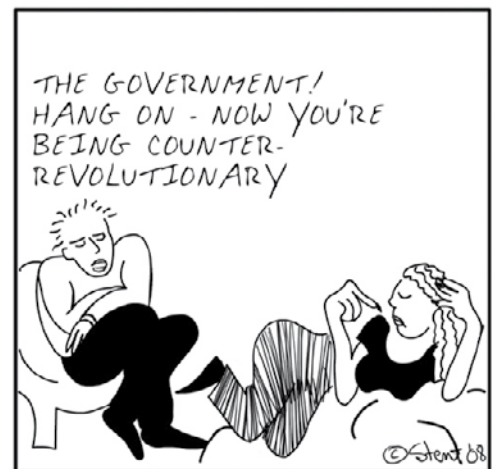
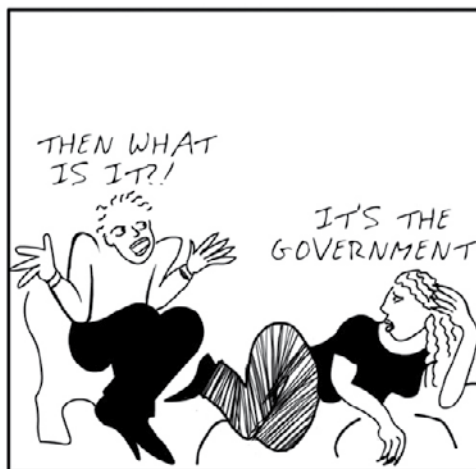
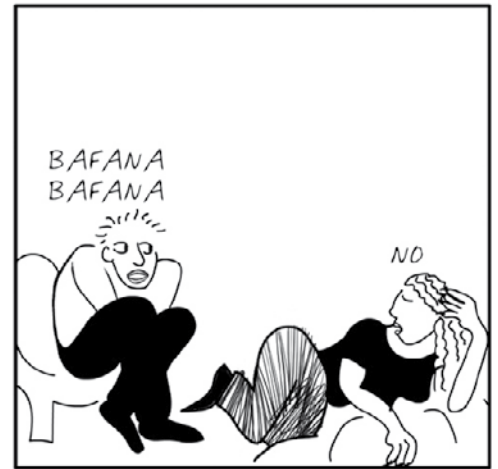
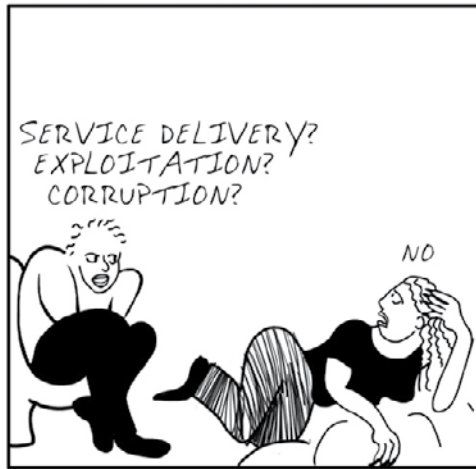
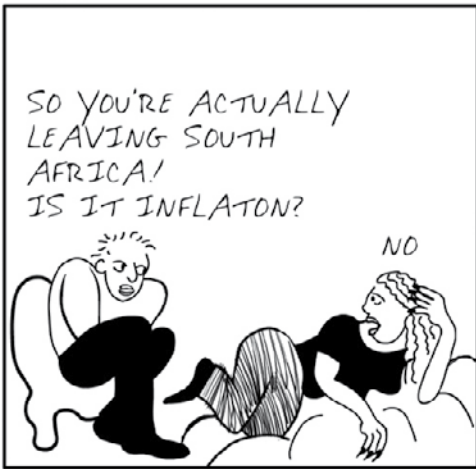
Mrs Mkhize's funeral was a lavish affair; eight giant flatscreen plasma televisions and a camera crew were brought in to make the proceedings easy to view, and top-name musicians and singers were flown in, including Rebecca Malope and the band Stimela. A fleet of luxury cars, including Rolls Royces, Bentleys, Ferraris and Lamborghinis, ferried mourners from the church to the graveyard.

Flora sat on several committees in the Durban municipality, including – perhaps fittingly – one dealing with poverty alleviation. She also sat on the Masakhane committee, which has pushed through an extensive programme of street renaming. One renamed street honours Flora's son, S'bu Mkhize, shot dead by Murder and Robbery Unit detectives in 1992.

On the city's list of name changes S'bu is described as: "A combatant, young lion who sacrificed his life for our freedom. He was active in the ANC Youth League structures. He was killed in Mbumbulu (sic) by the then Zulu Police."

The final report of the TRC found little evidence that S'bu had been an ANC combatant, and the killings and robberies he was implicated in were mostly committed after the ANC officially ended its armed struggle. **W**

## Stent





# From headroom to bedroom



The breakdown of Stuart and Sylvia Ireland's marriage, and the

role of her psychiatrist in it, has much in common with the global financial meltdown

**S**TUART IRELAND, 58, is South Africa's perfume king, earning mega-millions each year as the country's sole distributor for all the most famous brands, from Chanel and Dior to Issey Miyake, Lacoste, Van Cleef & Arpels, Ungaro and Jean Paul Gaultier.

He drives a royal blue two-door Bentley Continental GT (going for R3m-plus), wears a Rolex, Chanel or Bulgari wristwatch (depending on the time of day), a Gant or Eton shirt from London, a German – German? – suit, underpants from Paris, Church's shoes and always, always a fragrance from one of his top men's ranges.

His wife, Sylvia, 46, is the country's ultimate fashionista, routinely spending R1m or more per month to ensure that she has all the latest designer outfits in her closet – with every designer shoe and fashion accessory that you can think of to match. (Keeping her hair appropriately styled cost Stuart a mere R20,000 to R30,000 a month.)

Her parties, given at their Georgian-style home in Eyton Terrace, Newlands, are legendary; her Christmas gifts to die for.

But now, back in Cape Town's leafy suburbs, the marriage from hell has







Stuart and Sylvia Ireland (facing page); and a rather desirable Bentley Continental GT (above), not unlike the one Stuart drives

finally gone up in flames.

On 27 August Stuart Ireland had a divorce summons served on Sylvia. In it he attributes the collapse of their marriage to her profligate spending, and to her having conducted "at least two" extra-marital relationships, one of them with Sea Point businessman Charlie Zorbas. The latter relationship is, by her own admission, still current.

Curious but noteworthy: in his divorce summons Stuart does not name the second man with whom his wife had a relationship, although he knows the man in question well – and knows that the whole of Constantia, Upper Claremont and Upper Newlands have also known about him since February, when Sylvia sent a letter to various friends and business associates informing them, inter alia, that for the previous two years her psychiatrist, Dr Ray Berard (who has his consulting rooms in nearby Tennant Road) had been having an obsessive sexual relationship with her, using most of their twice-weekly therapy sessions for sex – and charging Stuart top fees for the privilege.

Cape Town's fashion retailers, who have already experienced the knock-on effect of the Ireland breakup – Stuart has, without notice, simply stopped paying their bills – are in shock. Alan and Shirley Tamaris's Callaghan boutique at Cavendish Square has been left with an unpaid bill of R1.5m. Inge Peacock, owner of the Waterfront boutique Lulu Tan Tan, is raging about the R342,000 she says Stuart still owes her. Jimmy Choo, AVI's exclusive shoe boutique, also on the Waterfront, were owed R664,000 when

we last enquired. These bills are all for just three months of Sylvia's usual shopping. And there are more.

So, you see, the breakdown of Stuart and Sylvia Ireland's marriage has a surprising number of characteristics in

common with the world banking and mortgage meltdown:

For a start, the obsessive, heartless pursuit of profit, followed by equally obsessive and pointless consumption/shopping; the apparent complete absence of sense and sensibility.

Here it comes with obsessive, loveless, essentially masturbatory sex to match. (Wasn't it inevitable – even if we are a little shocked – that, in the midst of the money maelstrom, we would find a supposedly respectable someone fucking someone else that he definitely ought not to have been?)

Now one has to ask: is the collapse so profound that even the psychiatrists are falling apart?

While the full extent of the knock-on effect has yet to be determined, already one is left with the eerie sense that, no matter how distant both events – phenomena? – might seem from our own mundane, mortgage-ridden lives, the banking meltdown and the crash of Sylvia and Stuart's marriage are signs of our times and could represent the writing on the wall for Western/white South African society.

Sylvia married Stuart Ireland in 1998 – a second marriage for them both. It wasn't for his money; Stuart only started making really lots of money in 2003, when he secured the Dior agency for Southern Africa. (He already had the flagship brand of the fragrance industry, Chanel, but that produced more caché than cash.)

Quite symbolic really: Stuart, like Wall

Street, generated a massive cash flow by offering his customers that ephemeral nothing, the scent of success.

By December 2005 Stuart Ireland was being featured in *Leadership* magazine as South Africa's mogul of fragrance. Headlined, for a laugh, "Stuart Ireland leads us all by the nose", it revealed that fragrances represented 43% of South Africa's R3bn turnover in cosmetics – and that the premium fragrance brands distributed by his Cape Town based company, Prestige Cosmetics, probably accounted for R450m of that.

"We have experienced a two-year boom where sales have grown by 30 percent, year on year," he told *Leadership* in that 2005 interview.

Among the questions they asked him:

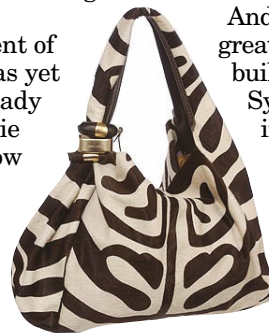
Who buys perfumes? "We are looking at a luxury

consumer item which is bought by people wishing to associate themselves with a designer label. Although the buyer may not be able to afford a Chanel dress, she would be able to spoil herself with a Chanel perfume," he said.

And who had been his greatest inspiration in building the business? "My wife Sylvia has been a huge source of inspiration which, coupled with my passion for the industry, has proved a pretty formidable combination," he declared.

Indeed. At about the same time that *Leadership* profile appeared, Sylvia was being interviewed by *Elle* magazine for their "Closet Queen" feature. (That's *of* the closet, not *in* it.) Headlined "Ireland Style", it appeared in their April 2006 issue. Sylvia did her loyal wife bit by ensuring that she was described in it as a "Chanel addict". But the article quickly makes clear that when it comes to embracing the brand she's not one of those women who settles for just the perfume: She has the whole outfit – and lots and lots of others, too.

"Sylvia Ireland might have more labels in her closet





With bags of Chanel, boots for Africa, and stylists at her beck and call, this closet queen's got it all. Styled by Jenna Barenblatt. Photography by Micky Hoyle

# Ireland Style

Sylvia Ireland might have more talent in her closet than the average woman, but the style guru's ability to shop prolifically without actually spending hours in stores is even more enviable.

To help to have a look that works and to be able to stick to it. My look is very classical. I love wearing jeans and a t-shirt. But asking a man with both, shoes and a handbag. She says calmly.

Despite shopping, Sylvia's wardrobe for sunglasses is at the whim of eye-care boutique Extreme Eyewear (at the V&A Warehouse), from which she buys most of her sunglasses.

She adds that she isn't afraid to ask sales assistants and shop owners for their advice and that it's important to build some sort of rapport with them. "I'm lucky to have an unbelievable sort of rapport with them... I'm lucky to have an unbelievable sort of rapport with them."

Some women might be put off shopping in boutiques because they look expensive and intimidating, but their stock usually starts at around R250, which is what you pay for a shirt in a chain store anyway.

Sylvia's got it down. She ain't shy to shop like a pro, which means she ain't shy to dress like one, too! You go, girl!

'Closet queen' Sylvia Ireland as she appeared in Elle magazine in 2006

And why has Stuart – for years – continued to fund this lavish exercise in futility? Why, if he wished his wife to stop the manic spending, and was unable to persuade her to do so, did he not let the shops where she routinely made these lavish purchases know that he would no longer pay for them? Was her shopping somehow, somewhere, letting him off the hook? Making her the obvious guilty party?

Was he hanging in from kindness and concern for her and did he only call it a day when it was threatening to bankrupt him? (That's a line he's been known to take.)

Or was his wife's extraordinary spending perhaps flattering to his own image as a successful businessman? Had he, too, just simply lost control?

Surely it's a bit insane, all that spending? Not everyone thinks so.

"I get her. When you are disempowered, you do what you have to do. He disempowered her. He wanted to control her," says a fashion consultant at one of the stores that enjoyed her lavish support. (But then she would say that, wouldn't she?)

Another sympathetic explanation for the big fashion-spending wife – we don't know if she had this particular wife in mind – comes from South Africa's most famous publisher of women's magazines, Jane Raphaely, speaking at a recent women's get together: "Some women, when they go to a party, get more emotional support from the expensive new handbag they're clutching than they get from their husbands."

Sylvia Ireland herself takes a completely unapologetic line in her own defence (in her formal plea to Stuart's summons, since also filed at court): "Defendant admits that she has expended substantial amounts of money during the marriage but avers that her spending was in keeping with the high standard of living enjoyed by the parties and matched the spending of the Plaintiff."

So much for the spending, then.

A separate but maybe not unrelated problem: How was it possible for Stuart

Ireland to remain oblivious – for two years! – to the fact that the psychiatrist he was paying R2000 a week to help his traumatised wife sort out her problems, had himself become sexually obsessed with Sylvia and was in fact using the time he billed as "individual therapy" and "extended therapy" to fuck her (to use a more delicate phrase would be to misdescribe the level of the relationship) – first twice a week at her "therapy" sessions, then, for months, obsessively on an almost daily basis, calling at the Ireland home for that purpose? Even on Saturday afternoons, when he knew Stuart was out walking the dogs.

From January 2006 to January 2008.

Is it possible for a man to be so oblivious to what is going on in his wife's life? So oblivious that in April 2007 Stuart happily appointed the cuckold, Dr Berard and his business partner, Michael Edwards, directors of his company, Prestige Cosmetics! With fancy cars and salaries to match.

How could a psychiatrist whose patient is already in a conflict situation with her husband, become her husband's business partner? The secret conflict of interest that already existed was so outrageous that, presumably, Dr Berard had no problem with establishing a further, open, conflict of interest.

By then Ray Berard's sexual obsession with Sylvia had advanced to the point where he was sending her erotic SMSs (generally disappointingly unimaginative ones of the "I'm as hard as a rock" kind) on her cell phone – at regular intervals throughout the day, every day.

We have a selection. (Thank you Vodacom!) Those sent to Sylvia in May 2007 suggest that his appointment to the Prestige board had given him the courage to be more adventurous. (Note the times of transmission.)

On 2 May 2007, 10.22am: "All I can think about at the moment is being tied up, feathered fingered and licked."

On 3 May 2007, 6.18am: "Can't get this tied up thing out of my head ..."

On 5 May 2007, 6.46am: "At the moment battling. Consumed with the thought of being tied down ..."

By June he had discovered the miracle of MMS and was sending her video footage of himself in what he imagined was an erotic "situation".

And on 23 June 2007, at lunchtime, the following



SMS: "Now I have not finished with my mouth. Slowly I move up to your ..."

In October Stuart took both Sylvia and his new co-director, Dr Berard, along with him on a luxurious business trip to Cannes. This prompted the following SMSs upon their return:

On 3 November 2007, 8.29pm: "I can be in your life without being in Prestige."

On 4 November 2007: 11.01 pm: "Sadly I am nowhere near driving a Bentley."

In the following days the MMSs came thick and furious. Then on 19 November 2007, at 1.42pm, an SMS: "You're killing me. I will get to you as soon as I can."

To conclude our selection, the one sent on 22 December 2007 at 9.57 am: "Love the tremble and the moaning. Need to be careful with SMS ..."

Ah, yes.

So what, now, does Sylvia say about her relationship with Ray Berard? "I ended up humiliated and angry. He knew my situation, my insecurity. He abused his position of power over me. It was slavery, not a relationship."

She decided to call it a day and blow the whistle on Berard in the first week of February: on Thursday February 7 she first informed his business partner Mike Edwards about the improper relationship. Next day she told Stuart and showed him the SMSs and MMSs – and told Ray she had told Stuart.

Ray Berard did not wait to be called; parties close to them say he told his

wife and family of his relationship and then went to see Stuart to confess that he had had "a series of sexual encounters" with Sylvia. He resigned as a director of Prestige on the Monday.

Sylvia has since lodged a complaint against Dr Berard with the Health Professionals Council of South Africa.

While we have gone to great lengths to satisfy ourselves that the information contained in this story is correct, we are also aware of how seriously prejudicial it is to Dr Berard personally and to his practice as a psychiatrist, so *noseweek* urged him to comment for publication. He informed us that his legal advisers had told him to make no comment whatsoever, either on or off the record, as the matter is *sub judice*.

*Noseweek* also spoke to Stuart Ireland off the record. He promised to get back to us with comments for publication, but didn't.

In conclusion, we asked Sylvia about her new man, Charlie. Her response is short and simple: "He's normal!"

**To be continued**

■ *In legal circles there is already talk that, when the Ireland divorce goes to trial, there will be some fascinating things to be learned about an offshore trust and offshore transactions involving Edward Nathan Sonnenbergs senior partner Cecil Gelbart – he has been Stuart Ireland's adviser for many years – and our friends at FirstRand Private Bank. Whenever it is, we'll be there!* ▣

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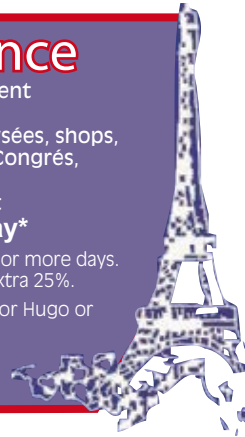
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# No place like home

Max du Preez takes a turn in the Balkans and gains some insights about South Africa

**T**HERE I WAS IN THE south-Serbian backwater of Vranje, washing down excellent *cevapcici* and red peppers with a cool Jelen Pivo, when a fellow traveller who had just received a phone call from home shouted across the restaurant: “Thabo has been kicked out! Kgalema is our new president!”

It was a potent moment – I’ll always recall where I was when I heard that Mbeki had been dumped. I took a huge bite of hot pepper, ordered a glass of home-brewed *slivovitz* and looked around. Brooding men with military-style cropped hair, black leather jackets and thick necks gazed back at me with such intense passive aggression it made my skin crawl. A snot-nosed

gypsy boy beggar was staring at me from the doorway.

I should have been alarmed. I’d been completely out of touch for a fortnight, and suddenly I’m confronted with the news that the ruling party has unceremoniously sacked our president six months before the end of his term. What’s happening to the cabinet? How did the markets react? Will this lead to instability?

Examining the goons around me, clearly dormant Serbian militia members, I recalled my visit to the solemn graveyards of Srebrenica four days earlier, where more than 8000 Bosnian men and boys had been executed by Serb soldiers and militia in July 1995. From there I had gone on to Tuzla,

where my host, still filled with hatred after 13 years, took me to the grave of his girlfriend – on 25 May 1995, along with seventy other young people celebrating Youth Day in the centre of the city, she had been blown to pieces by Serb artillery.

I had also been in Mostar, where both Croats and Bosniaks (the new name for Bosnian Muslims, who are not all religious) had told me how nervous they are, even now, to cross a street in each other’s neighbourhood.

And sitting at my meal in Vranje I smiled with relief. It would take a hell of a lot more than infighting in the majority party to make our society turn on itself with that kind of madness. We have our problems, and lots of them – including prejudice and racism. But unlike the people of the former Yugoslavia, where I was visiting, most South Africans have a common direction and purpose. We enjoy our differences while sharing a common love of country and loyalty to the constitution. Most important, we are not in denial about our past. We do not shut up about things. And we have a fiercely independent media as a strong pillar of democracy, while



Roma kids begging in Bujanovac, Serbia (above); Poster of late Kosovo Independence champion Ibrahim Rugova, in Prishtina (right)



the Balkans have sports-and-celebrity tabloids, party-aligned sheets and state television.

I wasn't touring the Balkan states (Bosnia, Serbia, Kosovo and Croatia in under a month) to compare, but that was what I ended up doing. I couldn't help myself: our upheavals came around the same time (1991–1999 and 1990–1994), and I was wondering what they got right that we got wrong, and vice versa.

By the time I got home, I found myself looking at my own society with heightened admiration and gratitude. Our social cohesion is something the Balkan states can only dream of, and

## *'What is not acknowledged cannot be healed'*

Waldemar Ginsburg,  
Holocaust survivor and author

our economy is fundamentally strong and well-run: if you think we have a corruption problem, have a look at the Balkans, where the economic system is called "gangster capitalism" – a *la* Moscow after the fall of communism.

One difference – a big one – stands in their favour. In Sarajevo, Mostar, Tuzla, Novi Sad, Prishtina and Bujanovac I saw teenage girls and old grannies out in the streets after midnight, with almost no risk of being murdered, raped or mugged.

I was travelling with some black South Africans, and was constantly amused at how delighted they were that white people could mess up a country. At one Sarajevo massacre site a compatriot remarked: "Eish, white-

on-white violence can be vicious." Each time we landed up in a really bad hotel, someone would remark with a half-smile that "standards had dropped" since we left South Africa.

Everywhere we went my black friends were major attractions. In smaller towns kids would run up wanting to touch them. Teenagers took pictures with cell phones. Adults just stared. It took some time for my friends to realise that this wasn't racism, just curiosity. But it did occur to me that this must be one of the few places where Africans searching for a better life haven't settled.

This isn't a travel piece, and the only area of former Yugoslavia I could recommend as a destination for a relaxing trip is the Croatian coast – which I saw from the air only. (I also didn't get to the former Yugoslav states of Slovenia, Macedonia or Montenegro.) But if you're one of those unusual people who go to a country to trace its history, then the Balkans is a dream destination. They are serious about their history, the Slavs – maybe just because it gives them reasons to dislike each other and get into a fight.

You can visit a 7000-year-old salt mine in Tuzla in northeastern Bosnia, one of the oldest cities in Europe; or monasteries dating back to the 14th century; or stand in the preserved footsteps of Gavrilo Princip who assassinated Archduke Ferdinand in Sarajevo on 28 June 1914, which led to World War II; or visit the hundreds of

sites of slaughter of the recent wars.

I did meet a couple who travelled from the US to spend a month in Sarajevo tracing the events and sites of the extraordinary and bloody siege that lasted for 1395 days, between May 1992 and February 1996. Almost 12,000 people died. My American friends called it the most fascinating and rewarding month of their lives.

Perhaps a quick refresher of Yugoslavia's history (the name means "Land of South Slavs") would help set the scene: In 1918 the Kingdom of Yugoslavia was formed from the states of the Slovenes, the Croats, the Serbs and the Kingdom of Serbia. In 1943 this became Democratic Federal Yugoslavia, and after the communist take-over in 1946, the Federal People's Republic of Yugoslavia; in 1963 this became the Socialist Federal Republic of Yugoslavia. President for Life Marshal Josip Broz Tito kept the many groupings in tandem with a combination of visionary leadership and repression, but on his death in 1980 ethnic tensions emerged, and after the collapse of communism Yugoslavia began unravelling.

In 1991 Slovenia, Croatia and Macedonia declared themselves independent, but Serbia's communist leader, Slobodan Milosevic, had grand dreams of a "Greater Serbia" and wasn't going to let go easily. The resulting vicious war in Bosnia-Herzegovina ended with the Dayton Accord in 1995, while the war in Kosovo ended in 1999. Kosovo declared itself independent earlier this year, but so far only 44 states recognise this independence (SA doesn't).

The wars were about violent "ethnic cleansing" – purging areas dominated by one ethnic group of all other inhabitants – that left the Balkan states looking like Hendrik Verwoerd's dream come true. In Bosnia-Herzegovina Croats and Bosniaks mostly live in separate suburbs, while most Serbs have moved to the Republika Srpska, the home turf of Radivan Karadzic, now on trial before the War Crimes Tribunal in The Hague.

In Mitrovica, in Kosovo, Serbs and ethnic Albanians live on different sides of the Ibar River.

A reminder on the Mostar Bridge





Mostar Bridge, built in 1556, destroyed 1993 and reconstructed in 2004

The main bridge is guarded by UN and Nato troops and very few people cross it. When I walked across it to take pictures, local people thought I was out of my mind. The hatred is almost palpable. The last bloody ethnic clashes in the town occurred in 2004.

All sides of the ethnic divide did horrible things between 1991 and 1999, but the fiercely nationalistic Serbs by far outdid everyone else. The siege of Sarajevo by the Republika Srpska and Serbian armies was the pinnacle of their aggression. Almost 90% of about 12,000 killed and 50,000 wounded between April 1992 and February 1996 were civilians. The city, which hosted the 1984 Winter Olympics, was virtually destroyed by heavy artillery, fired daily from the hills surrounding the city. At the height of the siege 3777 shells hit the city centre on one day, 22 July 1993.

There was something deeply and disturbingly sadistic about that siege. At weekends Sarajevans went in especial terror of snipers – marksmen from Serbia and Srpska would visit the Serb positions around Sarajevo to shoot Muslims, just for fun.

A documentary made about the siege shows Karadzic welcoming Russian playwright Edvard Limonov at the Serb positions above the city. Karadzic invites Limonov to “try his hand” at firing a heavy machine gun into the city. Limonov proudly lets off several rounds and the men laugh and slap each others backs. It is not known whether Limonov’s bullets killed anyone.

Non-governmental organisations believe some 20,000 Bosnian women and girls were raped during the war in Bosnia-Herzegovina. Many were kept as sex slaves by Serb soldiers and militia, others were raped until they fell pregnant and then sent back to their husbands and fathers. But this is not publicly discussed anywhere, and in Serbia it is flatly denied.

An organiser of the War Veterans

Association of Serbia told me they had calculated that at least 800,000 Serb men – almost half the male population – had taken part in some form of violence during the wars of the 1990s, either as soldiers or members of militia groups.

And yet officially Serbia wasn’t an aggressor at all. A representative of the Youth Initiative for Human Rights in Belgrade told me that most Serbs don’t even know about the Siege of Sarajevo and most believe that Serbia and Srpska were victims, not aggressors. Serbs are still bitter that Nato planes bombed their cities in 1999.

Today many people are agitating for more borders to be redrawn, and for ethnic separation to be taken further. The Serbs of Mitrovica, for instance, want to secede from Kosovo and join Serbia, and Republika Srpska wants to break away from Bosnia-Herzegovina.

Even if this doesn’t happen, very little progress has been made to bring the ethnic groupings together. Most



Mitrovica Bridge

schools are rigidly divided along ethnic lines, often with a high wall through the middle of the property. In Mostar I witnessed Croat children being taught a completely different history of their country than that taught to Muslim children at the same school.

Serbs, Croats and Bosniaks speak the same language, formerly known as Serbo-Croat. Except that nationalists from all sides now claim there is no such language, that they each have their own – nationalist Croats have even started creating new words to make “Croatian” appear different. Radovan Karadzic’s first action during his trial in The Hague was to refuse to read documents in “BSC” – Bosnian-Serbian-Croatian. “I don’t know this language,” he declared. “Serbian is my mother tongue.”

He also insisted, as do many Serbian nationalists, that “Serbian”

should be written in Cyrillic script, which is in fact hardly used, either for commerce or in education.

The truth, and many assured me of this, is that there are even fewer differences between “Bosnian”, “Croatian” and “Serbian” than between English spoken in Sydney and English spoken in London, or even between American English and British English. Each “dialect” is marked only by a couple of particular words, and here and there slight changes in pronunciation.

Yet, bizarrely, despite ongoing hostility and claims to difference between ethnic groupings, the states of the former Yugoslavia aspire to joining the European Union – including Serbia, now under newly-elected and more progressive president Boris Tadic, who facilitated the handover of Karadzic to The Hague (a precondition for application to the EU).

And, as common members of the EU, the borders for which those bloody and merciless wars were fought will more or less disappear...

Reaching the end of my tale, I realise, just in time, that I was about to do as Serbs, Croats, Bosniaks and Albanians do – all but completely ignore the Roma people (the gypsies, as they were called before being asked whether they found the name denigrating or not).

The Balkan states are home to the highest concentration of Roma people in the world (worldwide population 15 million). Yet nobody talks about them; nobody asks their opinion. During the recent wars they were neutral, though they suffered as much as anyone else.

One is only aware of their presence when one sees a Roma child, or Roma mother with baby, begging in the streets, or when someone points out the vast squatter camps where they live. Few Roma children stay in school for more than a few years, and many never attend school at all. Nowhere in the Balkans are they taught in their own language: even in schools where they form the majority their lessons are given in Serbo-Croat or Albanian.

No, the former Yugoslavia is not a fount of hope and optimism.

I came home for that – ANC infighting and all.

So when I figure out what they have done or not done – and what we have done or not done that gives us a huge violent crime problem and the Balkan states none at all – I’ll let you know. ■



# Rooivalk goes to war

After gathering dust for a couple of decades and swallowing R8bn, SA's attack helicopter will finally see action in Sudan

**A** PRIME SYMBOL of the apartheid era's military and technological ambitions, the Rooivalk attack helicopter, is being prepared for its first operational deployment into a conflict zone.

After 24 years of development, at a cost of at least R8bn, the controversial and much-maligned Rooivalk is having new weapons systems fitted and will be deployed with the SANDF's peace-keeping forces in the Democratic Republic of Congo and Sudan's Darfur region early in 2009.

Some aviation experts still consider

the Rooivalk to be the world's best attack helicopter in its class, yet only 12 have ever been sold, late in the day and to our own SAAF. It's highly unlikely that another Rooivalk will be built, and only 11 are in use today – which means each machine represents an investment of some R727m.

Crucial orders from overseas that would have led to a production line repeatedly evaporated into thin air. Some blame spoiling manoeuvres by the US, still apparently mightily pissed off over the perceived theft by Fuchs Electronics of their fuse technology, plus Kentron's appropri-

tion of US gyro technology for the company's original anti-tank missile. Besides, they say, if the Rooivalk is so good, why did it take the SAAF so long to buy it? And, a final thrust, the Rooivalk has never (till now) had the chance to prove itself in battle.

The Rooivalk has also been condemned as a white elephant, an obsolete legacy of apartheid. Every new allocation of funds to the project is seized on as the latest example of taxpayers' money down the drain. But not always fairly.

There were howls of fury when, on 10 September, *Beeld* quoted new Denel chief executive Talib Sadik as saying that an additional R385m was to be injected into upgrading the Rooivalk's weapons system. This was misleading: Denel had made an earlier provision of R680m to complete the helicopter for deployment – R385m of this remained unspent and is now being used; it wasn't additional funding.

Last year, after Denel failed to win Turkey's tender for 50 attack helicopters – the \$2bn tender went to Italy's Augusta Aerospace – Denel's then chief executive Shaun Liebenberg announced a decision to cease development and funding on Rooivalk.

The dozen Rooivalks bought by the Air Force are all with 16 Squadron, based at Bloemspruit air base near Bloemfontein. One crashed several years ago – it's still to be repaired – and the remaining 11 have been passing through a massive hanger at Denel Aviation undergoing weapons system upgrades and sorting out problems – basically with the French avionics system. Since the 12 were virtually hand-built, one at a time over a period of years, they have now been brought to a single standard for easier maintenance in the field.

Work on half a dozen Rooivalks was recently completed and they're back with 16 Squadron – much to the delight of its pilots who are, without exception, deeply, madly in love with the gutsy giant (maximum take-off weight 8.75 tons). "She's one of the few aircraft with such a high power-to-weight ratio that I've seen," says an Air Force source. "She'll certainly outmanoeuvre the other attack helicopters in her class, certainly America's Apache and the Franco-European Tiger, although the new Cobra [Bell's AH-1Z Zulu] would give us a bit of a run for our money."

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Unbelievably – for a helicopter with a fully-articulated rotor head – the Rooivalk can do rolls, loops and the highly-hairy hammerhead stall. Such high jinks are forbidden by Air Force regulations, although they are sometimes demonstrated at air shows to thrill the crowds.

As for Rooivalk's software and systems being obsolete, Air Force sources shoot that one out of the sky. "They're not obsolete! Rooivalk is a 1990s helicopter and very few helicopters around the world are 1990s generation."

Training at Bloemspruit air base is intense, with the pilots of 16 Squadron on standby to go operational in the new year, in a peace-keeping role. In the DRC, and more especially Sudan's Darfur region, it is planned that Rooivalk will specialise in covert special operations in rebel-occupied territories; surgical-type strikes, with or without infantry.

Development of South Africa's first

attack helicopter began in the early 1980s for planned deployment in the Angolan war. It was envisaged that 36 would be ordered to counter Russia's MI-24 gunship. But by the time of the CSH-2 Rooivalk's first flight on 11 February 1990 the Angolan war was over – and government's enthusiasm began to wane. It waned even more post-1994.

Rooivalk has come near to crippling state arms manufacturer Denel. In 2002 the company posted a net loss of R363m, blaming the loss on a R429m write-off resulting from restructuring costs – and on the attack helicopter, where it had to write off R126m to cover technical risk provisions.

In 1995 Denel's trading division Atlas Aviation thought it was a favoured bidder for a £2bn tender for 91 attack helicopters for Britain's Army Air Corps. UK defence secretary Malcolm Rifkind, however, said that Britain would not entertain "linkage" between the Rooivalk deal

## A gentle phoenix

**IS IT POSSIBLE THAT** a gentle phoenix is rising from the ashes of South Africa's doomed attack helicopter? Forgive some youthful enthusiasm, but surely others are equally dazzled by the surprise appearance of South Africa's first home-made electric car at this year's Paris Motor Show.

A further surprise was that Optimal Engineering, the Cape Town company which created the lovely Joule, are a bunch of grizzled

Rooivalk veterans.

CEO Kobus Meiring, business manager Mike Lomborg, production manager Ratilal Rowji and systems engineering manager Gerhard Swart have all done time on the helicopter. Meiring was with the Rooivalk team for nine years, Rowji for 14.

It makes one wonder how much of the world's talent is being wasted on creating ever more successful (or unsuccessful) ways to kill people.

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and the UK's bid to sell corvettes to the South African navy – a trade-off strongly punted by then defence minister Joe Modise. Britain subsequently bought the US's Apache with its Hellfire missile system.

In December 1995 it was announced that the Rooivalk was to be manufactured under licence in Malaysia. Denel signed a memorandum of understanding with Kuala Lumpur's Airod Sdn Bhd company to jointly manufacture the Rooivalk, as well as the medium transport Oryx helicopter.

The R2.2bn package was hailed as the biggest breakthrough for SA's armaments industry since the lifting of international sanctions. President Nelson Mandela flew to Malaysia to clinch the deal. But after three on-off years the project fizzled out owing, it was claimed, to the Asian currency crisis.

In April 1996, the SANDF finally announced that it was buying those 12 Rooivalks in a R2.4bn deal. The first was due for delivery in 1998 and the last in 2001. It was a reluctant purchase, with retiring SAAF chief Lieut-Gen James Kriel complaining there were more pressing priorities, such as the replacement of the Impala jet trainers.

Other countries spasmodically interested in the Rooivalk include Greece, Finland, Sweden and Spain. In 1998 the Australian army invited British Aerospace Australia and Denel to bid for a R4bn contract to supply reconnaissance and fire-support helicopters. Rooivalk, priced at R100m each, was up against Boeing's Longbow Apache (R138m) and Eurocopter's Tiger (R126m). Despite the cost advantage, Rooivalk failed again, this time, say insiders, because Australia had fears that either Denel and/or South Africa would fail to survive over the aircraft's 30-year operational lifespan.

The last and final hope was Turkey, whose early interest in the Rooivalk in the 1990s was rebuffed by Nelson Mandela's administration, which refused to sell weapons to countries waging war against separatists within their own borders (for more than two decades Turkey has been fighting a rebellion by Kurdish rebels in the country's south east). In 2006 Thabo Mbeki's government harboured no such scruples and offered to transfer military technology to Turkey as part of a bid to win a \$2bn

## Rooivalk has come near to crippling Denel. In 2002 the company posted a net loss of R363m

tender for 50 attack helicopters for the Turkish army.

In April 2007, the death blow: Turkey awarded the tender to Italy's Augusta Aerospace, for its smaller Mangusta helicopter. Politics was widely said to be behind the decision – Italy supports Turkey in its longstanding desire to become a member of the European Union.

Talking to the *Financial Mail* days after Turkey's rejection, then Denel chief executive Shaun Liebenberg

confirmed that Eurocopter, which pulled the plug on its gearbox and other dynamic components for Rooivalk, had given the company notice that they would not support further sales of Rooivalk. "That means we will never sell another Rooivalk anywhere, ever," said Liebenberg.

He added that Rooivalk cost Denel about R100m/year "just to keep the people resources and capability available". The following month Denel announced it would spend no more on the Rooivalk.

If Rooivalk proves itself operationally next year, what are its hopes for the future? "Denel is currently focusing on establishing sustainable profitable business entities, and selling Rooivalk abroad is not a priority at the moment," says a company spokesman. "Denel is of the opinion that Rooivalk is a very capable product and that it has a good future in operations that the SAAF will be engaged in."

■ Denel chief executive Shaun Liebenberg, poached by Germany's Rheinmetall Waffe Munition, has been replaced by the group's former financial officer Talib Sadik. Liebenberg has denied that his departure was due to Denel's decline (net loss of R347m for the year to 31 March) or government's failure to come up with the R1.7bn balance of a R5.2bn bail-out to fund reconstructing costs and debt repayments. **W**

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Sicilian beauty Bianca Ferrante

# Steyn removal

Life behind bars could take on a different meaning for high-living billionaire Douw Steyn if private charges brought against him by a former lover succeed

**I**NSURANCE BILLIONAIRE DOUW STEYN, 55, is to face criminal charges for extortion and intimidation. A summons is about to be served on him in a private prosecution by Sandton attorney Ian Levitt, who represents Bianca Ferrante, the Sicilian beauty who was attacked by a champagne bottle-wielding assailant as she slumbered with Steyn in his suite at The Saxon boutique hotel (*nose106*).

Private criminal prosecutions, in which private counsel act as prosecutors, are rare in South African courts. They are brought under Section 7 of the Criminal Procedure Act, which provides a “safety valve”, in that it affords interested parties the opportunity to institute criminal proceedings where the director of public

prosecutions declines to prosecute. In terms of Section 7 the private prosecutor must establish that he and his client have a substantial and peculiar interest in the issue of a trial, which arises from an injury caused by the offence.

The injured Bianca Ferrante, 36, instructed attorney Levitt to launch a R1.2m high court damages claim against Steyn, her alleged attacker Donné Botha, 40, and The Saxon. In an earlier letter to Steyn’s attorneys Levitt wrote that he would not accept the “paltry” sum of R100,000 for his client and that he estimated damages would be “in excess of R3m”.

Steyn responded by opening a docket against Levitt for extortion.

Insurance billionaire Douw Steyn

However, it emerged that the billionaire told advocate Barry Roux SC that if Ferrante withdrew her high court claim against him he would withdraw his criminal case against Levitt. That, claims Levitt, was extortion.

It is only after a *nolle prosequi* certificate has been issued by the director of public prosecutions that a private prosecution can be launched. Last November, Johannesburg DPP Charin de Beer told Levitt that she had decided not to institute criminal proceedings against Steyn, advocate Roux or Steyn’s attorney Sharon Wapnick. But she refused to issue a *nolle prosequi*.

After further representation by Levitt’s legal team this September, De Beer has now changed her mind and issued the certificate, thereby allowing a private criminal prosecution to proceed. The DPP will instruct a senior state prosecutor to hold a watching brief and under Section 13 of the Act the DPP can stop the proceedings at any stage so that the state can take over the prosecution.

Levitt confirms to *noseweek* that criminal summons is about to be issued against Steyn, Roux and Wapnick. His private prosecutor at their trial in the Johannesburg regional court will be the formidable advocate Laurence Hodes.

Meanwhile, preparation for the state’s own extortion prosecution of



Picture: rebogo letsie / Sunday Times

# Settling private scores

**B**RINGING A PRIVATE criminal prosecution is a risky business. In 1995, Rivonia casino owner Andrew Phillips brought a private prosecution against attorney Pierre Botha, for fraud. The attorney-general of the Witwatersrand issued a certificate of *nolle prosequi* and the trial was held in the regional court.

Attorney Botha had visited Phillips's casino and gambled heavily until the small hours of the morning, losing heavily. For chips he issued 22 cheques to the value of R105,000. When his losses reached that amount, further credit was refused. The following day the attorney instructed his bank to stop payment of the cheques.

Phillips claimed that he did not know when he accepted the cheques that gambling debts are legally unenforceable. He admitted that he told Botha: "If you pay me R310,000

I will let you off the hook", but maintained in his evidence that he had embarked on the private prosecution not in an attempt to extract money from the attorney, but to "teach him a lesson".

The regional magistrate rejected Phillips's assertion that he had been ignorant of the fact that gambling debts are unenforceable and discharged Botha. Phillips took the case to the Supreme Court of Appeal, which had to determine whether the private prosecution was conducted by Phillips for some "collateral and improper purpose, such as the extortion of money, rather than with the

object of having criminal justice done to an offender".

The judges found that casino owner Phillips had conducted a "protracted cat-and-mouse game" with Botha as part of a punitive campaign, rejecting Botha's various offers of settlement and relishing the "woe and agony of mind" experienced by the attorney.

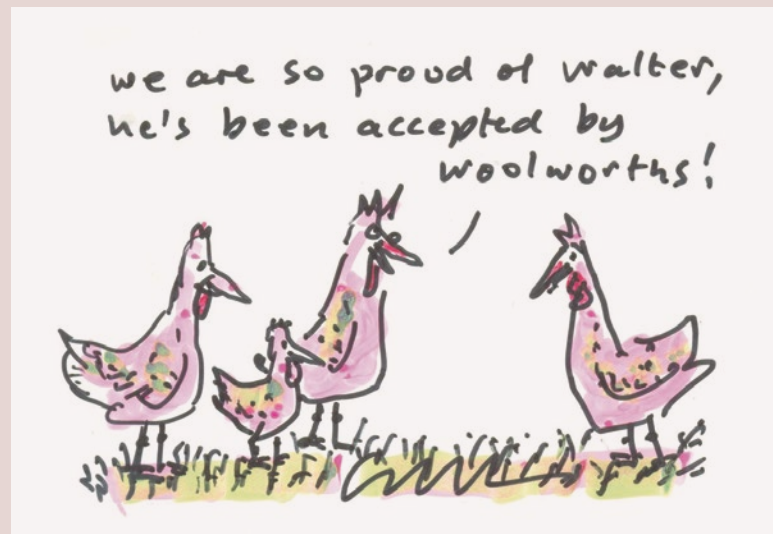
Accepting Botha's cheques was part of an illegal transaction, and what Phillips was trying to do through the machinery of a private prosecution was "to found a case in criminal law based on his own iniquity". Appeal dismissed with costs. **W**

Levitt, initiated by Douw Steyn, has hit a hiccup. The investigating officer, Supt Johnny Smith, has abruptly resigned and departed the force.

In *nose106* we told how, around the time that Steyn called in the cops to pursue Levitt, the superintendent's wife – who works for Nedbank – opened a new security company, Viyo Protection Services. Supt Smith, a 41-year-old operational head in the police's Truck Anti-Hijacking Unit, was a controversial figure within the force. The new investigating officer is Inspector Luddie Schnelle, a highly-regarded member of the Organised Crime Squad.

Supt Smith may be gone, but he's left behind some unanswered questions. But on this, at request from those on high, our lips are sealed. For now.

■ The trial of Douw Steyn's former fiancée Donne Botha, for attempted murder in the attack on Bianca Ferrante in 2006, continues at Wynberg magistrates court. Steyn was due to attend court to testify on 23 June, but was otherwise occupied, preparing to attend his friend Nelson Mandela's 90th birthday bash in London's Hyde Park. Steyn is now due to take the stand when the trial resumes on 26 November. **W**



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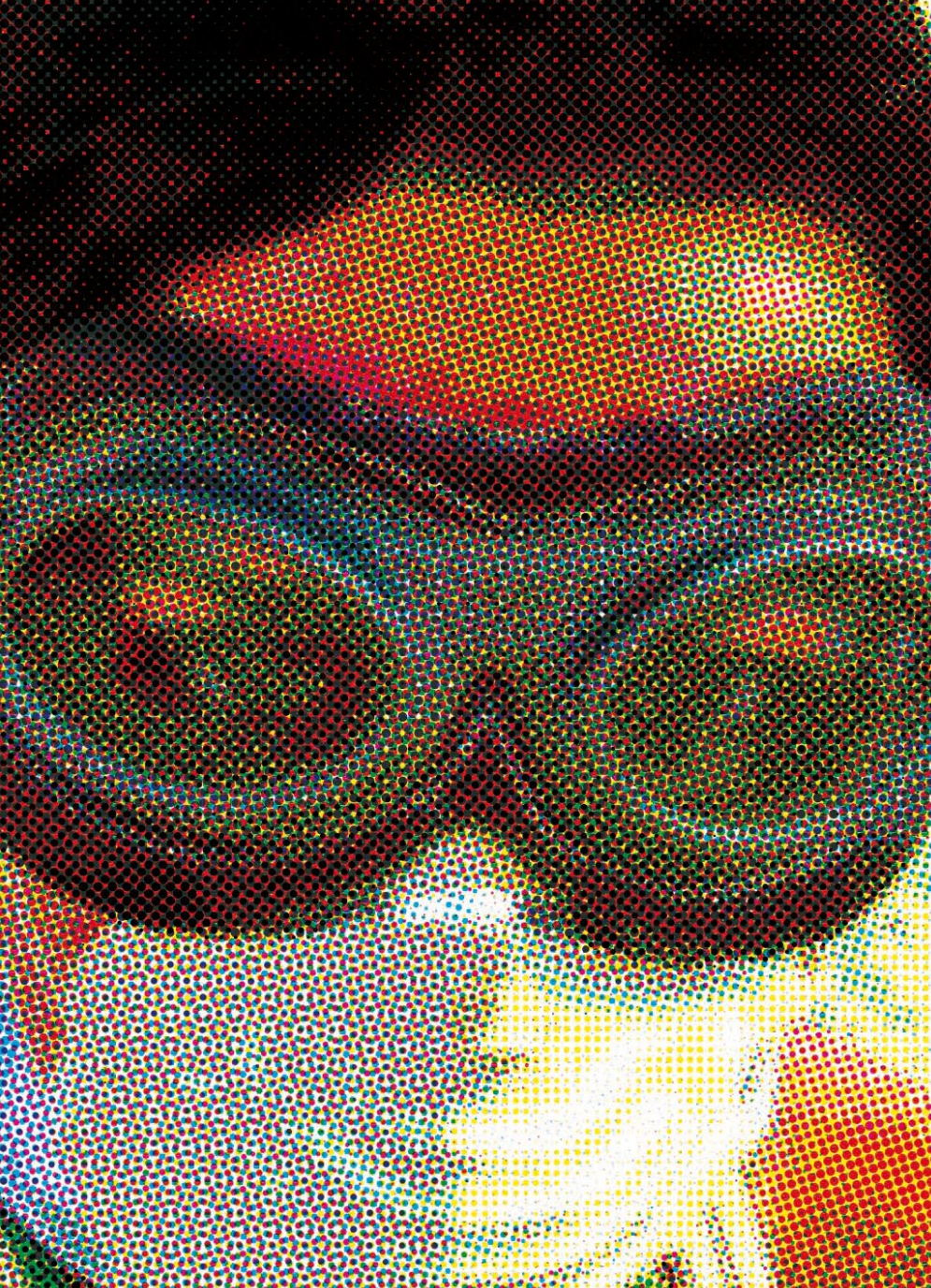
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# When the wind blows

People living near an Mpumalanga chipboard factory are incensed by its nauseating emissions

**“W**HEN THE WIND BLOWS THIS way, my eyes bleed,” says Mpumalanga businessman Rob Schormann, whose office is just across the highway from the Sonae Novobord chipboard factory in Rocky Drift, Mpumalanga. Schormann says every surface is covered in dust. The noise is constant and the smell so nauseating at times that people living downwind are forced to seal themselves inside their houses for hours.

The locals complain of respiratory ailments, sore eyes and skin rashes. Among the scarier poisons emitted from the smoke stack is formaldehyde, a known carcinogen.

The factory, between White River and Nelspruit, has long been a nuisance to its various neighbours, which include small businesses, residential developments, smallholdings, plantations, game lodges and just over the hill, a private country school with almost 1,000 pupils. But it took an act of blatant corporate arrogance to stir them to organised revolt.

Sonae, a Portuguese-owned multinational, bought the chipboard factory from Sappi in 2000. Not long afterwards, it approached the Mpumalanga Department of Agriculture and Land Affairs (DALA) for permission to expand its premises by 20,000sqm.

At the time, DALA was apparently satisfied that the company needed that extra space just for storage. But in 2006 Sonae began installing brand new machinery, including an additional wood dryer, while announcing that it was going to double production from 500 cubic metres a day to 1000 cubic metres. This is not the kind of thing an already troublesome factory is allowed to do without formal authorisation and a full environmental impact assessment (EIA).

No wonder the neighbours finally snapped. The most vociferous objectors, including Mr Schormann, immediately formed an ad hoc pressure group called Residents Against Toxic Sonae, or RATS, and threatened to sue the province if it didn't call a halt to the factory's illegal activities. DALA had little option but to order the company to stop all construction, shut down its new equipment and commission an EIA.

A firm called Environmental and Health Risk Consulting Ltd was called upon to investigate. For the first time in the factory's 20-something-year history, it was subjected to a thorough examination. Air quality, noise and smells were monitored, lively public meetings were held and written objections poured in from interested and affected parties.

When the eagerly-awaited EIA report was published last year, it included some startling findings. Not only were the levels

of dust, noise and smells coming from the factory unacceptable, but the readings for formaldehyde in the air at the perimeter fence were five times higher than they ought to be. Included in the document was a specialist study which warned that regular exposure to even low levels of the toxin could increase the incidence of cancer. But just when it seemed that Sonae was finally going to be forced to clean up its act, the report was summarily withdrawn.

Oddly enough, it was DALA who decided the whole thing had been a waste of time. The department had come to the belated conclusion that Sonae didn't need an EIA any more. Since it had already commenced its illegal expansion, it would be able to get away with the much less demanding P24 Rectification Process instead.

The rectification process was introduced a couple of years ago to help bring old factories into line with new legislation. It was never meant to help companies which had broken the law to legitimise their misdeeds. Unlike an EIA, rectification gives the authorities considerable discretion; they can, for instance, narrow the scope of the assessment and even dispense with public participation altogether.

Schormann describes the process as "a rubber stamp": "The public was only allowed to submit written objections and there was no proper health study. We have asked again and again for them to do physical examinations of people living in the area. But all they did was monitor the air for a week and then get someone sitting in Joburg to produce a computer model from the data."

To make things worse, the objectors say, the data collected was inaccurate. Another stakeholder, a local environmental consultant who asked not to

be named, said the equipment used to measure fine particles of dust was not fit for the purpose.

"It's obvious that the equipment failed. You had a whole series of readings with a very high count then a single reading showing almost zero," he said. "I think what happened is the equipment got blocked because the dust was so thick. But they took the average, so it made the levels look more reasonable." The consultant also said the equipment was incapable of reading extremely fine particles which could damage the lungs.

People are also confused by the new report's confident assertion that there's nothing wrong with the ambient formaldehyde levels, a curious reversal of the conclusions of the earlier, discarded EIA.

The consultants responsible for the rectification process, the WSP Group, vigorously defend their work. "This was not a short-cut," says WSP director Dr Jon McStay. "It was broad and holistic. The full issues were highlighted. It was in no way blinkered in favour of the client."

McStay says there is no doubt that dust and noise are legitimate concerns for people living and working near the factory and that Sonae needs to introduce mitigation measures.

"But noise and dust won't kill you," he said. (That's another opinion disputed by RATS, who say wood dust has been linked to cancer of the nose and sinuses.) McStay says DALA made a bad decision right at the start when it gave Sonae permission to expand without examining its longer-term intentions or considering the interests of the broader community.

"The regulatory process was flawed. If the department had stepped in

earlier, it wouldn't have come to this, there wouldn't be this bitterness between these small town neighbours."

But he is even more critical of the interested and affected parties who he accuses of "blowing things out of proportion". He describes their claims about formaldehyde, for instance, as "scaremongering".

"Formaldehyde is not dangerous at low levels and it breaks down quickly in the atmosphere. It's more of an indoor problem. "If emissions were too high, there would be a big impact on the health of the workforce and we found no evidence of that."

According to interested and affected parties, that's because the factory has a powerful extraction system that sucks the pollution out of the workplace and pumps it into the air for the neighbours to breathe. And despite what McStay says, some international regulators, including the US Environmental Protection Agency, have concluded that there is no safe level for formaldehyde.

True to form, the RATS have refused to accept the new report, insisting on their right to subject it to peer review by yet another set of consultants, at Sonae's expense. To add to the company's woes, the Green Scorpions have slapped the company with a long-overdue R500,000 fine for the illegal expansion.

As far as McStay is concerned, the multinational has suffered enough. "The interested and affected parties have had their pound of flesh," he says. "Sonae is bleeding money. It's already had to pay a substantial fine, and now it can't use the equipment it's bought. And there are the legal fees and the costs of all these different studies.

"It was great, what the objectors did. It had to be done. The plant urgently needs upgrading. But now they have become the problem. We can't move forward and start improving the situation if they keep standing in the way."

But the RATS are already planning their next move. The peer reviewers' report is expected any day now. Whatever its conclusions, Schormann says the objectors expect DALA to give Sonae the go-ahead. And then the real fun will begin.

"If they give a positive decision, we intend to take them to court. We are not going to give up, We will go as high as we have to. Even to the Constitutional Court. We're not going to allow them to get away with this sh\*t any more." ■

## We are not alone

**R**OCKY DRIFT IS NOT THE FIRST community to take on Sonae over its indifference to local health and wellbeing.

The working class area of Kirkby in Liverpool has been involved in a protracted battle with the company over health and safety issues within and without their local chipboard factory.

Not only has the Kirkby plant suffered a number of fires and explosions over the past ten years, but it

has also been accused of showering the neighbourhood with toxic dust and foul smells.

In 2003 the company was fined £37,500 after admitting to eight toxic leaks in five months.

The Rocky Drift RATS have been in touch with the KATS (Kirkby Against Toxic Sonae) to share information and offer moral support.

The Sonae Group, by the way, is owned by Mr Belmiro de Azevedo, the richest man in Portugal.

**G**RAVES HAVE BEEN ROBBED at Gordon's Bay and relatives of the dead want to know what the tomb raiders did with the bones. The destruction of the "coloured" section of the almost century-old graveyard and the disappearance of human remains are being blamed on former councillor Anton Fuchs, private developer Anthony De La Fontaine, and various Helderberg council officials.

Early in the 1900s Gordon's Bay was known as The Village, and apparently people of all colours lived there side by side. Carol Miller, whose family home stood opposite the graveyard, says that an additional settlement, Temperance Town, was developed by a brickfield owner, a Mr Bredell, for fishermen and brickfield workers, who were mainly coloured people. "The Village and Temperance Town people all buried their dead at the same cemetery," Miller (62) tells *noseweek*.

According to Miller, segregated grave-siting in the cemetery began long before apartheid: "Whites were buried in the cleaner section of the cemetery, while the 'non-whites' side was bushy and hardly cleaned."

Miller recalls: "Every Saturday afternoon, I would cross the road to the fence to watch them bury their loved ones. Some of the coffins were very small and it struck me at the age of thirteen that death didn't just happen to old people, but to children too. Aunty Jane, who lived behind our house, was buried in the coloured section." Miller recounted how she would walk through the coloured section of the graveyard to the beach just below the cemetery.

Benjamin Blouw, whose father was a council worker and whose family lived behind the cemetery, confirmed Miller's account of the place. He recalls wondering as a young boy why there had to be separate burial grounds. "It was much later that I realised that the non-white section of the grounds was not attended to. We would go to the beach to help our friends collect seashells and stones to place on the tombs of their relatives. Only those who could afford it would order headstones."

Yet this piece of history has vanished from, or else simply never appeared in, official records – if one is to accept a City of Cape Town statement in a 2007 letter. "In the absence of any burial records and on the approval

# Bones of contention

## Relatives of dead buried in a Gordon's Bay cemetery want to know where their remains went after bones were removed to build flats



Regan Hendricks, Esme Daniels (Centre) and Katrina Hendricks, relatives of the dead, backed by apartments built on the site of the Gordon's Bay graveyard

of the Surveyor General in 1990, the City was within their rights to sell off this portion of the land," the City told the community. The letter was the City's reply to the local coloured community's enquiries and concerns that the Helderberg municipality's sale for development of part of the cemetery, and later "upgrading" of a remaining portion, had been conducted without consulting the families of those buried there. (Helderberg, which includes Somerset West, Strand, Lwandle, Gordon's Bay and Macassar, is now a sub-municipality under the City of Cape Town).

While the new development – a set of apartment blocks – was being built, the Helderberg municipality apparently yielded to further pressure from the developer and converted the remaining portion of what was once the "coloured" graveyard into a public park. Carol Miller says she had found

herself wondering what would be done about the headstones still standing on the site. "Who would pay premium price for apartments overlooking a graveyard?" she asks.

Given the responsibility for "upgrading" the site was Helderberg director of parks Peter Delahunt, who instructed Nick Wannenberg and Cyril Baartman to do the work. Baartman soon realised that the intention was not to improve the remaining section of the graveyard, but to make the graves disappear.

Baartman tells *noseweek*: "I couldn't believe it; we were meant to be digging out the graves. I immediately told the contractor to stop and alerted my immediate boss, Nick Wannenberg, that there had to be public participation since the owners of the graves were still alive. In fact there were at least 15 new graves, maybe ten to fifteen years old."

Baartman believes Wannenberg

informed Delahunt of his concerns: "Instead of stopping the excavation, he called me into his office and told me 'gaan doen jou fokken werk' (go do your fucking work). I was sad for the relatives of the dead. You just need to have lost a loved one to understand how they would be feeling. I didn't get any help from Wannenberg, but he must have known what the intentions were."

Baartman says he was so upset that he resigned from the council. Wannenberg, now director of parks at Tokai, wouldn't talk about the graveyard and referred *noseweek* to Peter Delahunt – who also refused to discuss the matter. "I'm under no obligation to talk to you. The matter was thoroughly investigated by the council and the file closed. I am no longer with the council," Delahunt proclaimed.

Some local residents are blaming former councillor Anton Fuchs for allowing the destruction of the graveyard to go ahead – he was allegedly overseeing the clearing of the cemetery, and was seen on site during clearing operations.

Fuchs responds: "I was the ward councillor and I was there to ensure that the graveyard was protected. In fact I did my best to protect the grounds."

According to Carol Miller and other local residents, Fuchs told them at the time that he had obtained funds from "government" to rehabilitate the graveyard. "We didn't know the rehabilitation included digging out the graves," Miller says. "I called him and so did my husband [a former mayor of Gordon's Bay] after we saw the bulldozers; you don't need bulldozers and cranes to rehabilitate a graveyard! But he told us that it was for the best."

Fuchs declined to answer questions about his role in the matter, beyond pointing out that as a councillor he would not have had control of budgets or expenditure, so would not have claimed to have obtained funds.

Developer De La Fontaine, asked whether he had helped fund the clearing and upgrade operation, insisted that the matter had been investigated and certified by the City: "If you have any more problems, go to the City." He refused to answer questions about what might have happened to the bones of those once buried in the ground now occupied by his apartments.

De La Fontaine also wrote to Frank Hendricks, who had several relatives

## Any discovery of human remains would have meant reversion to a national heritage site

buried on the site now covered by the apartment blocks, that his contractor did not find "bones or skeletons when they dug up the ground for foundations of the apartment blocks".

Says Hendricks, whose father was the only headstone maker in Temperance Town: "If he is telling the truth, then they never dug deep enough for a firm foundation for the buildings – making them unsafe to live in. But if he's lying, which I believe he is, then they must tell us what they did with our relatives' remains."

Hendricks adds that the council was definitely aware of the fact that the site was a graveyard: "They knew our people were buried there; they just didn't care."

In response to community protestations, Susan Brice, the City of Cape Town's cemetery co-ordinator, wrote to Hendricks: "I regret to inform you that still no evidence of burial records has been found to prove the existence of graves in the area which was sold off for development.

"The investigations covered research into records dating back to 1870 held by the City's Land Information Section and the Deeds Office, and area photographs dating back to 1938: none of these documents provided evidence to suggest that any burials occurred on this land."

Yet, despite this declaration of innocence, the City planted 300 crosses and built a memorial wall carrying 300 plaques to be engraved with the names of those buried at the site. Apparently 90 names have been confirmed, but Brice does not say how this was done in the absence of records or a public participation process.

An ex-supervisor of the cemetery,

who retired in 1989, Mr Johnson, explained to *noseweek*: "Of course they wouldn't find any records of burials if they only checked among the council's cemetery register. We only kept records for the white people. When coloureds died, all they needed to show me was a burial order – then issued by the police – and I would show them where to bury their dead."

Johnson said the excavations had been hidden behind a fence. "But I knew something bad was happening. I had personally buried my coloured employee right where one of the buildings now stands." He's worried that the coloured community will blame him for not stopping the excavations and says the council only came to him later: "I provided the information to the council officials when they asked me, but that was after they had done their thing. Nobody asked me before. I've gone to ask for the old area maps from the council, but they can find nothing. The maps of the 1970s and 80s cannot be found. The current erf numbers in the area are all new."

The sketch map now being provided for the graveyard is L-shaped, while ex-supervisor Johnson used a rectangular one in his day.

Developer De La Fontaine had his own good reason not to admit that the land he bought and developed included a cemetery – any discovery of human remains would have led to reversion of that portion of the land to a national heritage site, and De La Fontaine would have lost a key piece of prime beach-adjacent development.

Alec James, an undertaker for many years, told *noseweek*: "It's sickening. We buried our people here. The place was full. The council's claim that there was no evidence is plain stupid. I know at least two places where the council's investigators could have gone to establish the truth; the local Anglican Church and the police station. That church's ministers buried the dead while the police issued the burial orders."

James, now an undertaker in Ma-cassar, says: "We would dig nine to ten feet when burying a wife or a husband to allow enough room for the remaining spouse; it saved the family some money. People are meant to rest in peace, but these are not."

Cape Town City Mayor Helen Zille has handed the matter to councillor Shehaam Sims for further investigation. ■

# Improper relations

Don't you love estate agents! Yes, perhaps, if you're an attorney whose bread and butter is conveyancing. And though attorneys are now allowed to market their services, the line between marketing and touting can be very fine



## The Fairest Cape

**L**ATE LAST YEAR PAM GOLDING (the lady, not the company) and employees Patrick Maingard and Gail Gavrill applied to the Cape High Court to have set aside summonses issued by the Estate Agency Affairs Board (EAAB) for them to answer charges of improper conduct, claiming it wasn't clear what the charges were. They also argued that letters from the EAAB, received in August 2005, didn't give the name and address of the complainant, nor explain their alleged wrong doing. The letters included documents apparently unrelated to the case – so attorneys MacGregor Stanford Kruger had written requesting clarification. When the EAAB didn't respond it was assumed the matter was at an end.

The EAAB didn't defend the Golding high court application, and declared that the summonses would be withdrawn and the EAAB would pay Golding's legal costs. The EAAB's legal advisor, Lindiwe Bulu, tells *noseweek*: "There was no need to oppose the application as the summonses were already withdrawn. The summonses were in order and the reasons for withdrawal had nothing to do with the nature of the summonses."

A brief examination of the letters shows that they refer to offences under the Estate Agency Affairs Act and the

Code of Conduct for Estate Agents, and attach extracts of a Cape Law Society charge against attorney Andre Berrange, an erstwhile director of Buchanan Boyes (now Smith Tabata Buchanan Boyes), as well as Judge Desai's ruling in the case brought for Berrange's suspension.

Berrange had been charged with making arrangements with property giants Seeff and Pam Golding, whereby Buchanan Boyes paid for conveyancing instructions. In both cases these "arrangements" were hidden behind simple marketing agreements. Seeff had meticulously sent Buchanan Boyes schedules of transfers, and Buchanan Boyes paid the agency a total of R237,000. In the Pam Golding case the arrangement was a little less formal – Berrange and Andrew Golding, CEO of Pam Golding Property Group, met a year or so after the marketing agreement was concluded and decided on a figure of R254,000, excluding VAT.

Judge Desai held that it was highly unlikely that attorneys would have parted with such sums simply for nebulous marketing assistance. The marketing agreements – one-page documents that allowed Buchanan Boyes to display its brochures and host training sessions, in return for a "suitable consideration" – were clearly a sham. Quite evidently, the attorneys were paying for instructions referred, and one of the

Seeff invoices made it clear that the going rate was R1000 per referral. Law Society Rule 14.6 – an attorney "shall not directly or indirectly enter into any express or tacit agreement, arrangement or scheme of operation, the result or potential result whereof is to secure for the member professional work solicited by an unqualified person" – had clearly been breached, so Berrange was suspended for two years. Apparently the Cape Law Society is now applying for the suspension of four of Berrange's former partners, Robert McPherson, Martin Sheard, Phillip Steyn and Jonathan Steytler.

It's probably safe to say, therefore, that the EAAB had wanted Pam Golding and her employees to answer charges that the company had entered into agreements which, in contravention of the Estate Agents Code of Conduct, were intended to "persuade or influence any party [...] to utilise or refrain from utilising the services of a particular attorney, conveyancer or firm of attorneys".

But it's unlikely we'll ever know for sure.

## Die Ou Transvaal

**I**N MAY THIS YEAR the Law Society of the Northern Provinces brought an application to suspend the partners of Roodepoort conveyancing firm Dykes Van Heerden Inc

– Peter Dykes,

**Turn to page 34**



# Stonewalling

It's when Audi Fourways drives your car at high speed into a garden wall and then says nothing

**T**HIS IS A TALE OF TRUST BETRAYED, of fury – and expensive inconvenience. It is the story of a motorist who delivered his beloved wheels into the not-so-tender care of a Gauteng garage, only to have the rare model hideously wrecked in an encounter with a tree.

Were the garage staff overcome with horror and embarrassment? Did they cringe with shame, and beg for forgiveness? ...er ...no. Not at first, anyway. The dealer principal of Audi Fourways simply told Ted Patterson to contact his insurers and report the demise of his 2007 R700,000 Audi RS4, destroyed during a test drive by a garage technician. That seemed about as far as they were prepared to go by way of obsequies. Just a couple of emails, and then prolonged silence.

Ted was not impressed. So unimpressed that he complained to the media. *Noseweek* made some inquiries. One day later, Audi Fourways apologised.

In law, reference to the insurers is perfectly correct procedure. But increasing numbers of drivers have tales to tell of harry casual responses from garages when damage occurs while cars are being "repaired". The resultant time-wasting inconvenience, exacerbated by bureaucratic delays and snarl-ups, must be costing the country a pretty penny. Patterson has, of course, had to continue payment instalments for a non-existent car, and to deal with licensing and de-registration formalities. Perhaps, he suggests, the garages should assist with such procedures in these cases.

Businessman Ted Patterson's splendid motor was a design collaboration between Lamborghini and Audi. He believes production was discontinued this year, to make way for the new RS6. "You cannot get a new replacement," he mourns.

He believes that a 22-year-old apprentice technician from the workshop was authorised to take a



The remains of Ted Patterson's Audi RS4

colleague for a test drive through Lonehill suburb. Apparently the pair met a friend driving a Polo 1.9Tdi and the test drive allegedly turned into a drag race. The Audi crunched through a garden wall before smashing into a tree.

"Dealer principal Greg Parfitt informed me that they are not insured against damage to customers' vehicles while in their 'care'. I was told to claim from my insurance company who would then sue Audi." Parfitt claimed a sign was displayed at the garage, declaring that the business did not accept responsibility for damage.

Patterson says he is fortunate in having insurance: "But what about those who don't? It's a struggle to make ends meet." He has lost his no-claim bonus, and was told initially that he would have to pay the excess of some R60,000, loaded because the driver at the time of the incident was under the age of 25. Perhaps the time has come when insurers will start baulking at a proliferation of claims arising from damage to vehicles in the "care" of garages.

■ Audi Fourways' apology, signed by their legal adviser, notes *inter alia*: "We have disciplined the driver of the vehicle. [...] We will honour our undertaking that you will not have to pay excess on your insurance. [...] We understand your extreme disappointment with the whole situation." ■



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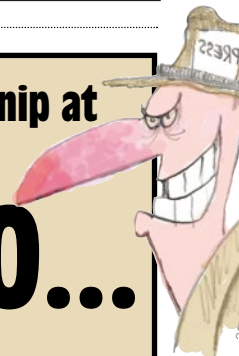
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Joachim Schoss during his South African tour

# Riding roughshod

The Schoss case is the last of the big bucks RAF settlements – the courts will make much more realistic awards in future

**M**YSTERY SURROUNDS THE IDENTITY of the Road Accident Fund's London reinsurers who have paid out the bulk of a record R519m settlement with Swiss-based millionaire Joachim Schoss. Until the dramatic June settlement, the 45-year-old Zurich-based millionaire was claiming an incredible R4.5bn for injuries received in a 2002 accident while on a motorbike touring holiday of South Africa (*nose99*).

The secret settlement talks, *noseweek* has established, began in mid-May, just four months before Schoss's claim was due to go to costly arbitration in Zurich. After nearly six years of legal haggling, RAF chief executive Jacob Modise dispensed with the lawyers and remuneration experts and, as he triumphantly revealed in July, flew off

to Zurich alone to strike a deal with Joachim Schoss.

The RAF has had to pay R62m of the R519m settlement. So intense are everyone's efforts to keep the reinsurers identity a secret that rumours have been circulating that they are refusing to pay the rest.

The reinsurance was placed with four underwriting syndicates at Lloyd's of London by the Willis brokerage group, but in London, Willis chief executive Graham Millwater refuses to identify the syndicates or the "names" in them.

A similar refusal comes from the RAF's attorneys, Edward Nathan Sonnenbergs, whose George van Niekerk says: "Speak to Mr Schoss."

Schoss: "Unfortunately, I forget the name of the reinsurer."

"Ask Mr Bosman (Manie Bosman, Schoss's attorney in Somerset West)," suggests another player in the saga. "He knows who the reinsurers are." Bosman: "I don't know, their names were never divulged to us."

Why all the mystery? George van Niekerk says that he too has heard the rumour that the Lloyd's syndicates were withholding payment. However, he assures *noseweek*: "The settlement agreement of Mr Schoss was negotiated and concluded with the full knowledge and consent of the reinsurers. The reinsurers have not refused to pay out the claim."

A Lloyd's spokesman says: "According to our claims team, the principle amount that is insured in Lloyd's has been paid."

Schoss and a friend were on a touring holiday on hired Harley-Davidsons when his bike was hit by a car overtaking another vehicle on the wrong side of the road near Stellenbosch on 23 November 2002.

Schoss, then 39, lost an arm and a leg. He also suffered serious kidney, lung and brain damage. He claimed that his injuries brought his meteoric career as an internet entrepreneur to a halt and that in the five years before the accident his annual income averaged over R100m.

But did Schoss have to make a claim against the cash-strapped Road Accident Fund at all? In Switzerland every worker has to take out compulsory accident insurance. This is valid worldwide and benefit payments are enshrined in Swiss federal law. They include costs of medical care and hospital charges, reimbursement of transport and rescue costs, a disability pension (80% of insured earnings), care allowance and an "integrity payment" to those who have suffered permanent physical or mental damage.

Although Schoss received most, if not all, of the above – including an air ambulance plus doctor to carry him home to Zurich – the hard-nosed businessman nonetheless filed duplicate and ever-increasing claims against the Road Accident Fund.

Another outrage: Why was Schoss's (contested) claim not heard and resolved like everyone else's – in a South African court? Had the matter been heard in the Cape High Court, as many lawyers say it should have been, far from getting R4.5bn, let alone the

final settlement of R519m, a judge would probably not have awarded him more than R50m.

Before Schoss's settlement, the previous highest personal injury payment by the RAF was R22m, in 2006. It went to a top-earning anaesthetist, Dr Chris Herbst, who was seriously brain-damaged and his career ended after a car crashed into him and his group of cyclists.

When it comes to low earners and the unemployed, awards are slashed to the minimum. A middle-aged person earning R5000 a month who sustains injuries similar to those of Joachim Schoss could expect to receive R850,000 for general damages and R1.5m for loss of future earnings – a total of just R2.3m.

Schoss's first claim, lodged six months after the accident, was for R81.5m. A year later it had increased to R97.5m. Then R1,681,451,252, of which R1,677,677,511 was for loss of earnings/earnings capacity. But his outrageous worst was to come. Earlier this year he retained PricewaterhouseCoopers in Zurich to produce a forensic report on his likely future earnings. And it was PwC who came up with the mind-boggling final figure of R4.5bn. The Road Accident Fund and its reinsurers retained Ernst & Young in London to do a similar forensic. This concluded that PwC's R4.5bn was grossly excessive.

Of Jacob Modise's man-to-man approach to settle the claim, Schoss says:

"Mr Modise was travelling to London end May – as far as I understand to meet the reinsurer – and wanted to meet me on the way back, which did not work on my side. He returned to Europe again and we met in the beginning of June in Zurich. The whole process was managed very professionally by Mr Modise.

"We stopped the negotiations overnight and I had the impression that Mr Modise had called the reinsurer to receive the OK for the settlement."

The R519m June settlement included Schoss's costs. Paid in foreign currency – €42m – it went direct to him on 18 July. Schoss had earlier received R5.1m in two interim payments from the RAF. This was deducted from the €42m, leaving Schoss with €41,565,018. Modise had already announced the settlement, and his role in it, a week earlier, on 11 July.

There was also a R230,726 payment last November to Schoss's wife. Although she was not in South Africa



Road Accident Fund chief executive Jacob Modise

when the accident happened, the RAF settled her R129,564 "medical costs" and gave her R101,161 for "emotional shock".

Mrs Schoss, now 43, walked out of their marriage after the accident, taking their two young sons with her.

The RAF is funded by the country's motorists, who pay a levy of 46.5 cents on each litre of fuel they buy. This gave the fund an income of R8.2bn in fiscal 2008, while claims expenditure totalled R15.5bn. Last month the fund received a R1.3bn cash injection from national treasury to "alleviate its liquidity restraints".

"Looking at it that way, the payment of R519m to Mr Schoss is all the more shocking," says a personal injury attorney. "For 20 or even 100 tanks of petrol in his Harley-Davidson he contributed R1000 at most for the RAF's coffers."

Thankfully, there will be no more Schoss-scale payouts dominated by loss of income. The RAF Amendment Act, which came into force on 1 August, sets a future earnings limit of R160,000 a year. The act also ends claims for emotional shock.

In Switzerland, Joachim Schoss is busy on his latest venture, seeking donations via the internet for his MyHandicap charitable foundation for the disabled. His attorney Manie Bosman says he's still waiting for the bulk of his fee. "Mr Schoss has made some payment and the rest is still in the pipeline. He's still negotiating with his own insurers in Zurich about some medical costs."

The RAF's attorneys, Edward Nathan Sonnenbergs, have received a massive R9.3m from the fund, according to payment vouchers leaked to *noseweek*. However, the law firm had to make some disbursements from this, such as R2.1m to Ernst & Young in the UK for that forensic report and R11,661 to a private investigator in Switzerland. ■



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## Not-so-friendly kwagga Rootman not too happy

**I**T SEEMS THAT FRANS ROOTMAN, the “friendly kwagga” as he likes to call himself, was none too pleased to have made it onto the pages of *nose106*, and there’s now absolutely nothing friendly about him.

Rootman ripped off mother and daughter Kathleen Joseph and Carmen Schiemann when he persuaded them to sell him two close corporations, one of which owned a farm and the other a gift shop. Rootman short-changed the pair by some R1.5m, but eventually the ladies



A friendly kwagga (extinct)

(Rootman used to called them his “hotties”) agreed to accept R250,000 in full and final settlement.

But even this didn’t materialise, with Rootman alleging that he was waiting to sell a claim which the DRC had against Uganda for war crimes, and which he had attached.

When the attorney acting for the ladies approached Rootman’s camp, in the person of ex-advocate Chris Schoeman, he was told that Schoeman no longer represents Rootman. So the attorney approached Rootman’s attorney, Wilna Lubbe of the firm Buurman Stemela, only to learn that Rootman now regards the offer of R250,000 as null and void – so there is no longer a deal on the table.

In the meantime, SARS have indicated that they want to audit K&C’s Health Beauty and Accessories and Gifts CC, and the ladies must now persuade the taxman that they no longer own it. A real mess, all round.

## Thick as intellectual property lawyers

**T**HE SOUTH AFRICAN INSTITUTE of Intellectual Property Lawyers (SAIIPL) declares on its website that among its objectives is “to act as a disciplinary body that protects the interests of the South African public by ensuring that standards and practices in the field of Intellectual Property Law are maintained”.

You’d expect, then, that someone in the SAIPL would get off their butt when an inventor complains that a patent attorney fraudulently altered his patent application, and then another alleges that the same attorney fraudulently added on his application, as a co-inventor, the name of American Peter Knop (*nose107*).

On the other hand, another of SAIPL’s objectives is “to promote the interests of the profession – patent attorneys and patent agents who special-

ise in the field of Intellectual Property Law”. So the SAIPL’s recent response to the complaints shouldn’t come as a surprise. SAIPL president Mike du Toit declared: “The Council is of the view that, at least at this stage, the SAIPL is not able to assist you. [...] A determination or resolution of a factual dispute whether inventors are correctly or incorrectly cited in a patent application does not fall within the jurisdiction and/or powers of the SAIPL.

“Should you believe that in this case Peter John Knop is incorrectly cited, you should seek advice from your own patent attorney and then take whatever steps are available to you in law.” Which kind of misses the point that the complaint is about that same patent attorney.

Clearly some objectives are more important than others.

## Fanfare for the Common Man

**A**RRIE JOHANNES HAS PROVED to be anything but your typical poor South African. When he lost his Fort Beaufort home under the hammer of sheriff Barbara-Jean Herman (*nose97*), he simply refused to give in to the injustice of it – despite being told by various attorneys that he had no chance of recovering his property.

Arrie’s *noseweek*-reading neighbour Sydney Nkatsha says: “The attorneys we called on told us it was a losing battle. Even the Legal Aid attorneys said they didn’t have the resources, and that the matter was too complicated.”

After a protracted battle, Arrie Johannes finally raised enough funds to approach attorney Justine Power of Neville Borman & Botha in Grahamstown, and, in February this year, Johannes and his wife Mabel opened a civil proceeding against seven individuals and entities: Jacobus and Janet Verwey (who

originally sold him the house), Sheriff Herman, Standard Bank, Sazi and Yandiswa Mtotywa (who allegedly bought the house on the infamous auction), and the Registrar of Deeds in Cape Town.

Standard Bank, the sheriff and the Verweys, aware that the attachment and sale were illegal, opted not to defend the application, which was thus



Arrie Johannes flanked by his wife Mabel and neighbour Sydney Nkatsha

opposed only by the Mtotywas.

In July, Judge Ronnie Pillay granted all requests, and ordered the deeds office in Cape Town to transfer the property back to Verwey to enable the conclusion of his original sale agreement with Arrie and Mabel Johannes.

The judge ruled that “the Applicants were the lawful occupiers of the property prior to the auction. The case is that neither of them was served with any notice of attachment personally [...] by way of prepaid registered post. This is not disputed by any of the Respondents”.

Pillay also dismissed the claim by Sheriff Herman that she had placed the notice at the magistrate’s court, and highlighted that she had lied about having complied with the rules for serving notices.

Sydney Nkatsha warns that the struggle isn’t over: “The old man [Arrie Johannes] must obtain an urgent interdict barring Verwey from transferring the property to any other third party. We need more judges like Justice Pillay, who are ready to stick their necks out to ensure that justice is delivered to the common man and woman.”

## Miracles do happen: R1000 reappears in FNB bank account

**J**ULIAN SCHRAGENHEIM, the 84-year-old who refused to be bullied by First National Bank after a ghost siphoned R1000 from his account (*nose108*) has got it back – but FNB is not disclosing how the money disappeared in the first place.

Schragenheim’s R1000 miraculously reappeared after forensic investigator David Klatzow called the bank to say he had examined Schragenheim’s still sealed PIN envelope. Klatzow spoke with a senior official in the FNB fraud department, who couldn’t explain why, without examining the envelope, FNB was claiming to have investigated the case. Despite assertions by Steve Higgins from FNB corporate communications that their own forensic investigator was being sent to examine the envelope, Schragenheim’s account was credited the next day.

## Join a pyramid scheme and be a whiner

**B**EEAWINA (*nose106*) has stalled. The proposed July launch date has been repeatedly postponed, and no-one is saying why.

Perhaps the pyramid-schemers have simply underestimated the intelligence of the public – but a few did fall in the assault, and some of those who have lost out are baying for blood.

The first 17 recruits (“national consultants”) who formed part of the first tier, and their respective ten second-level recruits, appear at this point to have lost their initial outlay investment with Koos Koen’s Teletainment.

On recruitment the 17 were promised that fortunes would be generated from recruiting other members, and each parted with R500 (total: R8,500). The 170 second-level recruits each parted with R570 (total: R96,900). On top of that, each paid R239 +Vat for 500 business cards or R299 +VAT

for 1000 business cards, with sales tag – “the more cards you order, the quicker you’ll be recruiting”.

Now that the project has stalled, the “national consultants” and their recruits are demanding to know why they are losers in a project that would have “no losers”. They should have known something was amiss the moment they were instructed to deposit fees into a private current account – in this case that of BeeAwina national training co-ordinator Jennifer Artman, held at the Tokai branch of Nedbank.

As Artman didn’t answer *noseweek’s* calls it’s not known what happened to the R105,400 deposited into her account by “national consultants”.

Prof Koen tells *noseweek* that all payments were in fact made to a company account. Why then did Artman give her trainees her private banking details? Prof Koen promised to report back – *noseweek* is still waiting.



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**J**UDGING BY THE NON-REACTION from journalists and environmentalists, none were in front of their TVs on 1 September when the clearest indication yet seen of high-level corruption in Gauteng's Department of Agriculture, Conservation and the Environment (GDACE) was broadcast on SABC2's *50/50*.

But *noseweek* was glued to the box, having heard that a fascinating video clip was to be aired: a property developer, sick of his applications for environmental authorisation being held up because he wouldn't pay bribes, had invited a GDACE case officer to his office – and with a concealed camera had captured allegations that GDACE deputy director-general John Nesidoni had been on the take (see *noses*100,101&107).

*The Great Gauteng Greenwash* began predictably, with interviews with angry environmentalists and a DA politician (though the voiceover was partly plagiarised from *nose*100). Sites where natural areas had been bulldozed were shown, and birds around a pond; then – just as the story was going nowhere – the damning footage.

Camera left: Developer, fuzzed-out to protect his identity;

Camera right: A GDACE official upset that lower officials see so little of the "action";

GDACE official: "You know, systems within government – they're somehow – we who are the grassroots, we suffer, we suffer and we get nothing. Like people are telling me there are organisations that are handing out finances. But we just get an instruction from the top level from the MEC, the executive – they give authorisation."

Developer: "OK."

Official: "It goes from the MEC."

Developer: "MEC?"

Official: "From the MEC – this – ah! John. And John will drive it through."

The developer then tries to determine how much he would need to cough up to get his application moving.

Developer: "Can you tell me more or less how much? Is it ten thousand, is it one hundred thousand; what is it?"

Official: "Well I really don't know on his side."

Developer: "And on your side?"

Official: "Why you know what happens man, just come up with ten, fifteen – but you will never know."

Developer: "So ten, fifteen thousand, more or less in that area?"

Official: "Ja."

# The price of action

Pity the minor officials who miss out on land-use bribery



John Nesidoni

There's no doubt that the unnamed official was referring to GDACE deputy director-general John Nesidoni and MEC Khabisi Mosunkutu. Did he really know something or was he just riding rumours about his bosses to get ten or fifteen grand for himself?

*Noseweek* checked out its sources for the official's name, and hunted down Ndivhuwo Tshivase at his new job in the North West Department of Agriculture, Conservation and Environment. Tshivase sounded decidedly nervous at finding himself being questioned by *noseweek* about his brief appearance on national television.

Could he say more about the corruption alleged by him in the insert?

"This is not anything I can talk about."

Why not?

"Why should I discuss this with you?"

Does he deny having asked a developer for a bribe?

"No comment."

You aren't going to deny it?

"No comment."

And that was it – another small fry desperate to vanish back into the shadows. Tshivase's unwitting "testimony" may never bring down the guys who really count, but it has added its own quiet little note to the bigger story.

The evidence of wrongdoing at GDACE is piling up – and there's now documentary evidence that environmental consultants Strategic

Environmental Focus (SEF) have brokered at least one unprocedural site visit by Mosunkutu, before environmental studies were completed, to an area that a SEF client wished to develop. As a neutral authority who decides on appeals regarding GDACE authorisations, the MEC may not involve himself in any way with developers applying for such authorisation.

According to a letter in *noseweek*'s possession, signed by Aurelia Smith of SEF, MEC Mosunkutu had a meeting with SEF on 18 April 2008 at the site of the proposed Rietvalley Estate. Along for the ride was Pirate Ncube, a senior GDACE official. Smith notes in her letter that a promised Scoping Report has not yet been submitted, and apologises for "delays caused by the late submission thereof".

And in an email dated 23 June 2008, SEF complain about GDACE delaying environmental authorisation for the Rietvalley development (and "Dainfern extension 23"): "Please be advised that Mr Ncube promised the proponent [the developer] authorisation on this project within a month of submission, and because this is a submission under the Environment Conservation Act, this is quite serious because reviewing of old ECA applications is being discontinued".

This indicates that the developer applied for authorisation under the old Environmental Conservation Act, supplanted by the more stringent National Environmental Management Act.

In other words, the developer cut an irregular deal with Pirate Ncube (and, presumably, MEC Mosunkutu) to speed through the environmental approval on the basis of a Scoping Report – not a full EIA – so that the development need not conform to tougher requirements.

Further new evidence lies in a letter of 3 June 2008, signed by GDACE head of department Steven Cornelius, which allows some development of the controversial Waterfall Estate near Allandale to commence, even though the promised (and questionable) offset site had not yet been transferred into Gauteng Province's name.

*Noseweek* has detailed a string of unusual decisions made by GDACE to enable the ANC-connected Mia family to bulldoze this environmentally-important site, which GDACE itself identified as conservation worthy. The letter directs enquiries to John Nesidoni, which should further raise eyebrows – Nesidoni's seniority should place him beyond day-to-day decision-making on projects like this.

MEC Khabisi Mosunkutu and some top-level people in his department should long ago have been subject to

an official inquiry – such is the view of Gauteng Integrity Commissioner advocate Jules Browde as well as others familiar with the goings-on in GDACE. But Mosunkutu seems to have been well protected by Sam Shilowa during his tenure as Gauteng premier – Shilowa maintains his reputation as a “clean” politician, despite having consistently buried documents critical of GDACE and failing to follow up pleas from many quarters to investigate.

The Democratic Alliance has a complete copy of the spy video of Tshivase, but has refused to use it against GDACE because the developer who made it fears for his property.

Lest anyone think this is simply about a few officials lining their pockets with beer money at the expense of bits of veld and wetland, consider that the controversial developments GDACE has been approving are worth billions of rand, and that senior civil servants are involved. Powerful forces are at play here, but, without radical action on the part of government, what are the chances of stopping this unnatural alliance of developers and the authorities charged with protecting our fragile heritage? **W**

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## Pesticide wars

Conflict over crop spraying in a small Western Cape town raises big questions around regulation

**T**HOUGH ON THE SURFACE a small, small-town affair, the Riebeeek Kasteel battle between the vineyards (*noses99&100*) actually has much wider implications, raising as it does crucial questions about everyone's right to know about, and so protect themselves from, the dangers of agricultural poisons. Most ordinary citizens are woefully ignorant of the scale of such dangers, and they're not being given the kind of state support and protection one should expect as a matter of course.

The battle between farmer Vlok and his challengers, Jurgen Schirmacher and David Bellamy, who have accused him of irresponsibly spraying harmful pesticides that drift onto their residential properties, has all but turned to war – apparently Vlok recently hurled a small rock at Schirmacher, that hit him in the ribs.

Last month, it seems, Vlok had been at work on the new spray barrier he is erecting between his vineyards and Schirmacher's property, but when he attempted to string a guy line across Schirmacher's land, Schirmacher told him (in no uncertain terms) to stop.

During the ensuing argument, according to Schirmacher, Vlok hurled a grapefruit-sized rock that knocked him off his feet. "Vlok said that he would kill me," says Schirmacher. "I'm not exactly sure what happened then – my son says he hit me with a big stick." With his young children screaming, Schirmacher's wife Laetitia brought him, semi-conscious and struggling to breathe, into the house and called the police. Captain Kotze of the Riebeeek-West police took Schirmacher to the Malmesbury public hospital, but, according to Schirmacher's wife, other officers from the



police station refused to act against Vlok, who carried on securing his gum poles as if nothing had happened.

(Schirmacher was moved from Malmesbury to the Paarl Medi-Clinic, where he stayed for a couple of days. Captain Kotze confirmed that Schirmacher has laid charges against Vlok related to trespassing and assault, and that Vlok has laid a counter-charge of *crimen injuria* against Schirmacher. Vlok will not speak to the media and his lawyer, Christie Viviers, was not available for comment at the time of going to press.)

While Vlok has repeatedly claimed that his farming methods conform to the highest standards of international agricultural practice, and that the agrochemicals he uses are harmless to the public (he has been certified to the standards of Tesco, the large British supermarket chain, among others), Schirmacher believes that Vlok's pesticides are causing his family harm. He has photographic evidence of "chemically-burned" skin after exposure to Vlok's spray-drift, and doctors have diagnosed him as suffering typical symptoms of pesticide poisoning.

Jurgen Schirmacher was felled by a grapefruit-sized rock (left), when he began filming his neighbour erecting a spray barrier



On the face of it, the matter is simple enough to resolve: Test the air adjacent to Vlok's fields for pesticides, and test Schirmacher's blood for chemical residue; respectable chemical companies surely subject their products to safety tests, and should therefore be able to describe the medical symptoms associated with harmful exposure. If symptoms in Schirmacher and his family correspond to pesticides found in their blood and in the air floating off Vlok's vineyards, there's a good chance that Vlok's chemicals are causing problems. If no chemicals are found, Schirmacher may be no more than a neighbour from hell, causing needless trouble.

TV crime shows suggest to the public that this kind of testing is pretty straightforward – a lab should give you results in a day or so – and extended feuds and rock-hurling assaults are thus avoidable.

In fact, however, testing blood or air samples for pesticide residue can be fiendishly complicated. For a start, many pesticides on the market today



have been designed to break down rapidly, as this is thought to minimise their environmental impact – if you take a blood test a few days after exposure, there may be no trace of them (which doesn't mean they haven't caused permanent harm).

Now couple this with the fact there are no magic machines that automatically analyse which toxins are present in a blood sample; samples must be prepared differently, depending on the class of poison you're looking for – if you know. With hundreds of agrochemicals on the market at any time, and no legal obligation for farmers to tell neighbours what they're using, you can get stuck at this point.

Then there's the problem of where to get such tests done. With the breakdown of the capacity in the state forensics labs (skills flight has resulted in labs operating well below capacity), for many toxicological tests citizens must turn to private labs, which can prove astonishingly expensive. Also, due to low demand, many tests cannot be conducted locally, and samples must be sent overseas – which puts proper testing for toxins out of reach for all but the best-connected or wealthiest people. Even university academics can't get certain tests done.

To add a further layer of complexity, the state's own regulatory framework for agrochemicals is hopelessly outdated, and impure pesticides and fertilisers do reach farmers' fields (noses93&94).

Finally, although pesticide companies are obliged to ascertain the short-term toxicity of their products to various types of animals, few research the potential dangers of long-term exposure. Neither do many research how their products behave in combination with other pesticides, yet recent studies have shown that combinations of pesticides at low doses can, in some cases, be far more dangerous than single products at far higher doses.

In other words a TV crime show, in drastically "simplifying" processes, would give a completely false impression of how a situation like the one in Riebeek Kasteel could be resolved.

The agrochemical industry has its own response to the information vacuum around pesticides – it employs "credible spokespeople" as spin doctors, like organic chemist Dr Gerhard Verdoorn. Until recently the

## The state's regulatory framework for agrochemicals is hopelessly outdated



Jurgen Schirmacher at the Paarl Medi-Clinic

CEO of conservation NGO BirdLife South Africa, Verdoorn now trades under the banner of the Griffon Poison Information Centre and is paid by, inter alia, the Association of Veterinary and Crop Associations of

South Africa, an industry body.

Verdoorn recently told the press that he's "sick of everyone jumping on the pesticide bandwagon" and that to "attribute every symptom to pesticide poisoning is rubbish". Yet he knows very well that getting proper, independent, toxicological studies done in South Africa is damn-near impossible.

Many pesticides may be harmless to human health and the environment and their use may produce more benefits than costs. But many may also be causing illnesses and even killing people all over the country, as well as gradually wrecking natural ecosystems. The horrible truth is that, at this point, we simply can't say whether or not many widely-used chemicals are as harmless as their users claim. And all too often we have no idea what industrial chemicals are floating around us.

Whichever way the battle of Riebeek Kasteel may or may not be resolved, the deeper issue of properly regulating the widespread use of industrial chemicals and pesticides looks to be with us for some time – and it will take more than one small town war to alert the authorities to their responsibility in the matter. ■



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# Improper relations

From page 22

Cheryl Ramsamy, Phasudi Segogoba and Johan van Heerden. The attorneys allegedly touted for professional work, took kickbacks for conveyancing instructions, and shared offices and professional fees with non-attorneys. The Law Society also claims that the firm contravened the Prevention and Combating of Corruption Act of 2004.

The Law Society's case rests on the evidence of Judith Seipel, employed for 10 years by Dykes Van Heerden as a marketing consultant. When Seipel fell out with her employers she lodged a complaint with the Law Society and instituted a civil action against the firm, claiming R2.7m for breach of contract. Seipel claimed that she and other marketing consultants were employed by Dykes Van Heerden to approach estate agents for conveyancing work. She claims that initially she, and subsequently Navika – the close corporation which Dykes van Heerden asked her to register – received a fixed commission of 15% on the conveyancing instructions which she referred. In time this percentage went down to 10.5%, and eventually Seipel began charging a fixed monthly fee, with reconciliations taking place later. By 2007 that fixed amount was R290,000 per month, which means that conveyancing fees stood in the order of R3m per month. Between January 2004 and November 2007, Dykes Van Heerden paid Navika R12,400,281.

Seipel also claimed that Dykes Van Heerden sponsored calendars for Pam Golding Northcliff, breakfasts for a branch of Remax, and jumping castles for another branch. She also claimed that Dykes Van Heerden paid the salary of an agent at Chas Everitt in Krugersdorp, with payments being channelled through Navika, and that this deal was terminated after five months when Chas Everitt failed to refer instructions.

Dykes Van Heerden, she said, paid the rent for the offices of estate agency Realty Concepts and sent cheques for R25,000 and R11,172 to this agency, with covering letters saying these were "in advance of your agent's commission".

The law firm hasn't yet filed an-

swering affidavits, but apparently the thrust of their defence will be that their marketing efforts were aimed at client retention rather than client acquisition. But some very good fortune has recently come their way – Judith Seipel has apparently had a complete change of heart, suddenly withdrawing her complaint and retracting her allegations. *Noseweek* has absolutely no idea what prompted this.

## The Last Outpost

**I**N SEPTEMBER KZN Judge Levinsohn gave a judgment in an application brought by the KZN Law Society to remove from the roll the partners of law firm Meumann White. Attorneys Maria Davey, Robert Finlay, Bruce Forrest, Richard Grant, Angela Ness-Harvey and Robert White were accused of conducting improper relations with non-attorneys, and of obtaining instructions in an unprofessional way. The Law Society claimed that the attorneys had touted for work, secured work by conferring benefits on estate agents, engaged in conduct which impaired their independence, and, furthermore, advertised heavily and entertained lavishly in a disguised scheme to buy work.

The complaint related to Meumann White paying a monthly fee to be on bond originator MortgageSA's panel and to appear on its website, and to allegedly schmoozing estate agency Wakefields, as in sponsoring awards ceremonies, hosting breakfasts, buying

presents and taking Wakefields staff members to motivational seminars.

In its defence, the law firm claimed that MortgageSA had performed administrative services, such as filling in bond application forms and collating documents, which more than justified the monthly payment. It also claimed to have terminated the deal with MortgageSA when the website didn't materialize.

Meumann White claimed a very long association with Wakefields, and that its sponsorship activities were aimed at "increasing brand awareness". In their court papers the attorneys quoted this pearl of PR wisdom: "Clients do not buy legal services on the basis of advertising. It is used more to increase a firm's visibility, to imprint the firm's name in the minds of existing and potential clients so that when they need legal advice, the firm's name remains top of mind."

The court had little difficulty with this one. There is absolutely nothing wrong, said Judge Levinsohn, with joining a conveyancing panel, even that of a bond originator like MortgageSA. He also decided that the Wakefields advertising and sponsorship activities were perfectly acceptable – advertising is permissible unless it seeks to attract work unfairly, but Meumann White's advertising expenditure of some 11.5% of turnover was not abnormal.

Rejecting the claim that lavish entertainment wipes out competition from smaller firms, the judge proclaimed: "In an open democratic society which recognises free economic activity and free enterprise it is almost monstrous to suggest, for example, that the multinational accounting firms and the larger legal firms in this country should not be permitted to advertise on television or in the newspapers simply because their smaller rivals cannot afford to do likewise. I therefore agree [...] that the scale of marketing and promotions in and of itself can never be the yardstick by which the fairness or unfairness of the advertising can be gauged."

So here you have it – the tip of the iceberg no doubt. Most attorneys would probably balk at the wholesale buying of instructions ala Buchanan Boyes, and the marketing tactics employed by Dykes Van Heerden might leave quite a few uncomfortable. But the marketing methods of Meumann White would probably be seen as part and parcel of doing business. As they say, money does follow money. ■

**Judge Desai held it was highly unlikely attorneys would have parted with such sums simply for nebulous marketing assistance**

## Losing the plot

**T**HE OTHER DAY I WAS AT THE HOSPITAL having my battery re-charged. When I got there, the room at the day ward was full, but by lunchtime everyone had left, and I was alone with my blood and tubes. The doctor came in and I told him about a decision I had made. We talked awhile, and then he left, and I was alone again.

I felt like I should cry after what he'd told me, but I couldn't. The cleaning lady entered the room and began cleaning the floor, and we struck up a conversation. She told me she lives in Khayelitsha, and gets up at 4am to prepare for work, which begins at 7am. She works until 7pm and gets home at 8pm. For this she gets paid R1500 for 15 days' work per month.

"That's hardly enough to feed a fly," I said. "Life is hard," she said as she swept. "I wish I could find me a charring job instead."

She told me her 13-year-old son has aplastic anaemia and has to be taken to hospital for blood and platelets every Wednesday. "I ask God why he gives me a sick child, but I don't know," she shrugged. "But God is good," she added. "He gives you everything for a reason."

"My sister, *ai*, my sister..." she said as she kept sweeping. It was with one of those new-fangled mops that can sweep this way and that under beds and tight corners. Her supervisor came into the room. "You must clean the windowsills!" she barked. It was really more like a woof than a bark. "It's the wind, it makes everything dusty, look here," she ran her finger over the windowsill and revealed the result.

Like most hospitals these days, cleaning services are contracted out to other companies. This way they can cut costs because they don't have to offer medical aid or pension schemes. And because the cleaning staff don't work a full month, they can't belong to a union and can get fired at a moment's notice.

"Tell me about your sister," I said when the supervisor had left.

"*Ai*, my sister... every year she pray to God for a baby, but the baby doesn't come. Then after many years, she gets the baby, a beautiful baby boy. But one day all of them get killed in a car accident, she, her husband, and the baby. And the baby's head was gone, they couldn't find the baby's

*I'm getting  
my speech  
ready for God.  
I reckon she's  
got some  
explaining  
to do*



head. It just disappeared. They had to bury that baby without his head." She kept on sweeping.

"When I die," she said, "I want a nice casket. I want a nice casket to rest in because I've got no rest in this world."

And then a buffalo blundered into the room – the hospital social worker. "Why are you crying?" she demanded.

"I just heard a very sad story," I said.

"Tell me," she coaxed.

"They had to bury the baby without his head because they couldn't find his head," I said, and wiped away a tear.

The buffalo blinked. "Did you speak to the doctor today?" she asked.

"Yes I did," I said.

"And?"

"Well, as you know, my leukaemia is resistant to the chemotherapy, so I've decided to end the process because the risk of infection and complications is much higher than the likelihood that I'll go into remission, so there's not much point really."

"And what did he say?"

"He said that in about three to six months' time I'm probably going to float off on a white cloud."

"And how do you feel about that?" asked the buffalo.

"I'm just busy getting my speech ready for God." I said. "I reckon she's got some explaining to do. But before I do that, I'm going back to the USA to spend the rest of my days with my dear husband."

The buffalo blinked. "Well, don't you dare leave without saying goodbye," she said and left the room, and I was glad when she was gone, because I wished to get back to the story about the hardships.

But the cleaning lady was gone and I was alone again. I thought about my life, and I thought about the cleaning lady's life, and I felt lucky. I didn't even know her name, but I knew I wouldn't swap my life for hers for anything.

In the script of our lives we can write the dialogue, but the plot is completely out of our control. ■

# Café culture

**I T SEEMED TIME TO OFFER** wine-lands scandal, or at least gossip, but it's all too dubious, slanderous or dreary, so I've settled for the next best thing: pinotage. The next worst thing, for some: there are those who indeed find our national grape dramatic – but just can't decide whether it's a tragedy or a farce. A past scandal, of course, was when Vergelegen winemaker André van Rensburg pronounced pinotage "as untenable as child rape". He's still not much of a fan.

A smart Brit once sneeringly compared its flavours to rusty nails, and another eminent one recently declared that "pinotage is vile": Jamie Goode belied his name and nastily proposed a competition "for the World's Least Vile Pinotage". He even suggested a possible winner, Diemersfontein, who've done the best possible thing with the grape, he also suggested, by making it taste of something else entirely – coffee.

There is also a passionate opposite extreme in the affection scale. The devotees are mostly local, and their annual pilgrimage is to the Pinotage Top Ten Awards, where the prayers that are inevitably offered are as much in praise of pinotage as of a deity; last year, certainly, at least one irreverent guest congregant nearly burst out with incredulous guffaws, which would have ruined the solemnity involved in praising God and his Only Beloved Grape.

As a mild man, devoted to truth and justice, and famously open to seeing both sides in controversies, I ... well, there are pinotages I like. Hardly any still taste like paint-stripper, the problem of a bitter taste seems rarer, and if a clever winemaker beats those often astringent tannins half-way to death, pinotage can make simply fruity and delicious, or more ambitious, stuff.

Some of the unpretentious types (like the standard Beyerskloof) are satisfying and friendly. There are also aristocratic ones, well brought up in expensive French oak barrels and schooled with skill: one of my favourites is always the De Waal Top of the



Illustration: Meg Jordi

Hill (their other versions, CT de Waal and straight Pinotage, are good, less pricey substitutes). Others in this category include Beyerskloof Reserve, Kanonkop, L'Avenir, and Scali.

Best of all, I'd say, is the one least easy to identify varietally (Jamie's criterion; sorry): the elegant Ashbourne, made in one of the Hamilton Russell domains in the Hemel-en-Aarde Valley. Sadly, it's possibly the most expensive.

For me, pinotage finds its happiest expression in less ambitious mode, one apparently ignored by the Top Ten competition and unmentioned on the Pinotage Association's website ([www.pinotage.co.za](http://www.pinotage.co.za)).

Good dry rosé – pinotage does this fashionable style as well as any other grape, and better than most: gently fruity, but fresh and firm, with just a muscular twitch from those macho tannins, and an earthy note adding interest. Pinotage pundits and pontiffs no doubt think that rosé is not smart enough for the Chosen Grape – but if you're looking for something easygoing to match the sunset this summer, look out for the word pinotage on a bottle of rosé.

As to coffee flavours, Diemersfontein's model is eagerly copied but seldom matched in its egregious charm – except by the KWV, who lured its winemaker, Bertus "Starbucks" Fourie, to make a version called Café Culture. Ah, I've stumbled into a few bits of gossip here. The first, outdated, tells how Bertus was threatened with a lawsuit by Diemersfontein after he resigned, as they ludicrously claimed ownership of any recipe for mocha pinotage. I think it never got to court, and Bertus proceeded to do his clever business with wood and grapes for KWV.

Then, so the newer bit of gossip has it, Bertus thought he should get the top winemaking job at KWV, but it's rumoured they're giving it to an Australian (Australians have lots and lots of clever recipes). So thwarted Bertus packed his bag of tricks once more, and flounced, or trudged, off to be MD at a rather smart new Paarl winery called Val de Vie, which no doubt will soon also be offering a coffee-ish pinotage. Jamie Goode's competition might have more entrants than he suspects. **W**

*A smart  
Brit once  
sneeringly  
compared  
the flavour  
of pinotage  
to rusty  
nails*



# Best is Moore

**W**ELL WHO SHOULD BE SO LUCKY? I've just had another look at the Sistine Chapel. And my reaction was as when first I beheld the famous frescoes in 1950: it's not natural for so much spaghetti to be in the sky. What if there should be a dreadful earth tremor, as at Assisi a couple of years ago when the ceiling of St Francis' church collapsed in a great dump of dust? Might the heavenly pasta here plunge thundering down and squash one 'neath its glutinous glop? I huddle near a handy exit. Why do Michelangelo's compositions wriggle so? To give a feeling of restless emotional excitement, that's why. Spiritual thingummies inspired by the presence of God, the Barbarian horde was once again howling in the North, Protestant heretics prowling wild in city and village. Strategic propaganda was the answer, and what better instrument of propaganda than art, melodrama? Not that Michelangelo wanted to do propaganda paintings, Lord love you no; he said anyway that painting is for young girls and nuns who love to weep. He was a sculptor, said he; but the Pope said do it or else and bejasus he did it. Indeed a certain nasty cardinal whose name I forget was appointed to see that he did it, pronto, and Michelangelo got his own back on the buggler by painting his portrait starkers in that part of the Last Judgment fresco right down bottom right where Hell starts, and a great green serpent is coiled round his leg and sinking its fangs in his willy.

But Michelangelo mastered the fresco medium, you will say. We-ell yes, but there's mastery and there's overpowering. If you want to see a fine church fresco have a look at Giotto, in Florence. Fresco painting is just powdered pigment plus water laid into lime plaster as it sets on a wall, and this plastered wall says I am a piece of coloured masonry, and I will remind you of some deep emotional experience in your life, and you will make an interpretation; and that's mastery in art, bru. Michelangelo's frescoes say I am not a wall at all, I am a piece of Heaven, and all this wriggling musculature

Michelangelo mastered the fresco medium, you will say. Yes, but there's mastery and there's overpowering



is real flesh, and don't try to put your own interpretation on anything round here, my boy, and all that heresy, because the Pope will have your guts if you do. What I am trying to get round to, of course, is that it wasn't Josef Dugashvili Stalin who invented propagandist art, thank you, and such art is never great, it's grandiose. At best.

Not that one can't make art out of religion, of course. If Braque and Picasso could make it out of old bus tickets and bits of broken cane furniture and stuff, you can make it out of anything, including religion. But religious painting tends to bombast, that's what I mean, so you have to be circumspect in sponsoring it; and whatever else Rome may have been, it wasn't circumspect. But let's not carp about overblown painting, hey, let's be fair and talk about sculpture, which was after all Michelangelo's love and his passion. You can go on a tour in Italy which takes you to the very marble quarry and the very face where the block was hewn out for his David. The chisel marks are still fresh. You feel in his presence. You can be sure he was there to supervise, he grew up amongst quarrymen, you see, knew how to drill a fissure line in the rock, hammer in wooden wedges, pour on water to swell them and split the block away exactly. In this block he could see David, all he had to do was free him, chip away the imprisoning stone, said Michelangelo. And in such chipping away he could make not one single little mistake, remember, couldn't get an eyelid one millimetre wrong, chisel a bit hard at a finger and he might knock it clean off. Then of course came the refining of form, again and again, until the figure ceased to be marble and became living flesh. And what yummy buttocks; one could wish the marble were a bit pink. This man Michelangelo was the World's all time #1 sculptor, for sure.

So ja. A bit later I come out of the Tate gallery in London and there in the rain stands Henry Moore's great granite Thing, massive, eternal. The sun is setting in the filthy air, you can look straight at the orange disc behind the sculpture, and as I look a helium-filled airship comes humming by between sun and stone. What symbolism, man! And the Henry Moore doesn't say to me I am a delicious pouting young man of real living flesh.

It says I am a gutsy planetary rock. I am you. And in my simple forms you will see something of your own primæval passion, which you and you alone can relate to your life. And this is the greater art, my boy, and the better artist. For sure. ▣

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