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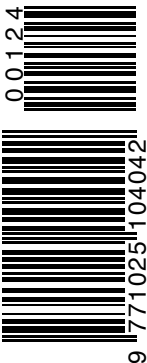
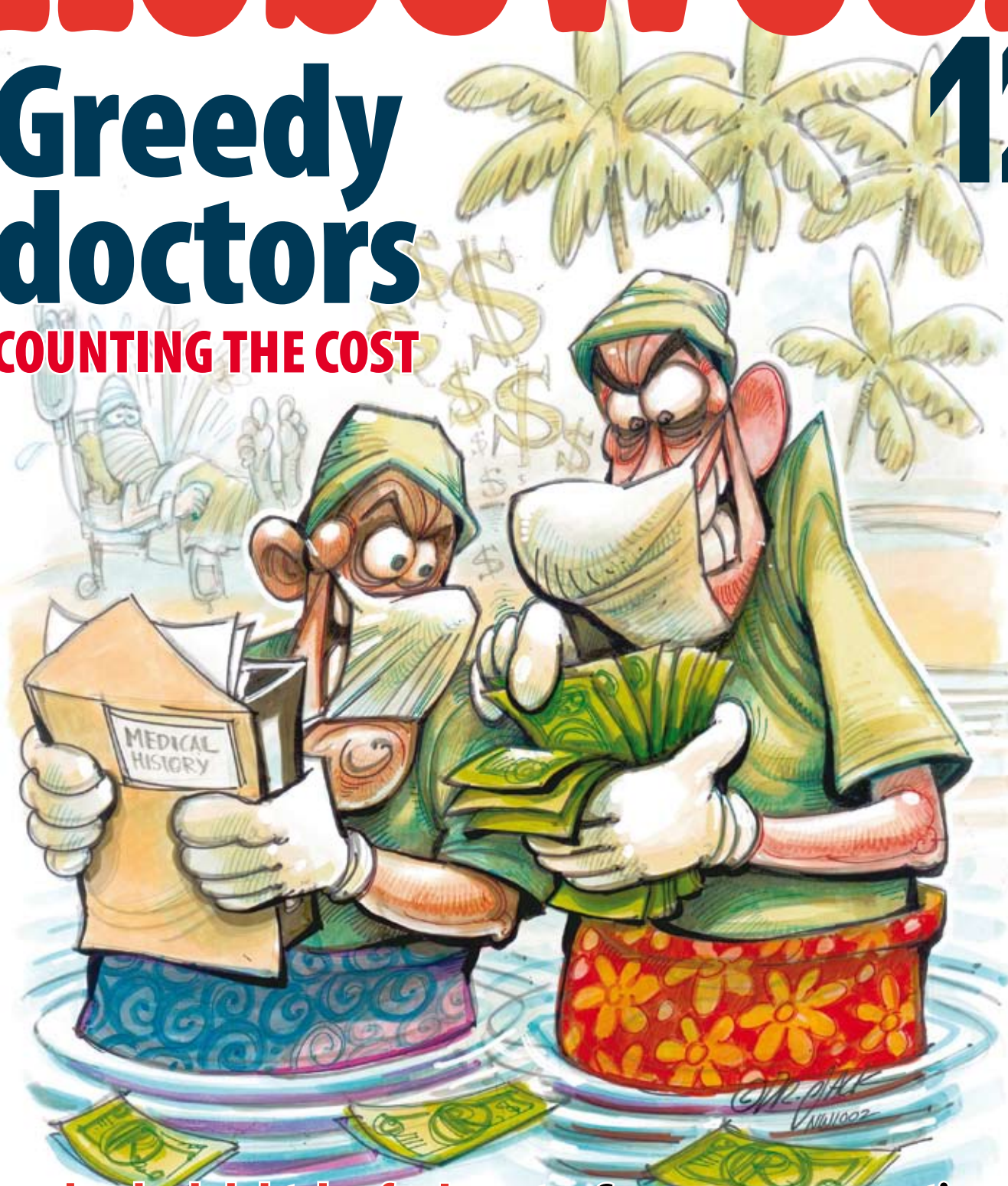
noseweek

Greedy doctors

COUNTING THE COST

124

FEBRUARY 2010



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Doctors without scruples page 18



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You're write, off course

I submit the following in support of my application for the post of *noseweek's* resident pedant.

First of all; Nathan Cheiman (Letters, *nose123*), in the course of denying your damning accusations, suggested that the speed he had been doing in his Porsche (as reported by *noseweek*) was "a little short off the mark".

other 900 applicants for the job; will advise outcome in due course. – Ed.

■ Nathan Cheiman was not candid in his letter. Reports at the time indicate that his bail was revoked when he tried to buy a false SA passport, and he stayed in custody until he pleaded guilty to tax fraud and was sentenced to eight years in jail, of which

knowing the information it contained to be false. But we wrongly identified Cheiman as the attorney with whom ponzi operator Dean Rees had done his articles – and since that was the only legitimate reason we had for naming him and raking up his past, we owed him an apology. In any event, it appears that in certain circles speeding and tax evasion are

buckets, with Cokes, to get the letters of executorship within the hour.

The bad taste still lingers.

Name withheld

Kempton Park

Copyright or wrong?

In your article on copyright and MacDonald Netshitenzhe (*nose 123*), you perhaps accidentally let the cat out of the bag when you wrote that YOUNG WHITE lawyers don't want to protest too much as they have to live with THEM. Go read it again. Who is THEM? You spoil an otherwise good argument with that racist allusion. If you stick to pros and cons only, you are bound to find both blacks and whites in both camps.

Mateke

Gauteng

We wish we could say that race had nothing to do with it. The reference to white lawyers was a purely factual one: young IP lawyers are, unfortunately, still almost exclusively white. The "them" you refer to was not our usage; we were quoting those lawyers. So your ears – and a million others – started ringing, ding-dong, black-white. Yes, "us" and "them" are clearly words best avoided. – Ed

■ So it's "Netshitenzhe's lemon", is it?

Yes, Dr Owen Dean is right when he says the proposed IP Laws Amendment Bill is "absurd" and will simply not work. I'm one of the many who objected to it and I'm still hoping it can be stopped.

But I don't want to be associated with the snide racism of your article: the insinuation that when IP law was in white hands all was well (it wasn't); that it was only after MacDonald Netshitenzhe took over as registrar that South Africa was "lumped with the likes of Nigeria" as a country in which copyright is not adequately protected (untrue); the assumption that the focus on traditional

Reports indicate that Nathan Cheiman's bail was revoked when he tried to buy a false passport

This should, of course, have read "short OF the mark". Perhaps his attention could be drawn to this?

Then; in providing a gallus (look it up) apology to attorney Cheiman for these unfair charges, you proceeded to spell your "fulsome" apology with two "l"s. Shame.

Bruce MacDonald

Rondebosch

We have yet to assess the

he served about four years – until released on parole.

Your apology was premature and naive. As someone who viewed you as a reborn sceptic I am disappointed in your gullibility.

"Root"

By email

Technically, he did not plead guilty to fraud, but to the statutory offence of signing a tax return while

not considered crimes, but rather as sport – games that have only one rule: don't get caught. – Ed.

Cheaper than you think

One should not forget the Master's offices when it comes to judicial favours for sale (*nose123*).

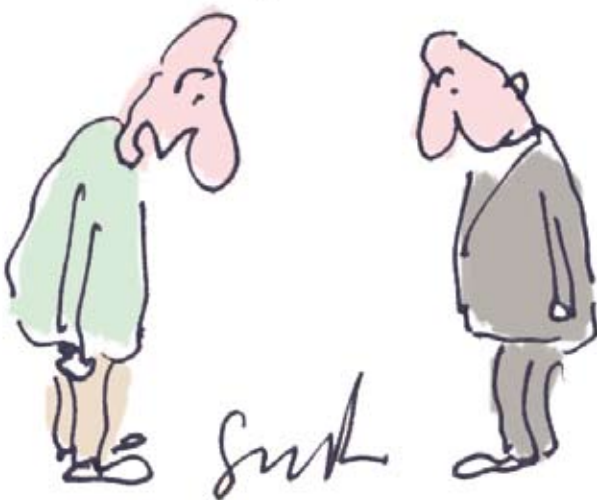
Despite their assurances to the contrary, it can take months to have a letter of executorship issued by the Master of the Gauteng High Court. My Pretoria colleagues advise me that, subject to the payment of an incentive (I believe the going rate is R250), the letter of appointment in an estate will be issued within days.

An example: In November 2008 a friend passed away. In January 2009 his son-in-law and daughter passed away simultaneously. In May the three estates were reported to the Master's Offices. I signed as Commissioner of Oaths and advised the heir that it would take a couple of months to get the appointments. He assured me he would get them the same day. I advised him that if he managed that, I'd kiss his ass.

That afternoon I got a call from a very amused colleague who advised me that I had to come and do some kissing. All it had required was three family-size KFC

Gus

*My God!
is THAT his
signature?!*





IF IT GOES IN MR. NOSE IT GOES UNDER OUR GAVEL



Freddie Steenkamp's Assets, Belville
Issue #17



Jurgen Harksen's Assets, Western Cape
Issue #20



John Aspinall's Villa Romelia, Llandudno
Issue #22



H Mohammed & Ass. Properties, Athlone
Issue #55



Zorgvliet Wine Estate, Franschhoek
Issue #57



PW Botha's House, Wilderness
Issue #67



MKB Property Developments, Sandhurst
Issue #77



Brett Kebble's Mansions, National
Issue #90



Fidentia Assets, Western Cape
Issue #92



Miko Rwayitare Estate, Sandhurst
Issue #102



Nationwide Planes, OR Tambo Airport
Issue #108



Conrad Gallagher's Properties, CT
Issue #113



Dream Centre, Pinetown, KZN
Issue #114



City Capital Commercial Properties
Issue #116



Arniston Commercial Site, S.Cape
Issue #116



Von Maltzen Mansion, Constantia
Issue #117

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AHEAD OF THE GAME

knowledge is driven by “the developing world wanting a piece of the action” (wrong); the sneering reference to traditional knowledge (reduced to Bushman art, Ndebele art, indigenous music, folklore “and the like” – all pretty primitive stuff, in other words). Then there’s the colonial superiority of your comment that the developed world (read “white”) develops things while the developing world (read “black”) doesn’t.

Is *noseweek* capable of making a comment about a flawed process without bringing race into it? Was MacDonald Netshitenzhe really “untouchable” because of his “brother Joel”, or did you just make that one up because it suited the angle of the article?

You don’t know anything about the course of copyright legislation in South Africa. You don’t know why proposals made to the DTI in 1997 and 1999 to update the Copyright Act were shelved; I do know something about the pressures put upon MacDonald Netshitenzhe by a vociferous lobby claiming that the updates would be profoundly damaging to education.

I’m reminded of a nasty article in *noseweek* last year about John Tsebe, the National Librarian. Same standpoint: black man stuffs up. I wrote an angry response, and the editor’s comment was “Guess who is trying to suck up to the National Librarian?” which

gave me a good laugh. So, in case you’re tempted: no, I’m, not trying to suck up to MacDonald Netshitenzhe.

He didn’t comply when you asked him for comment? Perhaps he would have, had you spelled his name correctly.

Monica Seeber

By email

Oooh, ooh, ooh! A little presumptuous don’t you think? We know a great deal more on the subject than you dare suppose.

And on the subject of not sucking up to MacDonald Netshitenzhe: why is it, then, that we still keep hearing loud sucking noises? – Ed.

■ Some background to the proposed Bill to protect rights to traditional knowledge – the so-called “TK Bill” – on which you have commented critically:

Government itself is divided on this Bill. The present draft is sponsored by the DTI, but other departments, such as Science & Technology and Arts & Culture are not in favour of the DTI approach, i.e. to incorporate TK into various existing acts dealing with intellectual property rights such as patents and copyright.

The Institute of IP Law, dedicated to ensuring that South Africa has world class IP legislation, has taken a critical (but sympathetic) stand on the TK Bill – for objective reasons based on accepted principles of IP law. The institute’s view is that,

in order to protect rights in traditional knowledge, it would be best to introduce separate laws designed specifically for this unique purpose, and not to amend, and thereby compromise, South Africa’s existing IP Acts.

Andre van der Merwe

Patent and Trade Mark Attorney
Gauteng

See editorial, Page 8.

Rates fraud

While it’s not as bizarre as the case of Bunty Money (“Municipal Madness”, *nose123*), I’ve also recently received a demand from Van der Venter Mojapelo Inc – for outstanding rates on a property I sold seven years ago. On enquiring about this, the position adopted by these lawyers (or, rather, their call centre) was, in essence, that I need to prove I don’t owe the allegedly outstanding rates, despite never having been in arrears when I was the owner of the property. In fact I had paid rates in advance, in excess of the amount required, to secure all rates clearances in order to effect transfer of the property to the buyer those seven years ago.

To deal with this cowboy behaviour, can we – i.e. all affected *noseweek* readers – not institute a class action against the lawyers and their client, the Johannesburg rates department, for harassment and fraud?

Otto Holicki

Cresta

See page 9

Comprehensive fleecing

When I read your article about Platinum Africa (“Fleecing the Poor”, *nose123*) I thought it very similar to a problem my domestic employee is having with a company called Comprehensive Care – interestingly, also based in Bellville.

Imagine my surprise when I looked at both websites – they are almost identical (www.platinumafrica.com and www.comprehensive-care.co.za) and they operate from the same premises: Unit 3a, De Lange Street, Bellville!

Paul Grobler

By email

Prosecute the bank

According to Desiree Monajaga (Letters, *nose123*), the debt owing to Nedbank in respect of her credit card accounts was off-set by the bank against her savings account, without permission.

In terms of the provisions of the National Credit Act, the previously customary clause in bank credit agreements, which authorised the bank to satisfy a debt out of any account that the consumer has with it, is now prohibited.

Desiree must lodge a complaint with the National Credit Regulator and insist that the matter be properly investigated and prosecuted.

Anti Goliath

Durban



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Race: a four-letter word

LET'S FACE IT, race is still a big issue – if not the dominant issue – in South Africa. Bigger than hunger, unemployment and Aids. We have the genius of Dr Freud and a century of psychoanalysis to thank for the insight that denial is possibly the most dangerous way of dealing with any potentially explosive emotion. In a multiracial country with our history it is probably inevitable that the issue of race plays a role – is there – in almost every choice we make, every transaction we conclude, every work situation we enter. To defuse its explosive potential, we need to talk about it honestly and with empathy. The article in our last edition about something as out-of-the-mainstream as proposed amendments to the Copyright Act, by including just a few trigger words, has set off a correspondence from readers both angry and defensive.

See how the issue of race has muddied what could have been a constructive debate about the “ownership” of traditional knowledge and any other products of cultural tradition. Instead of addressing whether these cultural assets may be valued, protected and nurtured for the benefit of all – as they once were – without

having to give them a market value, the debate is reduced to a fight to determine which opportunist bastard and his IP lawyer will manage to corner the market in tradition – the white one, or the black one? And the government proposes a (government-appointed) “committee of 12” – all, no doubt, with salaries, official cars and expense accounts – who will decide.

No doubt they’ll award the royalties from *mampoer* and buchu brandy to the town council of Orania. What of the royalties to be earned from the huge Saturday trade in boerewors? Which Tuscan gets the royalties on all those Sandton villas? Who gets to reproduce Bushman paintings? Surely *kwaito*, the Manenberg sound and *Daar kom die Alabama* are treasures that by tradition belong to all of us?

So what are they really talking about? Those ugly things: race and greed.

Is *noseweek* capable of making a comment about a flawed process without bringing race into it? Letter-writer Monica Seeber demands to know. Now there’s a case of denial. Race is already there, staring you in the face. But to answer the question: Yes – but with difficulty, ever since the ANC “deployed” race into every process.

Cell: another four-letter word

WE THOUGHT WE’D DONE a fair enough job in *noses*118&121 of warning the public about the cellphone “thief in your pocket” – but reader Yolanda Branca has written in to tick us off, as the amounts mentioned, she writes “were so small”. She was referring of course to individual amounts (R15 here, R50 there) – *noseweek* has no doubt that the global amounts concerned in the billing collusion between network providers and WASPS (content providers) are gigantic. But Yolanda’s truly shocking story opens new vistas on what may well be one of the biggest scams in operation on the planet.

She writes that in October 2008 one of her MTN bills (she ran several MTN accounts at the time) hit R5,000 – mainly due to hundreds of SMSs at over R7 each. Assuming an error she stormed off to MTN, but it was worse than she thought: by the time they got to talking, the November bill stood at almost R20,000 – and, yes, the hundreds of expensive SMSs were actually transacted on her account. The phone concerned belongs to Yolanda’s disabled brother, and she pays the bill because he’s on a disability grant. It transpired that after an email exchange with a girl he’d met on an internet site, she suggested they talk via SMS. As he had an SMS bundle, and her number was a standard MTN 083 one, he agreed.

MTN insisted to Yolanda that the WASP concerned had called her brother to inform him that the bill was running high, and that he had assured them this wasn’t a problem. He also alleg-

edly agreed to pay the high fee per SMS. Yolanda now discovered she was not only paying for the SMSs her brother had sent, but also for the SMSs received from his female correspondent. It was an organised scam by an offshore “content provider”. Yolanda discovered that the MTN fraud department “only communicates with the police”, and when she finally got to speak to someone in the MTN accounts department, the insinuation was made that her brother was obviously retarded (being disabled) and hadn’t known what he was doing. As Yolanda writes: “My brother suffers from cerebral palsy, and though he is physically disabled there is nothing wrong with his ability to think and reason. He would NEVER have agreed to their terms. I asked to listen to the telephone recordings, or see the SMS where he had agreed to the high SMS cost. I was told to contact the WASP on some godforsaken island. Needless to say I didn’t bother.”

As a single parent, and jointly financially responsible (with an elder brother) for her disabled sibling, Yolanda couldn’t afford a bad credit record. After failing to resolve the issue with MTN, she simply gave up and paid the bill. She won’t be renewing her longstanding MTN contracts.

She ends her letter: “Please do investigate these WASPS further. You could save a lot of people a lot of heartache.” We intend to do so.

Dear reader, if you have had a similar experience, let us know.

This outrage must stop.

The Editor

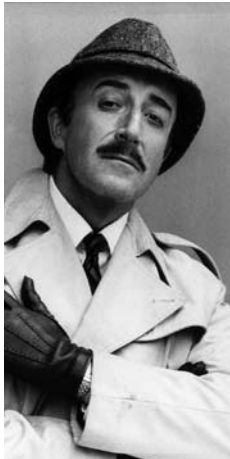


Mr Nose

The sound of silence

ANYONE KNOW THE whereabouts of Graham Gilfillan, ex-director of Sarral (South African Recording Rights Ltd)? Mr Nose is keen to interview the man, as a *noseweek* report on the Samro (South African Music Rights Organisation) vs Gilfillan battle has unleashed a torrent of angry, accusatory emails – nearly all anonymous. (Samro had failed to get the courts to stop Gilfillan suggesting the organisation had shortchanged the late Brenda Fassie on music

royalties, and Gilfillan had counter-attacked with claims of mismanagement, racism and nepotism at Samro.) One email describes Gilfillan as “a con-artist, a busker and a bottom feeder”, who spends his



Not Graham Gilfillan at all

time “defecating on walls and hoping some of it sticks”, and whose “favourite comment is racial discrimination”. Allegedly, this “wins him accolades and the opportunity to gobble up black artists’ bank balances”.

Gilfillan, according to another, is “a would-be musical Inspector Clouseau who is just as much an idiot as the famed film character” – and the writer suggests that *noseweek* ask Gilfillan why Sarral doesn’t honour its contracts with artists, and why there are such long delays in Sarral’s distribution of balances.

Gilfillan is also referred to as a “gunslinger, full of white guilt, whose ludicrous outbursts are generally the laughing stock of the music industry”. Apparently he’s a

man with a “sordid past”, who made a “rapid departure from Singapore in 1993, where he faces arrest after running up debts of over 400,000 Singapore dollars”. This email suggested

noseweek get Gilfillan to disclose what benefits he personally received from Sarral.

Mr Nose is curious to hear what Mr Gilfillan might have to say to all this – but Sarral was liquidated last November, the phone at Gilfillan’s company, Nisa Global Entertainment, just rings and rings.

Graham Gilfillan, where are you?

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Lawyers who give sharks a bad name

THE PLIGHT OF Mrs Bunty Money, who was aggressively hounded by shady Joburg law firm Van de Venter Mojapelo Inc (VVM) for an amount she didn't owe (*nose123*) elicited considerable response from *noseweek* readers:

■ Cliff Livingstone says he is being pursued by VVM for rates on a Lyndhurst, Joburg, house which was sold by his wife six years ago.

■ Another reader, Greg de Chaves, complains that for some time VVM have been harassing him over a rates bill outstanding on a house he sold seven years ago, and are now threatening to have him blacklisted. VVM are demanding that he prove his innocence by producing a rates-clearance certificate. His response: "Who keeps that sort of thing?" (Besides – how does a property get transferred to its new owner without a rates clearance certificate?)

■ David Wolpert, reports that he's been getting rude and aggressive telephone calls and text messages from VVM for months, demanding that he pay a Telkom debt allegedly incurred by a now insolvent company, of which

Wolpert was a director – but for which he never signed surety. He left the company's service in 2005 and believes it went into liquidation in 2007. Although VVM staff have conceded to Wolpert that they can't verify that he is in fact legally responsible for the debt, they insist that he must pay – unless he can prove that he is not liable. The threats culminated with a final letter of demand (dated 24 December 2009), addressed, quite absurdly, to "Business David Wolpert".

Wolpert referred the matter to the Law Society of the Northern Provinces, ending his letter with a weary plea: "I would appreciate it if you can assist me to stop this unlawful terrorising of an uninvolved citizen." But to no avail: The Law Society, keen as ever to have the legal profession live up to its slimeball reputation, simply slapped Wolpert on the wrist for not submitting his complaint as an affidavit.

The Society proceeded to clarify the matter by telling Wolpert that attorneys represent "their clients regarding a claim that their client alleges they have against a debtor". In other words, in the view of The Law Society, attor-

neys are under no obligation of any kind to ascertain whether or not the claim they are hired to pursue against someone has any legal validity.

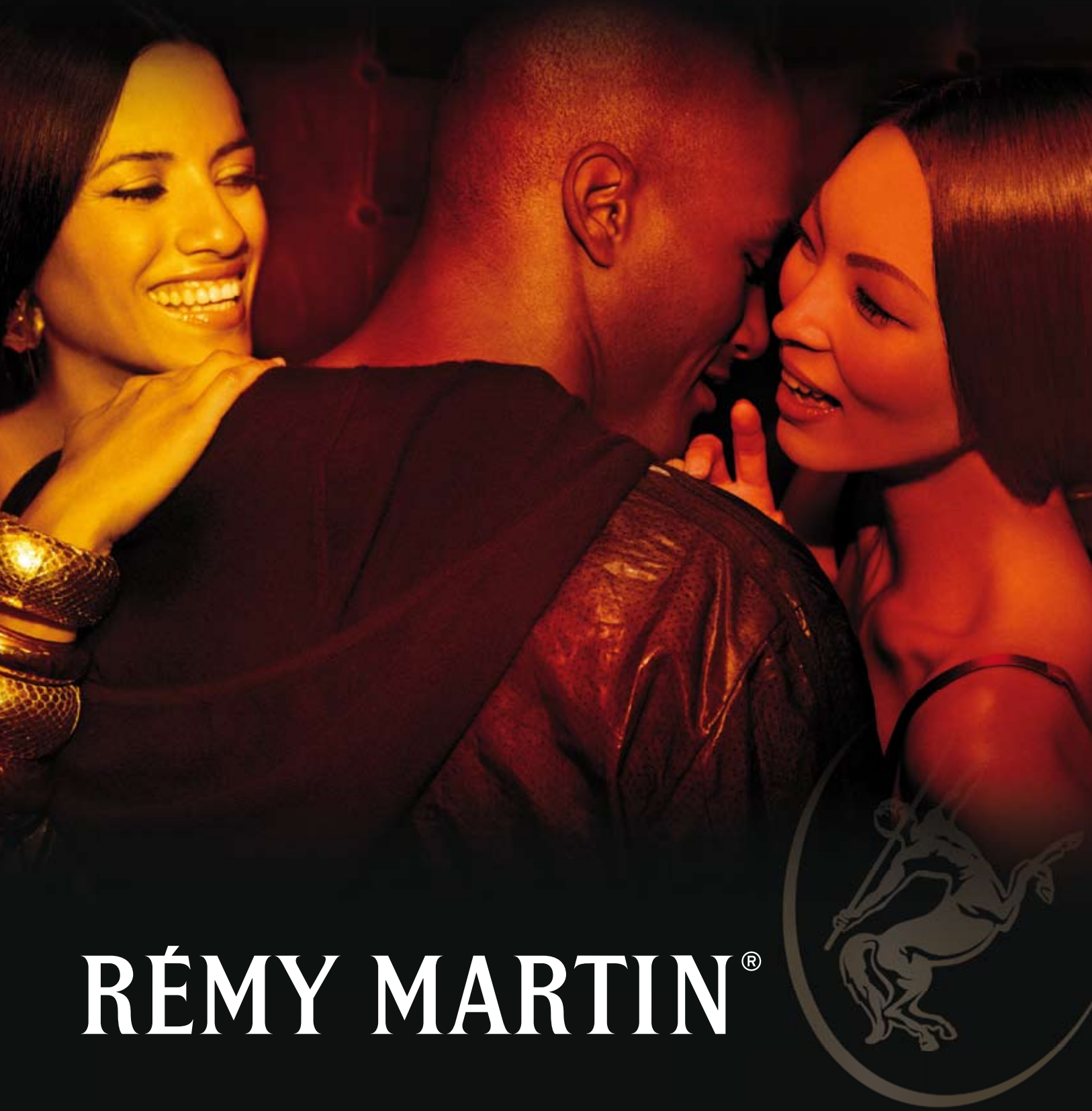
The Law Society's solution to the situation was that, if Wolpert objected to being unlawfully harassed by an attorney, he should get an attorney to help him.

Wolpert's response was considerably more dignified than anything the legal profession had managed thus far: "I have always been under the impression that a registered attorney would, at all times, be required to uphold the high principles of the legal profession and would be obliged to conduct him/herself in a manner aimed at maintaining the ethics and values laid down by the profession's governing body. Threatening and haranguing a member of the public, while aware that that party has no debt whatsoever to the client, merely in order to earn collection and related fees, would, in my view, not constitute anything like the type of integrity and ethics referred to above. I will take your advice and engage an attorney to put a stop to the harassment."

■ See *Letters: page 4*



THINGS ARE GETTING INTERESTING



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Hospital group looking unwell

Life Healthcare's mission is simply to boost the bottom line

THE TRAGEDIES THAT recently befell two young children at private hospitals owned by Life Healthcare Group have unleashed further negligence accusations against doctors and nurses in the group's hospitals. With one multi-million rand claim filed and others pending, serious questions are being raised about the future of South Africa's third largest health care group.

As you read this, corporate advisers are preparing strategic options for Life Healthcare, in the wake of 22% shareholder Mvelaphanda announcing last September that it was realising and unbundling its assets. One option, say market sources, is a listing on the JSE, as early as May. Another is that 21.9% shareholder Brimstone Investment might snap up Mvela's stake, valued at around R1.6bn.

But who will rush to buy Life Healthcare Group shares after reading this?

Life Healthcare Group, with its 60 acute care facilities and 7,600 beds across the country, is currently valued at around R7.4bn. Brimstone and Tokyo Sexwale's Mvela were the leaders in a BEE consortium that acquired the group, then called Afrox Healthcare, in 2005, paying R3.4bn for Afrox's 69%, as well as snapping up the minorities for a billion or so more.

The hospital group has been a crucial cog in the Mvela machine, making up 44% of its net asset value. But profits are dependent on performance, and at Life Healthcare everything appears to be geared to boosting the bottom line, with medical ethics apparently coming a poor second best.

As a private company, revenue and profits are kept secret, but Mvela's annual report to June 2009 reveals a 14.4% growth in businesses at the healthcare group, with the key measure of "paid patient days" up 4.3% and bed occupancies running at "a more than acceptable" 67%. Mvela took R178m last year from Life Healthcare in dividends and loan repayment.

But has South Africa's first BEE health care group, with its unquenchable lust for big bucks, become just one



Baby Laila

enormous rip-off? Certainly, the death of four-year-old Zenande Mdwaba, and the severe disablement of six-month-old baby Laila Subramoney, have opened the floodgates to more shocking revelations about goings-on in Life Healthcare hospitals.

Last November *The Star* reported how Laila went into Life Wilgeheuwel hospital to be treated for an ear infection, only to be discharged a month later mentally disabled, almost blind, and deaf in one ear.

Nose123 told how another little girl, Zenande, never awoke after anaesthetist Dr Marius Gouws put her to sleep for a routine – and unnecessary – procedure at Life Fourways hospital last May. The child was suffering from occasional constipation and a biopsy was performed after paediatrician Dr Ashraf Ahmed said he suspected Hirschsprung's, a serious disease of the bowel – a diagnosis that did not match the child's profile of otherwise radiant good health. Ahmed had also ordered a battery of expensive blood tests, X-rays and an MRI scan. These simply showed that Zenande was suffering from nothing more serious than constipation. But by then she had died from the allegedly seriously misman-

aged biopsy and/or hospital after-care.

A detective inspector at Brixton police station has now completed an initial investigation into the circumstances of Zenande's death, after her parents, Zuko and Ursula Mdwaba, opened a docket alleging death by negligence. An inquest is still pending.

The Mdwabas have also filed a complaint with the Health Professions Council against four doctors attached to the Life Fourways hospital: anaesthetist Marius Gouws, paediatricians Ashraf Ahmed and Dewald Buitendag and paediatric surgeon Bob Baniqhal. Last October, four months after Zenande's death, the council told the Mdwabas' attorneys that they had received "outstanding explanations" from Dr Buitendag and Dr Ahmed, but were awaiting records from Life Fourways and Garden City Clinic.

Life Healthcare Group's general manager (marketing) Adam Pyle comments: "The inquest and HPCSA have got to work out: was this an appropriate procedure to do, and did the doctors have justifiable clinical reasons for doing it? Also, what anaesthetic did Dr Gouws give? Was he around afterwards? Should he have been around?"

Since *The Star's* report about baby Laila, her parents – human resources manager Kogie and banker Rajentheran Subramoney – have issued summons against Wilgeheuwel hospital and Life Healthcare Group, claiming R20m in damages.

The particulars of claim outline the horror. Laila was admitted to Life Wilgeheuwel last September with an ear infection. The following day she was examined by an ear, nose and throat specialist who recommended insertion of grommets. This was duly done two days later and Laila was discharged with a short drip attached to her arm (for the administration of an antibiotic at the hospital the following day).

The next day, nurse Gladness Dlamini proceeded to administer the antibiotic. Laila's mother Kogie pointed out that there was a lot of blood in the drip cord. But Dlamini pro-

ceeded anyway and Laila began to cry hysterically, gasping for breath.

Laila then stopped breathing. Kogie screamed for a doctor and the baby was taken to the intensive care unit and placed on life support. Her parents claim that Laila, now 10 months, has sustained significant brain damage, is partially blind, deaf in one ear, unable to roll or sit and will never be totally independent. The parents' lives have been "devastated"; they require treatment for depression and psychological assistance in dealing with the difficulties and challenges of raising a disabled child.

Their bill from Life Wilgeheuwel hospital: R82,086.

Life Healthcare's spokesperson

A previous health minister condemned the practice of doctors owning shares in private hospitals

Marietjie Shelley commented to *The Star*: "In baby Laila's case we can say with confidence that there was no negligence or wrongfulness." The nurse who treated her "fully adhered to nursing procedures".

Both stories have brought shocked reaction from readers. The name of Dr Ashraf Ahmed, the paediatrician who suspected Zenande Mdwaba might have Hirschsprung's, struck a chord with Johannesburg IT consultant Anthony Poltera. Of Zenande's death, Poltera says: "Those poor parents. I can tell you, if it had happened to us, I would spend the rest of my life fighting them. The disgusting thing is that those extravagant tests weren't necessary."

Back in July 2008 Poltera and his wife Nicole took their then three-month-old son Kaden to Dr Ahmed's rooms at Life Fourways. Both parents



Baby Zenande

had been down with the flu and they thought that Kaden had picked it up. Says Poltera: "Dr Ahmed said our son had severe pneumonia and immediately administered a drip in his room. He was adamant that Kaden be immediately admitted to hospital with his mother as he required intensive hospital care.

"He also insisted on some expensive blood tests as he thought our son may have leukaemia. That raised an alarm bell in my head. You can't just say 'he might have leukaemia'!

"My wife was beside herself; as new parents we did not question his diagnosis. I was told to pay R11,000 upfront and my wife and son were admitted to a private room. It was after two days of lying in hospital that my wife suspected the possibility of a scam by Dr Ahmed and Life Fourways hospital. During that time Dr Ahmed did not attend to our son once, and apart from receiving antibiotic drops orally from the nursing staff, nothing else seemed to be done.

"When my wife said she could administer the drops at home, they promptly released her and Kaden. We left Life Fourways feeling we had been conned into an unnecessary expensive hospital stay that ultimately our medical aid, Discovery Health, would bear the brunt of. I wonder if Dr Ahmed and Co have some sort of shareholding in Life Fourways hospital?"

(Dr Ahmed holds 15,000 shares in Docvest Investments which owns around 7% of Life Healthcare Group, giving the paediatrician an approximate 0.01% shareholding).

A previous health minister has condemned the practice of doctors owning shares in private hospitals as a perverse incentive. The more tests, procedures and admittances they can drum up, say critics, the bigger the profit to the hospital group – and the bigger the dividend to its shareholders.

Life Healthcare's Adam Pyle

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Why hospitals are bad for your health

NOSEWEEK'S MEDICAL EXPERT, Inside Tract, writes: "Up to 15 years ago specialists referred their patients without any specific loyalty to a particular clinic. They worked from consulting rooms some distance from and completely independent of the clinics.

"The clinics then began to offer them rooms attached to the hospitals at very favourable (like nil) rentals. They also underwrote running costs like uniforms, staff and telephones.

"In order to feed these specialists they had to have a conduit. So, one after the other, they opened casualty sections. Initially they persuaded local GPs that this was in their best interest, because they would now have a place to send their patients after hours. These casualty sections were run by group practices comprising the local GPs. It didn't take long, however, for these group practices to be disbanded and for hospital managements to strike deals with a new breed of doctors specialising in 'trauma management'.

"The net result of all this was that the GP was now bypassed. The patient attended the casualty, was referred to an in-house specialist, and treated at the hospital. This of course involved cross-referral between specialists, use of the in-house pathology lab and of the radiologists, who now had rooms in the hospital.

"A patient of mine, a young newly-wed, developed a bladder infection over a weekend, and attended the local clinic. Had I seen her I would have examined her urine and prescribed an antibiotic, after explaining that cystitis is common in someone recently sexually active.

"She, however, was referred to the in-house gynaecologist, who sent her to the urologist attached to the clinic, who scoped her in theatre, under general anaesthetic. She was then referred for a CT scan of her abdomen. Needless to say, all this bombed out her medical aid benefits for the rest of the year. Even-

tually, she was given an antibiotic and sent on her way.

"A young woman, a single mother, attended a clinic when her toddler fell at the play centre and lacerated his ear. The doctor on duty said that the cartilage was exposed and she needed a plastic surgeon. They wanted a R30,000 deposit, which she didn't have.

"A friend of hers, a patient of mine, phoned me and I met them. A bit of local anaesthetic and two stitches later she was on her way. A week later there was hardly a mark.

"The bottom-line is very much in evidence in private health care. There is a symbiotic relationship between the specialists and clinics, which is a phenomenon of the last two decades. A busy surgeon can make the difference between profit or otherwise to a clinic.

"To maximise profits, corners are being cut. But the real time-bomb is in nursing care. Years ago there was a hierarchy in the hospitals. Matron was in charge and under her were the ward sisters who supervised the senior and junior nurses and nursing aides. Everyone worked under supervision, and never took on what they were not qualified or trained to do.

"In the new PC world we live in there is no chain of command. If a doctor finds that his instructions were not carried out, there is no one accountable. The buck bounces about. Should he be ill-advised enough to reprimand a nurse, you may be sure that the next day the union will be there in full strength.

"The elementary principles of hydraulics, for example, such as the fact that a fluid runs downhill, has to be taught. Otherwise they put a drip bottle below the patient when they transport them on a trolley. They have to be taught to consult the electronic gadgets they see in a ward. A monitor is useless if no one looks at it or listens to the alarms.

"As a GP, I consider it one of my prime functions to keep my patients out of hospital." ■

comments: "There are quite a few hundred doctors who own shares in Life Healthcare. But a doctor will get much more money from medical aids paying for his services than he will from the dividend at the end of the year."

Life Healthcare's Wilgeheuwel hospital, where baby Laila became so terribly disabled, is singled out by readers for some harsh criticism. Dianne Farrell writes about the 16 March 2007 death of her 17-year-old son there. "My son died as a result of a doctor in the casualty department refusing to treat him because it was 18h50 – and she was going off at 19h00. She told me she was not a doctor, when she was the 'doctor on duty'.

"Our son bled to death in their hospital. They did not have the equipment that the surgeon needed, who took him to theatre three hours after arriving. We were harassed for payment for their account of over R40,000 – for seven hours in their hospital, two hours of which our child lay in casualty not being treated. His total bills amounted to R92,000.

"Wilgeheuwel hospital needs to be closed down and the staff should be jailed for their actions."

A parent of a healthy five-year-old girl writes: "Our daughter went in to Wilgeheuwel for a routine ear operation and came out with a 'theatre acquired infection' which left one ear deformed."

Another parent, Tasneem, writes: "My daughter had a bad experience at Life Wilgeheuwel. She had needles inserted into the bones in her knees without being given pain medication. The nurses should be fired and not allowed to practise. Their attitude makes me sick to my stomach – and what makes it worse is they get away with it. My prayers are with Laila and her family."

Meanwhile, Zenande's parents are determined to bring the doctors and nurses at Life Fourways hospital to account. "Are these so-called investigative procedures a money-making scheme or what?" asks Zuko Mdwaba. "I will not rest until these people account for what they did. They put us through hell.

"My view on the Life Healthcare Group of hospitals is that they are out there to make money at all costs. The hospital cost us the life of our child and they didn't even contact us – no flowers, message of condolence, nothing. It was as if our child was nothing but another number.

"To add insult to injury, we are still getting invoices for shortfalls – measly amounts – to payments made by medical aid. It feels like we are constantly reminded that we have to pay for the hospital taking our child's life." ■



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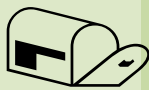
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Medical error: The gloves are off

Shortly after 78-year old sailor Gordon Webb died on the operating table at Panorama Medi-Clinic (*nose118*), cardiac surgeon Dr JJ de Wet Lubbe tearfully told Gordon's widow Jenifer that he had "nicked the mammary artery". Jenifer Webb appointed medico-legal attorneys Millers to sue for damages, but the medical insurer, Medical Protection Society, would have none of it. MPS obtained an opinion from a South African surgeon, Dr RH Kingsley, contradicting Jenifer's US expert, Dr Robert Frater, who thought there had indeed been negligence. When the autopsy report – written by state pathologist Dr Shabbir Wadee some two years after the event – also found no negligence, Jenifer's bid to obtain damages foundered. In *nose120* we published a furious response from Millers' partner Robert Krautkrämer, disputing the claim of negligence, and castigating Jenifer for withholding the autopsy report from him. He also laid into *noseweek* for not highlighting that medical negligence cases are almost impossible to prove. Jenifer felt that Krautkrämer's letter contained a number of errors: this is an abbreviated version of her response.

MR KRAUTKRÄMER complains that the *noseweek* article about my consultations with Millers Incorporated, concerning my intention to seek compensation after the accidental death of my late husband, Gordon Webb, while undergoing heart surgery, "creates unwarranted and false suspicions of covert and sinister conduct between doctors and lawyers". If Mr Krautkrämer wishes to dispel this belief, why does he produce blatantly incorrect statements about my role in providing Millers with a copy of the controversial autopsy report?

He is obviously very agitated about this case, and is going to great lengths to make me appear responsible for the fact that Millers made no effort to obtain this report during the two years that I consulted them. In view of Mr Krautkrämer's assertions about my actions, the true sequence of events needs to be recorded.

■ In March 2008 I decided to get a second opinion on the case as no progress was being made by Millers. I consulted Dr Klatzow and gave him

a copy of the autopsy report, which I had personally requested from the Senior Public Prosecutor, after being informed by the Parow police that it had been received by them in January. My copy was posted to me in February 2008. Let me make it clear that I had made every effort to get a copy of the report from Professor Shabbir Wadee who had performed the autopsy, but despite making many phone requests, and a personal visit to him in September 2007, it was not forthcoming. I emphasise that I was the only person involved in this case who made any effort to get the autopsy report from Professor Wadee, and it took over two years to be delivered.

■ On 30 May 2008, I received correspondence from Millers informing me that Mr Van den Heever had left the firm and that Mr Krautkrämer was taking over my case. Early in June 2008 Mr Krautkrämer telephoned to introduce himself. I was very forthright about my dissatisfaction with Millers's handling of my case.

■ Dr Klatzow felt that it would be worthwhile for me to meet



Krautkrämer, so we met at Millers offices on 13 August 2008. At this point I told him that, after over two years of effort on my part, I had received a copy of the autopsy report. He asked me to let him have a copy. I forgot to fax it to him, and was reminded by his assistant the following week: I faxed the copy on 20 August. In the intervening few days he had drafted his letter to MacRoberts, on his own initiative, and sent me a copy for approval. I really felt encouraged that at last some positive effort was being made to take my claim forward. However, after receipt of the autopsy his whole attitude changed, and he accused me of "withholding the autopsy report and, despite knowing the contents, instructing him to send the letter to MacRoberts". I thought I was consulting Millers for their leadership and expertise in handling this

case, not instructing them on how to do their business.

Mr Krautkrämer is correct: it is very difficult to get compensation for medical errors. Despite the fact that he has confused certain facts of the case, I would like to appeal to him to

a lawyer of Mr Krautkrämer's calibre would be a great asset in challenging yet another exclusive cartel, one controlled primarily by the indemnity insurers (and tolerated by the doctors), which has flourished at the expense of the very people who pay the medical profession for their services.

Those disabled, or who lose their means of support, through a slip on the part of a doctor should not be left without assistance. Other professions and industries ensure that the client is

compensated for service errors – why not the medical profession? Let's face it, today's average private practitioner is as commercially minded as most business people. If the doctors themselves are paying high rates for indemnity insurance to protect themselves, how is it that the medical insurers are so effectively able to forestall payouts for deserving cases?

Furthermore, why is the claimant forbidden to meet and discuss the situation with either the doctor concerned or his insurance agent? It all smacks of collusion to me.

Jenifer Webb

When errors occur, it shouldn't be necessary to have to prove a doctor negligent

consider assisting, through the medium of *noseweek*, in a critical examination of the current "closed shop protectionism" which has existed in the medical world for many decades.

The costs of medical treatment today are very high, and when unfortunate errors occur it should not be necessary to have to prove a doctor "negligent" (in an obscenely costly court litigation – with high financial risks) in order to receive fair compensation.

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Shark attack!

Gullible doctors in deep water after conman drags them into plastic surgery scam

YET ANOTHER HIGH-LIFE fraudster is on the loose – and going international. Having trawled the country's professional classes for nearly a decade, Gavin Francois Stassen has turned to the British market, where, he claims, he's already hauled in over 70 new investors.

The glittering lure for the unwary is a solid-dividend share in a cosmetic clinic venture, allegedly about to begin development in Mauritius, where, it's claimed, a prime piece of land has been secured from the Mauritius Ministry of Land. Gavin Stassen's Lifestyle Clinic Group is offering investors 700,000 of 1.2 million shares, at £20 per share for the first 200,000, and £25 per share

thereafter.

The promotional brochure is highly convincing (unless you register lapses of grammar and spelling as warning signs). Quoting the American Society of Plastic Surgeons, Stassen tells prospective investors that "6.6 million Americans had cosmetic plastic surgery done in 2002," claiming that a recent poll has revealed that "31% of women and 20% of men intend undergoing cosmetic surgery.

Investors are invited to participate in the development of a cosmetic clinic and boutique hotel complex (to accommodate the families of clients) to be situated in the tax-haven of Mauritius. The impression is given that "the

group" is also moving on similar ventures in the Seychelles, Argentina and the Bahamas.

It's not clear how many investor/victims Stassen has actually netted – in a recent sales pitch he claimed to have the backing of at least 40 South African plastic surgeons for the venture, as well as hundreds of accountants, teachers and legal types. But Stassen's claims aren't exactly gold-coin – for a start, all but one of the men advertised as part of his "team" deny involvement. (And the odd-man-out is not a medic.)

Besides the dozens of disillusioned victims of an earlier version of the scheme, *noseweek* has so far identified 18 "investors" who have put anything

between R60,000 and R2m each into the latest edition of Stassen's marvel.

Stassen's face-to-face pitch can be impressive – particularly if name-dropping tends to switch off your bullshit detector. He appears to have a good sense of what the general run of medical practitioners want to hear – particularly the kind with their heads buried in the latest medical procedure manuals, and no time to talk to *bona fide* financial advisors (there must be some, surely?). Neither Stassen himself nor any of his companies are registered as financial service providers, which they are legally required to do under the Financial Advisory and Intermediary Services Act of 2002.

Stassen readily refers to having the support of eminent medical practitioners, and flaunts his long history of successful involvement in hospital development. In a recent pitch to a source for this story, Stassen made much of having secured for his team "Dr Tommy Meyer, Dr Dale Howes and Dr Jan van der Berg, an ophthalmologist representing the Pretoria Eye Institute". (He also cited the support and involvement of "doctors from the Netherlands and Germany".)

This, it turned out, was something of a surprise to the team Stassen claims to have on board. Ophthalmologist Dr Van der Berg, for example, who is listed in the fancy brochure as one of Lifestyle's "Specialist Doctors", strongly denied that he was on Stassen's "team". He refused to take *noseweek's* word for it that his name was being used in this connection.

Less than an hour after *noseweek* spoke to Dr Van der Berg, Gavin Stassen called to demand that *noseweek* "stop harassing my doctors". Two days later, Dr Van der Berg's name vanished from the website – and he was no longer available to discuss the venture with *noseweek*. Maybe Dr Van der Berg is embarrassed about his true involvement?

Another slick piece of marketing has been Stassen's claim that he was the driving force behind a host of hospital developments: he claims that his Stassmed Hospital Consultants (registered in partnership with Dr Jackie Shevel in 1989) developed the original 25 clinics that later listed under the Netcare Group. Shortly before that listing, he boasts, he sold his interests to Dr Shevel – for a cool R400m. Dr Shevel, now resident in the US, would, no doubt, be amused.

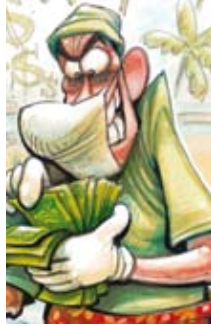
Another doctor allegedly on Stassen's team, Dr Dale Howes, appears to have swallowed the Netcare story, hook, line and sinker. Asked about his role in the Lifestyle Clinic Group, Dr Howes told *noseweek* he didn't know what we were talking about. "I'm only an investor," he declared, and professed ignorance of any website. Still on the line, he accessed the site and *noseweek* felt the good doctor go cold with shock. "What about the Netcare connection? Don't tell me that's a fake," he blurted out.

Noseweek referred Dr Howes to Netcare CEO Dr Richard Friedland, who had already confirmed our findings: "The prospectus of Lifestyle Clinic Group records that Mr Stassen was involved in the development of more than 25 medical facilities and clinics over the past 22 years and that most of the hospitals developed by him through

capitalisation of Netcare upon listing was only R186m."

Stassen remains adamant that he has secured land in Mauritius, where everything is in place for building to "soon begin". *Noseweek* can confirm this much: Gavin Stassen is indeed known to the Mauritius Ministry of Public Infrastructure, Land Transport & Shipping – they know him as "Dr Stassen".

The ministry's permanent secretary, Mr Ram Prakash Nowbuth, categorically denies any deals with Stassen or any of his companies. Mr Nowbuth writes: "This is to confirm that my ministry has neither sold nor leased any property to the people, organisations mentioned nor to any other person or organisation for business or investment purposes."



'Stassmed' form part of the Netcare Hospital Group. This representation is not correct. The only link that could be tracked was the fact that Mr Stassen apparently played a minor role in the promotion of one or two of the clinics that were managed by Clinrun CC, a hospital management business owned by Dr Jackie Shevel. At some stage Mr Stassen was a minority shareholder in one or maybe two of these clinics, which were then acquired by Netcare on listing during 1996.

"With regard to Mr Stassen's apparent claim that he sold his hospital interests for R400m [...] – this could not have been possible as the market

Among the first to fall victim to Stassen's "cosmetic-clinic-on-an-island-paradise" investment fantasy were, it seems, teachers and parents at his kids' school in Pretoria, around 2004. According to a statement filed with the Silverton police, in January 2005, Stassen allegedly offered a Centurion bookkeeper 1% of shares in The Health & Leisure Group Ltd (Mauritius) for R150,000, promising a 15% return by the end of the first year.

The bookkeeper writes: "He showed me photos of the FernCrest Clinic in Rustenburg and the Bay Hospital in Richards Bay. He also showed me photos of the Berjaya Hotel in Mauritius,

Another along in a minute...

WHAT MAKES A SUCKER a sucker? It clearly has nothing to do with intellect, or education. According to University of the Western Cape lecturer in clinical psychology Dr Mario Smith, it's not necessarily an issue of greed. Dr Smith, who has done extensive research into behaviour patterns around fraud, says the gullibility of victims depends in large part on what he calls "the credibility of the plot" – i.e. is the story believable? But the story is believable if you trust the teller of the tale, and one way to gain trust is to associate oneself with other trustworthy people. Dr Smith explains: "Victims respond to who is associated with the schemer. As in [Stassen's] case, the schemer would rely on the listing of eminent personalities or institutions within his project to gain the confidence of new victims."

Pointing out that education does not guarantee common sense, Dr Smith also points to factors involved in obtaining an advanced education that may actually interfere with common sense. For example, says Dr Smith, "Doctors may believe they have beaten the odds to make it in medicine – so to some of us, risk-taking is part of life. We may keep taking such risks, in the belief that we will keep winning."

What of the way that victims "keep faith" with a schemer, even when faced with clear evidence that something is amiss? Dr Smith agrees that it may be too painful or embarrassing to admit the truth: "It's not even a matter of being in denial, it's almost like teenage pregnancy: one would continuously hide the fact until the tummy gets too big to hide. Reputations are at stake."

Out of shame, fraud victims often convince themselves that they are helping to salvage a sinking ship, says Dr Smith. Confronted with evidence that the ship has already sunk, they quickly revert to the scheme's mastermind for an explanation: "At that point, any explanation from the schemer would be acceptable."

where the future clinic was to be located. The hotel was on the southern part of the Island, on the Le Morne Peninsula. I told him I would be interested in the 1% share."

The man paid up – and introduced friends, relatives and clients to Stassen. By then, his statement says, the price of a 1% share had jumped to R200,000, since Stassen had in the interim, he claimed, obtained a hospital licence.

Among early investors listed in the statement to the police were: Andre Naude (R280,000); Johannes Walters (R250,000); Jaco Venter (R320,000); Hilde Basson (R200,000); Marius Auret (R200,000); Dr Cameron Condi (R150,000); and Dr Dale Howes (R300,000). Dr Howes later increased his investment to R450,000, and confirmed his involvement with the new version of the venture – and ended up "on the team".

When *noseweek* asked Stassen what those initial investors had got for their cash, he replied: "I gave them the company [Health & Leisure Group]". Hearing that *noseweek* has a recording of a meeting where he promised to refund those "investors", he commented: "One of them later came to me to ask that I hand over the company to them for their money, which I did. I gave them the company with the intellectual property."

Isn't this the same "intellectual property" that forms the basis of the new Lifestyle Clinic Group venture? And why would one of the victims re-negotiate on behalf of the rest, who had been promised a total refund? Some less than meaningful noises from Mr Stassen on this – and not much you'd call an answer.

Sadly for anyone who's handed their cash to Stassen, not only does Lifestyle not own land in Mauritius, but it also appears that funds deposited into the Nedbank Stassmed account tend to disappear fairly rapidly, to be spent on various luxury toys and entertainment – top-of-the-range wheels, first class airline tickets, prime holiday accommodation (for Stassen and

marketing director/girlfriend Lelanie von Weilligh), and so on.

For instance: On 18 December 2007, Piet Lindeque, listed in Stassen's marketing materials as a "previous executive director of the Netcare Group", made an online payment of R500,000, as part of his R1.5m subscription to the scheme, into Stassmed Pty Ltd's Nedbank account. But a few hours later, Stassen obtained a bank cheque against this account, for R259,000, in favour of Fouché Motors, apparently in payment towards a Mercedes Benz C200 Kompressor.

Stassen: "Do you think someone like Piet Lindeque would be so stupid to just hand me R1.5m if this was a scam? The investors know that I have to live well and there is nothing wrong with paying myself from their investments."

Funds deposited into the Nedbank account tend to disappear fairly rapidly, to be spent on luxury toys and entertainment

(Some sources believe Lindeque has handed over at least R2m.)

Details concerning Stassen's expensive lifestyle (like paying marketing manager Lelanie von Weilligh's rent, and a R450,000 Landrover Discovery for wife Pauline), are revealed in court papers filed in the ongoing divorce case instituted against Stassen by Pauline – for having an affair with Lelanie Weilligh.

Noseweek also spoke to Ronnie Tonkin, whom Stassen lists as "a former general manager of Absa Bank [...] responsible for structuring and planning the Virgin Money Credit Card deal for Southern Africa". Stassen's brochure says: "Ronnie has put together Health & Leisure Finance Group for Lifestyle Clinic Complex to aid and facilitate patients financially by offering surgical packages to South African market."

Contacted by *noseweek*, Tonkin



Less-educated than thou

GAVIN STASSEN LIKES TO BRAG THAT he's more successful than former school-mates who went on to university to qualify as professionals. If success is measured by the calibre of one's victims, Stassen has indeed enjoyed success. After matriculating in 1985, he joined the Department of Health Services and Welfare – where his responsibilities as a clerk apparently included applying the final “APPROVED” stamp to applications for private hospitals.

In 1989 his experience in the state health services won him an invitation from Dr Jackie Shevel to join him as co-partner in Stassmed Hospital Consultants cc, formed to advise developers on the specifications required for private hospitals. After Stassen and Shevel parted ways a few years later,

he and wife Pauline moved to Cape Town – only to leave in a hurry some months later, to avoid, it's claimed, unpaid rent bills.

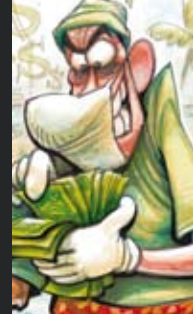
From a townhouse in Centurion, Pretoria, Stassen began demonstrating a new entrepreneurial flare. In December 2003, he wrote, as Stassmed Hospital Consultants, and purportedly on behalf of (the unregistered) “Matrix Dental Laboratories (Pty) Ltd: BEE”, to the registrar of the SA Dental Technicians Council, Mr Lekitima: “It has come to our attention that, of the total number of registered laboratories, only seven are owned by black technicians. Furthermore, we are under the impression that there are only a handful of black technicians registered with your council.

“My consortium is prepared to make the necessary funds available to change the status quo that exists in the market,

and to effect the necessary transformation of the industry.”

The proposal was not taken up, and Stassen began promoting the cosmetic clinic venture the following year.

It would appear that an extra-marital affair with his marketing director, Lelanie von Weilligh, led to Stassen's downfall. It seems that wife Pauline, who was apparently well aware that the clinic venture was a scam, learned of the affair – and, angry that funds were being diverted to paying for, *inter alia*, Lelanie's apartment, she began undermining husband Gavin's credibility. Suddenly, investors – potential and current – began receiving anonymous communications warning them that their investments weren't safe. They were also warned that Stassen did not, as claimed in his CV, hold a BLC (Law) degree from Pretoria University.



Pauline and Gavin Stassen in happier times with unidentified icy object and friends

vehemently denied being part of Stassen's team: “I am an investor like any other.” He went on to deny knowledge that his name appeared in Stassen's promotional materials.

Yet two independent sources claim that on an occasion when Stassen spoke to a gathering of prospective investors, including pensioners and school teachers, among those he introduced as “members of the team” was Tonkin – yes; wearing an Absa Bank T-Shirt.

Might Ronnie Tonkin, like others who appear to have “kept faith” with Stassen, be lending just enough support to the scheme to keep the money

he took my money and spent it. At least I'm left with my credibility.”

Stassen, who clearly has a tendency to “over-sell”, on one documented occasion seems to have lost his scheme a whole conference room-full of potential victims – and saved some doctors their hard-earned cash – by going way over the top. At a gathering of doctors convened a few years back at a Johannesburg hotel, by a Dr Walton, Stassen undermined his flashy presentation by showing images of a Boeing 737 that he claimed he'd just acquired, and which was being revamped for flying patients to Mauritius. “We are going to offer the

coming in? Did these “investors” discover the fraud when they had already handed over their cash – and agree to play along in order to ensure some return on their outlay?

Other victims have cut and run, including Dr Cameron Condi, a successful Sandton dentist who paid R150,000 nearly four years ago for a share in the initial Health & Leisure Group Ltd.

Says a resigned Dr Condi: “There is nothing anyone can do. I opened a criminal case with the police three years ago and they did nothing. Commencing a civil proceeding would have been a waste of time as that man has nothing;

patients treatment with class,” he reportedly told the would-be investors.

A doctor who attended the presentation told *noseweek*: “We may be witless when it comes to matters of business, but it didn't make sense – why would anyone fly patients to Mauritius in a huge private jet? The idea was to make more profit than we could in performing the procedures in South Africa – then we spend it on executive flights? It was bull. Dr Walton afterwards contacted us individually, to warn us. He said something wasn't right and he felt responsible for having convened us. His warning saved at least some of us.”

Perhaps inevitably, there are those who hold on to the dream: Joburg cosmetic dentist Dr L Pepler refused to entertain the idea that he has been suckered (to the tune of R1.5m). He insisted to *noseweek* that the clinic remains a sound investment: “We had a very successful expo in the UK in October last year, organised by the Cape Town-based Oyster Portfolios and we would be getting more investors from there.” Dr Pepler says he has share certificates showing he owns 4% of “the outfit in Mauritius”.

Is Dr Pepler another of those who may have realised that the only way to salvage their “investments” is to wait it out for new suckers to bite, then collect what they can and run?

Or is he, like a whole lot of others, about to wake up? ■

The fat end of the Wedge

WHY DID THE STATE'S Public Investment Corporation (PIC) shell out R140m of Government Employees' Pension Fund money for an asset valued just months earlier by its owners at only R31.6m?

And where did the lolly end up?

PIC (chief executive Brian Molefe) has a massive R740bn-worth of government-owned assets under its management, making it one of the largest investment managers on the African continent. In 2007, looking to increase its exposure in commercial real estate, PIC made a successful R2.3bn bid (at a premium of some 15% over share value at the time), on behalf of the Government Employees Pension Fund, for listed property company CBS Property Portfolio – which owns, *inter alia*, a R250m stake in The Wedge, an upmarket shopping centre in Joburg's Morningside.

As a pre-condition to the deal, PIC agreed to pay R140m for a separate, smaller company, CBS Asset Management (Pty) Ltd, which had the contract to advise on CBS's property portfolio. It turns out that 50% of that entity's shares were held by well-known property punters Martin Ettin and Derek Greenberg, through their Caribbean Estates (Pty) Ltd – and they're behind the inflated price paid by PIC.

It wouldn't have come to anyone's attention – if Ettin and Greenberg

Why did the Government Employees Pension Fund pay R140m for an asset valued only months before at just R31m?

hadn't allegedly done a dirty on property mogul Leslie Lob, who had built The Wedge and sold it to CBS Property Portfolio when it was controlled by Ettin and Greenberg. At some point the duo had sold what amounted to a 6% stake in CBS Asset Management to Lob – but in 2006 the pair exercised an option to buy back this stake, and Lob got a cheque for R1.26m – the supposed fair value of the shares.

Caribbean's 2006 accounts reveal that in fiscal 2005 the directors valued their 50% of CBS Asset Management at R11.3m. The following year, ending on 30 September 2006, they re-valued their 50% at R15.8m. Lob's payout was therefore loosely based on the 2005 valuation, rather than the 2006 one.

But when PIC took over CBS in 2007, the Government Pension Fund, represented by PIC, paid R140m for the CBS Asset Management – meaning that Caribbean Estates's 50% stake was being valued at R70m. This effectively valued Lob's original stake at R8.4m – a good deal more than the R1.26m that Ettin and Greenberg had paid him.

Immediately Lob discovered this, he

sued Ettin and Greenberg for the difference: R7.1m. That's the kernel of his case, their counter action and a slew of interlocutory applications.

It transpires that half of the R140m paid by PIC was to have been paid into bank accounts nominated by Ettin and Greenberg's Caribbean Estates. But, at least initially, the whole R70m went to Caribbean's own account, from where it quickly disappeared. Court papers reveal that the company subsequently had no assets.

In his court papers, Lob demands some answers: Where did the R70m go? What tax was paid? What VAT? When Lob called for the 2007 and 2008 annual financial statements and accounts of Caribbean Estates, he was told under oath by its directors that there were no accounts or payment records for these years.

And how had the Government Employees Pension Fund come to pay R140m for the Asset Management Contract, valued by Ettin and Greenberg just months before at just R31m? Already, PIC's attorney Helgaard von Holtzhausen has admitted that no formal due diligence was done to justify this payout, "due to time constraints". Really?

This month (on 2 February) Lob's long-standing tussle for his claimed R7.1m continues in South Gauteng High Court. He wants the court to order Caribbean Estates (Ettin and Greenberg) to produce VAT returns for 12 months between November 2007 and September 2009, as well as signed annual financial statements for Caribbean for 2005, 2006 and 2007.

Lob also seeks production of four lever arch files delivered in a sealed box by Caribbean's auditors, Tabak, Pelkowitz & Berman, to Ettin and Greenberg, in alleged breach of an earlier subpoena served against these auditors, compelling them to deliver documentation to the registrar of the high court.

Martin Ettin and Derek Greenberg, both 62, make a formidable partnership. Greenberg, whose abundant dark brown hair is no stranger to the dye bottle, is the quiet one, the numbers man. Ettin, tall, grey-haired and goatee-bearded, with a fancy for exotic



Derek Greenberg (left) and Martin Ettin



The Wedge

cars – his latest is a Jaguar e-type convertible – is the deal-maker, by turns charming, aggressive or manipulative.

When *noseweek* met with them we got some answers – albeit along with a load of schmooze.

That R70m the Government Employees Pension Fund paid to Caribbean Estates? Where did it go? Says Greenberg: “Caribbean Estates is a business and in the normal course of business, after receiving the R70m, the company paid a dividend to its shareholders.”

Rumours that the duo are planning to relocate to the US throw them into a tizz

How much? Greenberg: “That I can’t tell you, but the whole R70m was distributed.”

Who are Caribbean’s shareholders? Greenberg refuses to say. He will only assure us: “Martin and I were not shareholders of Caribbean.”

(Bah! Humbug! Caribbean’s shareholders who received the “dividend” were The Martin Ettin Family Trust and Greenberg’s Crystalight Trust).

How was the figure of R140m arrived at for CBS Asset Management? Martin Ettin: “That’s not relevant.” Derek Greenberg: “It’s *sub judice*; it will be debated in the appropriate forum.” Ettin: “There’s nothing to hide, nothing

untoward.”

And the lack of a due diligence? Greenberg: “We don’t want to debate this.”

Are rumours that the duo are planning to relocate to the US correct? For some reason, this question throws the duo into a tizz. After a lot of huffing and puffing Greenberg’s comment is: “We both spend a lot of time in America; my three children are there.” (Greenberg has sons aged 21, 23 and 25. The two elder ones are studying in New York; the youngest has been studying accountancy at Wits. Ettin’s 21-year-old son Isaac is in his third year of an eight-year BA/MD programme at Providence’s snooty Brown University).

Their nemesis Leslie Lob, also 62, lives in considerable style in Hyde Park’s 4th Road – Joburg’s Millionaire’s Row. Lob will only say: “The process of discovery [of relevant documents] will continue unabated. I have every confidence that the truth will emerge.”

■ In March 2009 Derek Greenberg, who holds permanent residency in the US, paid \$8.5m (R65m) for a 37th floor 4 beds, 4.5 baths penthouse condominium (renovated by “iconic” architect Lee Mindel, with panoramic view of Central Park) at 15 West 63rd Street in New York’s Manhattan. The previous year Ettin, who also holds permanent residency in the US, paid around \$305,000 (R2.3m) for a 1920-built condo conversion in Providence, Rhode Island, in the name of his son Isaac. Months later Ettin Snr snapped up a second property (5 beds, 3 baths) in the same Blackstone Boulevard strip, for \$1.2m (R9m). **W**

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Portnet complaint

Unbelievably useless lawyers combined with parastatal incompetence cost Cape Town boat owner a whopping R2 million



recommendation, consulted with advocate Hanri Loots. (An attorney called Mzo Mtikitiki, of John Riley Attorneys was also roped in, as an advocate cannot deal directly with a client.)

Loots impressed Mills with his quick grasp of the matter and his positive attitude. And better still, he was happy to work on a contingency (no win – no fee) basis. So Mills briefed Loots to represent him at trial.

On 9 June 2004 the matter came up for hearing. According to Mills, he duly arrived at Loots' chambers – only to have Loots tell him that going ahead would open up too big a can of worms. He told Mills that if he wanted to go ahead he'd have to represent himself – or he should simply sign a settlement agreement, which he then placed in front of Mills.

Mills went into such a state of shock that he signed, right then and there, an agreement that was basically a capitulation. It required him to move his ship out of the harbour within a month, failing which the boat would be chopped up for scrap. As all sorts of approvals would have to be obtained, there was absolutely no way he could move the ship out within that period – so the *Ocean King* was duly cut to pieces.

In 2005 Mills, hoping for some recourse against either Portnet or the lawyers who'd sunk his ship, consulted an attorney by the name of Bennie van der Hoven, of the firm Van der Hoven Van Zyl. Van der Hoven assured Mills that he knew both his maritime law and advocate Hanri Loots, and that he would sort things out. Van der Hoven then suggested getting the matter back

STORIES ABOUT USELESS LAWYERS in a useless system, taking care of their own are old hat. So here's one that adds an ingredient – a useless parastatal organisation.

In 1998 Gary Mills – who's been in the diving salvage business for some 40 years – bought the *Ocean King* from a company called Viking Fishing. At R120,000 the ship was a good buy: it needed some engine work, but was in pretty good condition and, refitted, would make a great maritime research and sea rescue vessel.

The *Ocean King* was docked at the arse end of Cape Town harbour – quay 902/3 if that means anything to you – and from the outset there were security problems, with vagrants boarding the ship and threatening Mills' staff. Over the following two years the situation got even worse – on one occasion Mills himself was confronted by two panga-wielding vagrants who claimed they owned the ship.

What made the situation so galling was that each time Mills wanted to work on the ship he had to go through elaborate security checks – yet vagrants seemed to have free access.

Once, vagrants even started a fire on board, and, over time, everything

of value was stripped from the *Ocean King*.

By the end of 2001 Mills had lodged 18 charges of assault and theft with the police, and numerous complaints with the operators of the harbour, Portnet (a division of Transnet), including a personal letter to every Transnet director. Absolutely nothing was done.

In desperation Mills stopped paying his monthly R5,000 harbour fee. It hardly needs to be said that this provoked a response from the otherwise sleeping beast – in 2003 Portnet sued him for payment of the fees. (It seems that some legal proceedings may have preceded this, with Judge Burger holding that Mills had not abandoned his ship, and that Portnet had a duty to keep it secure).

Mills defended the claim and counterclaimed for damages – which was the start of a very expensive and frustrating experience. Mills went through a number of attorneys, with all the usual expensive consultations with counsel (with senior never able to act without junior, of course).

When Fairbridges sent him a bill for R50,000 after a consultation with counsel, Mills decided to try another approach and, following a friend's

onto the roll (it had been postponed indefinitely when the settlement was signed).

So Mills paid Van der Hoven a deposit of R10,000 – but got a rather poor return: nothing, to be precise. As Mills puts it, Van der Hoven talked the talk but walked hardly at all. (Which was exactly *noseweek's* own experience of the attorney – he had not a clue as to what the matter was about, and promised to read the file and respond the next morning with a synopsis. He never did.)

In desperation, Mills approached the Cape Bar Council to complain about Loots. He set out his complaints in a letter, including the fact that Loots had led him to believe that he was on to a winner, that Loots had withdrawn from the case on the day of the trial – effec-

tively forcing Mills to accept a very bad settlement – and the fact that when Loots returned Mills' papers, roughly 50% of the documentation was missing.

tively forcing Mills to accept a very bad settlement – and the fact that when Loots returned Mills' papers, roughly 50% of the documentation was missing. that he would not financially be able to afford losing the matter [...] I wish to add that I lost no documentation.”

Mills responded to Loot's letter as follows: “Regardless of whether he withdrew, stepped down or just ran away, the reality is he left me stranded – a gross abuse of his position as counsel and absolute cowardice [...] Mr Loots also knew I had been fighting Portnet for seven years for the preservation of the very thing he cornered me into signing away, by resorting to disgusting psychological tactics [...] Mr Loots knew full well that even if I had had the opportunity to remove my ship from the port, one month to ready the vessel was a total impossibility – even with the full co-operation of the port authorities and necessary department. Why would I sign away my rights? The instructing attorney, Mr Mtikitiki, was, in his own words, ‘shocked and surprised’ that Mr Loots could do what he had done – this was definitely not the instruction from Mr Mtikitiki [...] Short of accusing Mr Loots of colluding with Portnet – I can only continue to harbour suspicion towards Mr Loots, whom I trusted to give me educated advice and help me through a tormented and trying time.”

On 26 November 2009 Jeremy Muller SC, chairperson of the Cape Bar Council wrote to Mills to say: “I discern no misconduct on the part of Mr Loots and I have accordingly decided to dismiss the complaint.” He invited Mills to file an appeal within 15 days. When *noseweek* asked Muller how it was that, faced with two contradictory versions of events, he found for the advocate, he declined to comment, saying an appeal was still possible. He added: “I did not discuss the matter with Mr Loots prior to dismissing Mr Mills' complaint against him.”

When *noseweek* asked Loots for comment, he reiterated that Mills

had been a willing party to the settlement, and had accepted it because he couldn't afford a costs order against him. According to Loots this “was the only can of worms that could have been opened”. He insisted that his speciality is commercial law and delict, and that he's never acted for Portnet, though he once acted for Transnet Property Division.

As regards the fee, he said he'd been asked if he would do the matter on a contingency basis, but no contingency fee agreement was signed. Had Mills won, Loots would have been paid his “normal fee”, but, because the matter was settled, he earned no fee at all – despite the fact that “a considerable amount of time and effort had therefore gone into the matter prior to its settlement”.

Noseweek also spoke to Mzo Mtikitiki, now at De Beers, but he had nothing to add – as far as he could recall, the matter had been resolved on the day of the hearing.

Mills – who is down R1m in legal fees, or R2m if you take into consideration what he spent on the boat – also lodged a complaint to the Cape Law Society about attorney Bennie van der Hoven, asking for help.

The answer: “Should an attorney be found guilty of unprofessional conduct, the likely sanction is a fine. We are therefore not permitted to give legal advice nor render legal assistance [...] we suggest that you approach an attorney for legal advice.”

Mills' response to the Society was that he had approached them “as a cry for help – not to get even with someone – a very simple plea of ‘what do I do now to find relief?’”

“I very clearly stated that I have lost all faith in our legal system – and understandably so – and your only advice is that I should approach an attorney for legal advice – a comforting slap in the face, to say the least.”

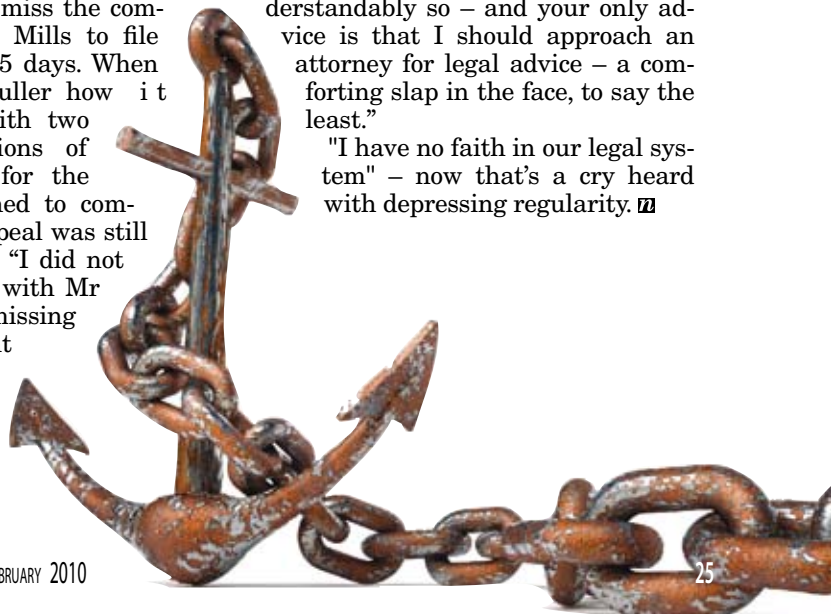
“I have no faith in our legal system” – now that's a cry heard with depressing regularity. ■

I have lost all faith in our legal system and your only advice is that I should approach an attorney for legal advice

– Gary Mills in a letter to the Cape Law Society

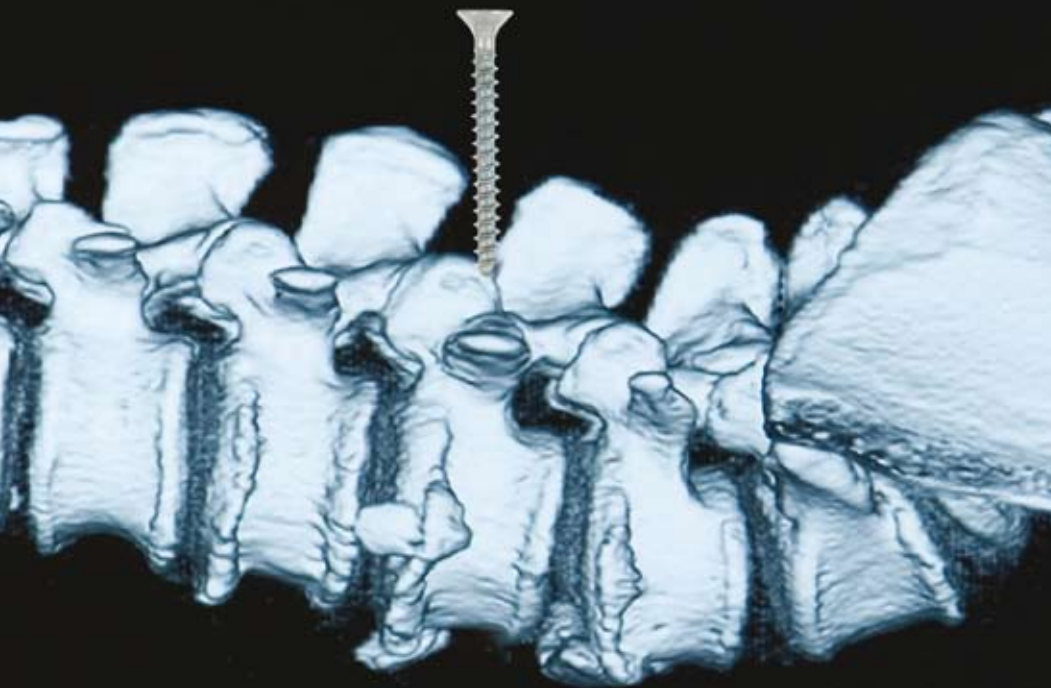
tively forcing Mills to accept a very bad settlement – and the fact that when Loots returned Mills' papers, roughly 50% of the documentation was missing.

Loots filed a response in which he said: “At no stage did I withdraw from the matter, either for the reason Mr Mills advances, or at all. The matter was settled during the course of the day of 9 June 2004. The settlement of the matter was negotiated (with the input of Mr Mills) after which a written deed of settlement was drafted and signed by Mr Mills himself in my chambers in the presence of my instructing attorney and the plaintiff's counsel, Wragge SC [...] On the day of the trial the matter in its entirety was once again discussed with Mr Mills. Mindful of the risk relating to running a trial and the implications a loss could have, Mills confirmed



Spine-chilling screw-up

Doctor says neurosurgeon's botched op left patient 'in a mess'



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AS A RESULT OF THE PIECE that appeared about the Health Professions Council of SA in *nose122*, *noseweek* was alerted to another fascinating story. It involves a complaint lodged at the HPCSA by a 46-year-old Johannesburger, whom we'll refer to as Gerda (not her real name).

The complaint concerns Dr Percy Miller, a neurosurgeon with rooms at Bedford Gardens Hospital, Johannesburg and Life Fourways Hospital, Sandton (which featured in "Why did Zenande have to die?" in *nose123*).

Gerda makes some serious allegations. For starters, she claims that Dr Miller messed up a spinal operation that he performed on her, on 9 January 2008, in that he incorrectly positioned a screw. As a result of this error, she says, he had to perform a second operation on 19 January 2008.

Gerda claims that she was in so much pain after the second operation that she had to admit herself to the Netcare Milpark Hospital, where a doctor told her that she was a "piece of scrap" and that he couldn't help her, and that she should go back to Dr Miller and demand that he "correct his mess".

Gerda did go back to Dr Miller but, as a result of all the treatment she received, she was off work for some two months, which caused her financial hardship. She also claims that she still suffers from serious pain in her liver, back and legs, so that she finds it difficult to sleep. This, she says, has had a negative impact on her relationship of 13 years. She goes on to complain that Dr Miller charged her private rates rather than medical aid rates as agreed, and that Miller's wife (who apparently acts as his bookkeeper) agreed to accept R8,000 to settle a R18,000 debt.

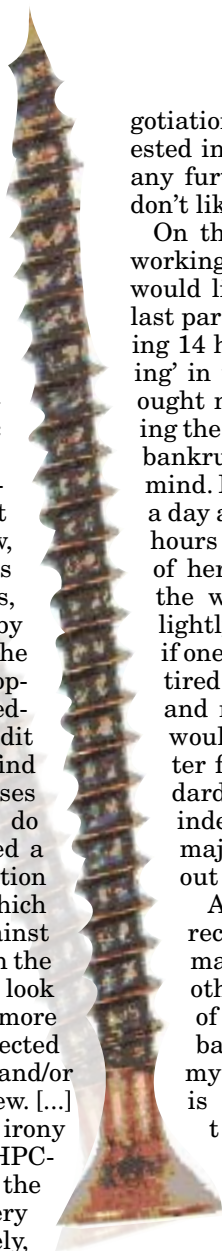
She also claims that Dr Miller works 14-hour shifts – doing hospital rounds at 3.00am and then again at 9.00am the same morning – with the result that he is "making a killing in money", but "loses the ability to take proper care of his patients". Lastly, she claims that she has established that Miller "has a bad record from a website that rates and archives info on doctors".

Miller came back fighting. He submitted a lengthy response, to which he attached voluminous medical documentation, in order to show that "the patient's complaints were not

taken lightly, that a huge amount of activity, tests and consultations and diagnostic attempts were made to settle the patient's problems", problems that included "a certain amount of instability on the part of the patient on a psychological basis", and which required the prescription of anti-depressant and psychogenic medication.

As regards the actual operation, Dr Miller declares: "It is quite correct that on review, I found that one of the screws was misdirected. The screws, by the way, are not inserted by myself but are inserted by the orthopaedic member of our operative team, namely Dr J Predy, and it is perhaps to my credit that on a rapid basis I could find and diagnose one of the causes for the patient's pain and do what could still be considered a minor spinal revision operation ... That is not something which can be used in argument against me, namely the fact that when the patient complained, we had a look at the patient and did some more testing, found the misdirected screw and rapidly replaced and/or corrected the misdirected screw. [...] It is a matter of the greatest irony that I am now before the HPCSA, having always treated the patient very reasonably, very easily and very considerably, no matter what her complaints were, whether physical [or] psychological [...] whereas the doctor that the patient saw at Milpark Hospital treated her abominably."

As regards the fees, Miller says that Gerda knew he didn't charge medical aid rates, and goes on to say that, although he did offer a R10,000 discount on the R18,000 bill, the offer was withdrawn. Why? Because "in the end, we were prepared to brook no compromise, once the patient started throwing around blackmail efforts, i.e. – 'dispense with the account or I will go to the HPCSA'. This makes one see red or makes one very angry to a certain extent, and both my wife and myself have it as our policy, on these occasions, when patients start throwing around the threat of going to the HPCSA, to tell them to do what they must, cut off ne-



gotiations and we are then not interested in discussing with the patient any further and/or final accounts. I don't like to be blackmailed."

On the issue of his earnings and working hours, Dr Miller says: "One would like to laugh at the patient's last paragraph with respect to working 14 hours per day, making a 'killing' in terms of money etc, but one ought not to do that, notwithstanding the fact that it is the product of a bankrupt, jealous, sick and petrified mind. It is true that I work 14 hours a day and in fact even more than 14 hours a day. [...] the patient, in all of her 'stupidness' (please excuse the word because it is not used lightly), does not understand that if one is working hard and one was tired and one did not do the round and missed out the patient, that would be negligence and a matter for concern. I think my standard of patient care is very high indeed and to a large extent the majority of my practice works out very, very successfully."

And as regards his alleged bad record, Miller says: "I receive many more of my patients than other practices do, on a word of mouth basis [and] my practice is thriving, therefore the reputation and the record can't perhaps be as bad as the patient makes out. [...] the patient, once again, I'm afraid, is talking absolute nonsense..."

Now whatever you may think of this – there's one thing you can't deny: Miller's letter is not by any stretch of the imagination an admission of liability. So one can only wonder why the HPCSA chose to respond by saying: "The Committee resolved that an inquiry into your conduct be held by a disciplinary committee [...] you will be allowed, if you so wish, to pay an admission of guilt fine of R10,000 without appearing at an inquiry." To which the feisty surgeon responded:

"I've done nothing wrong, so I won't pay the fine. I'd rather have the enquiry, in fact I insist/demand an inquiry into my conduct at this stage. The crookedness, corruptibility of you trying to make R10,000 out of me prior to any enquiry will be gone into and debated at a later stage, when I have had an opportunity to seek some advice on the matter. I'm happy to face you on the subject any day." As he put it to *noseweek* on the phone, it's a bit like a traffic cop who pulls out his ticket book before saying "slip me R500 and this will go away".

In fact Dr Miller raises an interesting point – why, when a doctor denies liability, does the HPCSA invite him to avoid a bothersome enquiry by paying a fine (a relatively small one to a high-earning surgeon with better things to do)?

(Miller told *noseweek* that he knows surgeons who have paid rather than appear.)

How on earth does an admission of guilt fine benefit anyone? It certainly doesn't benefit the complainant, who knows full well that the doctor doesn't really accept responsibility, and has simply paid his way out of

She had to admit herself to the Milpark clinic, where a doctor told her that she was a "piece of scrap" and that he couldn't help her

a sticky situation. And it certainly doesn't benefit the public, which has a very strong interest in having complaints properly investigated, and in having appropriate sanctions imposed (like the suspension of a negligent doctor).

The HPCSA's legal chief, Advocate Boikanyo, promised to answer *noseweek's* questions but he didn't. Perhaps he can't. ■

Nedbank's lying game

Judge gives fibbing branch manager short shrift

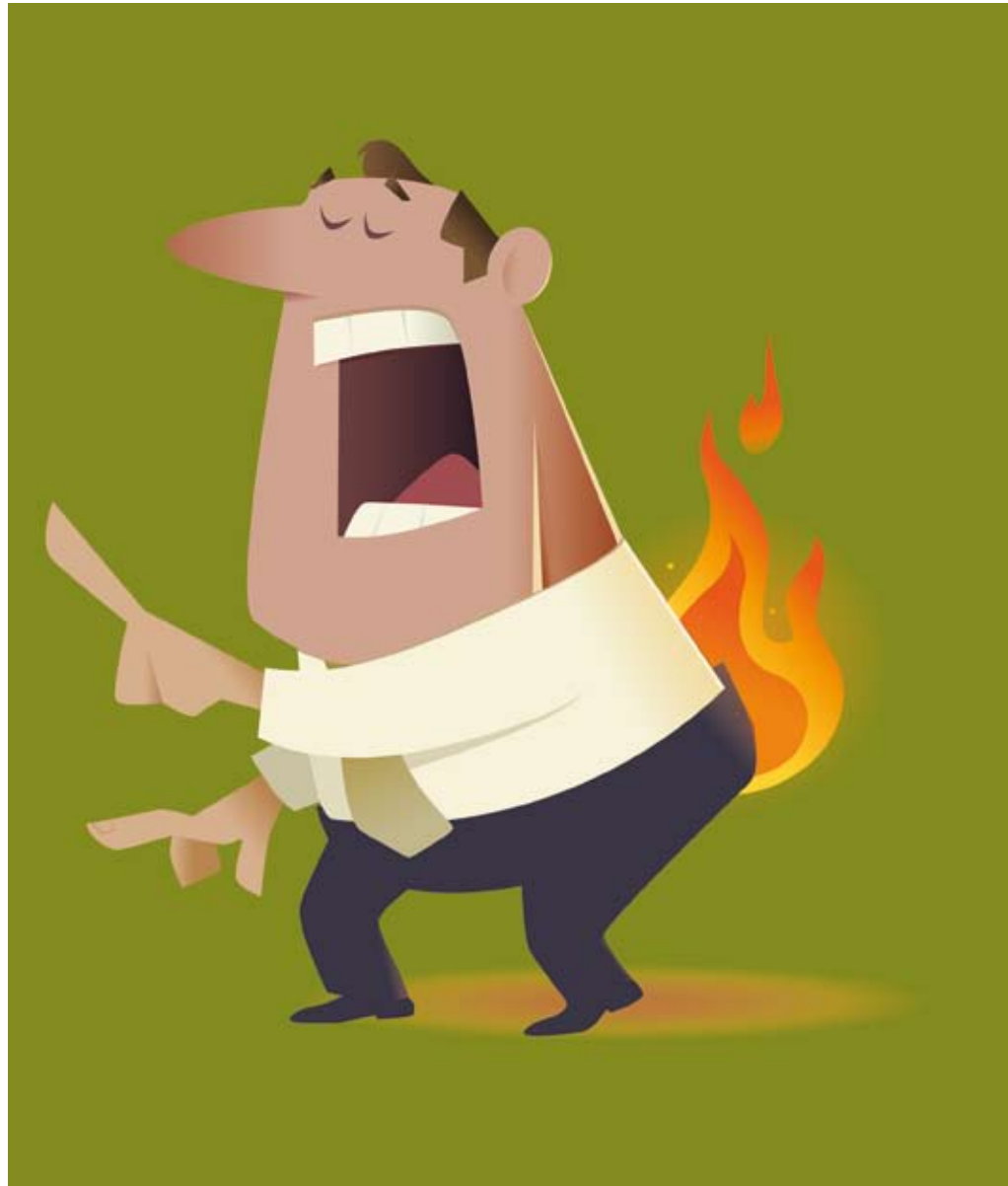
THE NATIONAL CREDIT ACT of 2005 changed the financing landscape quite dramatically – credit suppliers are now required to act with a modicum of responsibility, and treat their victims, sorry, customers, with an iota of respect.

Section 129 of the Act is an important provision, because it says that before a credit supplier sues a customer who has failed to make payments, it must first send a notice proposing that the matter be referred to a debt counsellor, or the like, in order to agree on a plan to bring the payments up to date. Only if the customer fails to respond within ten days, can the credit supplier sue. Section 129 is, no doubt, a pain in the butt for big moneylenders like banks.

In 2006, two sisters, Zelda de Villiers (50), a teacher from Durbanville, and Ronelle Miller (46), a secretary from Brackenfell, bought a property in the Stellenbosch area as an investment. They paid R171,000 for a plot, with the idea that they would build a house and let it. They took out a Nedbank “building loan”, secured by a mortgage bond, and, because the house was finally completed in 2008, the first payment only became due on 1 September 2008. In the mortgage contract the sisters gave the address of the property as the address to which all notices and legal processes should be sent – the so called *domicilium citandi et executandi*.

Zelda and Ronelle missed the first few payments, apparently because the tenant was refusing to pay. When that problem was resolved they started making payments to Nedbank but, in July 2009, the tenant again defaulted. The sisters made some enquiries and found to their horror that the house had been sold, and that the rental had been paid to the new owner. How could this be?

It turned out that on 17 February 2009 Nedbank had issued a summons against the sisters, claiming repayment of the full amount of the



loan of R445,000 and the right to sell the property, based on the missed payments. Attached to the summons was an affidavit signed by a “manager” of Nedbank, one Lutchmana Pillay, in which he said that one of his duties was looking after the affairs of Zelda and Ronelle in terms of the home loan, and that on 30 September 2008 a section 129 notice had been sent to

them. As there had been no response to the notice Nedbank was entitled to sue.

It further transpired that the summons had been served by the sheriff by affixing it to the door of the house, that no appearance to defend had been entered, that on 6 May 2009 default judgment had been granted and a writ of execution issued, and that

the property had been sold on 8 July 2009. Transfer had, however, not yet taken place.

So on 12 August 2009, Zelda and Ronelle applied to court to have the judgment rescinded and the attachment set aside. Although the sisters claimed that they had not known about the summons, their main defence was that Nedbank had not complied with section 129 of the National Credit Act, in that it had not sent any notice. And they made the point that it was interesting that Pillay had not attached a copy of the notice to his affidavit. The sisters also pointed out that on 24 July 2009, prior to instituting the proceedings, their attorneys, Chris Fick Associates of Cape Town, had written to Nedbank's attorneys, Smuts Kemp & Smal (who practise in Bellville), asking for a copy of the section 129 notice, only to receive one of those letters that bring home just

proudly: "I have however managed to locate a copy of the notice in respondents' records and I annex it hereto marked LP3." And sure enough, attached to his affidavit was a letter, dated 30 September 2009, that said all the things that section 129 requires the credit supplier to say. The letter was addressed to the sisters at Zelda's postal address in Durbanville. The letter was sent by Nedbank in Braamfontein and the signature, although unclear, was most certainly not Pillay's. So clearly Pillay of Durban had not had any personal involvement with the letter that was sent. And there was no proof of posting.

Apparently sensing a problem, Nedbank filed a third affidavit from Pillay. This time he said that the reason why the notice was sent to the postal address in Bellville was because this was the address appearing on Nedbank's computer, as Zelda and Ronelle had asked for all correspondence to be sent there because they didn't live at the property. To which the ladies answered archly: if you knew we didn't live at the property, why didn't you send a copy of the summons to our postal address? And, once again, where is the proof of posting?

At the hearing, Nedbank's counsel

how damaging the decision to replace Latin 1 with *How To Be An Arsehole 1* in the law curriculum actually was:

"We are prepared to assist on behalf of Nedbank with all reasonable enquiries, but unfortunately cannot create a defence for your client or your offices [...] your letter under reply is with respect nothing more than a fishing expedition to attempt to find a defence [...] you are in possession of the affidavit by Lutchmana Pillay and we fail to see why you need a copy of the Section 129 Notice [...] it is therefore not required for us to provide you with any further documents."

Nedbank obviously contested the application to rescind the judgment, and on 26 August 2009 Pillay signed another affidavit (again in Durban), in which he admitted that he had not filed a copy of the notice with his previous affidavit, but declared

said the registration slip had been mislaid. Judge Veldhuizen gave the bank short shrift. On 2 November 2009, he rescinded the judgment and set aside the attachment. It was quite clear to the judge that, if a notice had in fact been sent, it had been sent to the wrong place. But he clearly didn't believe it had been sent. Judges presumably can't say "you're lying, you miserable bastard", but they can say this: "It is submitted on behalf of the plaintiff that the registered slips or proof of postage have been mislaid. This submission is based on inference. I do not accept it. The plaintiff could very easily have obtained a duplicate copy of the registered slip and, in my view, it is more probable that this was not attempted because Mr Pillay knows it does not exist."

Which leaves *noseweek* wondering – was Pillay told to lie; or was he just trying to save his job? ▣

Sensing a problem, Nedbank filed a third affidavit from Pillay

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The owner of Decodance club, in the basement of the Standard Mills silo at The Old Biscuit Mill Complex, Cape Town, accuses his landlords of obstructing his business

Tenant is led a merry dance

Running a music spot at Woodstock complex sucks, says club owner

EVER BEEN CLUBBING at Decodance, Cape Town's club for older rockers who like their music more Led Zeppelin than Lady Gaga? The club at the Old Biscuit Mill in Woodstock, where that wonderful organic market takes place each Saturday? The club that runs a sports bar, where guys bored with being dragged around cheese stalls can slip off to watch a game over a pint? You've never noticed the place! Well – you've already grasped an important element of this story.

Decodance owner Stephen Leith claims he's being unfairly forced out of the Old Biscuit Mill, and he's pointing an angry finger at its high-profile owner-developers, Nick Ferguson and Jody Aufrichtig. He's freaked out enough to be taking them to court, with accusations flying that the duo are intent on ruining his business. Ferguson and Aufrichtig made a name for themselves a few years back by buying a string of properties in Long Street, among them the New Space Theatre, the old Metropole Hotel (now Grand Daddy Hotel), and the Daddy Long Legs

Hotel. They've received plenty of plaudits for saving bits of Cape Town's heritage – though not everyone is completely enamoured. One Long Street landlord alleges that the run on property there has led to inflated rents and the loss of the street's Bohemian character.

When Ferguson and Aufrichtig bought the old Pyott's Building, and transformed it into the Old Biscuit Mill – a collection of designer/specialty shops and offices, which houses an organic market on Saturdays – they also asked Leith, then a full-time property broker, to find them a night-club tenant. After thinking long and hard, the old rocker decided it was time to go back into the nightclub game and cater to the crowd who prefer rock to trance.

Leith's quite a character: after dropping out of school in standard six, he ended up working in the music industry, but lost everything in 1994 when a club he ran in Durban failed. Virtually penniless, he moved to Cape Town and lived for a while in a garage, before resurrecting himself as a property broker, specialising in nightclubs, restaurants

and the like.

Thus it was that, in December 2005, Leith signed a three-year lease for a basement in a building that was once a mill and is now a piece of national heritage. On 1 July 2006 Decodance opened its doors.

Leith claims that it was understood that, as the only tenant operating at night, he would, after hours, be able to use all the parking – and free of charge. This wasn't spelt out in the lease, but Leith says it was implicit in the provision that reads: "Parking paid for is rented from 06h00 to 18h30 on a daily basis".

Access to plenty of safe parking was of great concern, because, says Leith, Woodstock in those days was pretty dodgy (some say it still is), and there was no way a club would succeed if the crowd coming to shake their stuff had to park on the street. Leith claims that the developers subsequently made the same promise to a tenant who was opening a restaurant called Shout (now B-Lounge), but there was still enough parking for the two businesses.

Later that year (2006) the landlord/

developers began operating the now famous Saturday organic market. Leith saw an opportunity to make some money by operating as a sports bar during the day on Saturdays, and invested in a large screen TV and the necessary contracts. But then, in August 2008, the landlords decided to have a large tent erected for the market each Saturday – right outside Decodance.

The tent, which houses the decor section of the market, totally obscures Leith's signage and access to Decodance is completely blocked. To add insult to injury, says Leith, the developers then allowed an informal bar to operate within a metre of his premises. Worse was to come – the tent started going up on Friday nights, so the nightclub business was badly affected too. (After vociferous complaints, the landlords agreed to erect the tent only on Saturday mornings.) Leith estimates that he's losing some R14,000 in turnover each Saturday.

On 1 December 2008 Leith renewed his lease, despite being in serious dispute with the landlords. His renewal letter was, it must be said, unusual. Leith began by saying "I write in the sincere hope that the various problems that I am experiencing as your tenant can be adequately resolved between us as respected businessmen" – and followed that with over seven pages of gripes. He concluded by exercising his option to renew the lease for a further three years.

But things just got messier and murkier: The landlords first claimed that Leith was in breach of his lease and that his renewal was invalid, then there were talks of a steep increase in rental, followed by disputes as to whether Leith's evening patrons could park free of charge.

A meeting involving attorneys took place in July 2009, but, Leith claims, although the landlords agreed to deal with the issues he raised, they took no action. As a result Leith resorted to litigation – he's applied for a court order to prevent the landlords from erecting any kind of obstruction in front of Decodance, restrain them from obstructing his signage or business, provide free parking after 6.30pm, give him full and beneficial use and occupation of premises, and declare that renewal of lease was properly exercised. The matter is, of course, being defended.

This is all pretty run-of-the-mill, except that Leith is claiming that dirt tactics are being used – for instance

that Ferguson and Aufrichtig overstated the floor area in his lease, thus causing him to pay a higher service charge than was necessary since day one. He says that the landlords are staging all sorts of evening events at the Old Biscuit Mill, like school parties that involve underage drinking, violence, and nasty bouncers. And these events mean there is no parking (free or otherwise) for Leith's patrons.

He also complains that, though the large tent outside his club is now being erected on Saturday mornings, smaller tents go up every Friday – thus gobbling up the parking space. There's more. Leith claims that the landlords ripped him off by R80,000 a few years back when they refused to pay his commission on one of two deals he secured involving a tenant called Cape to Cuba.

In short, says Leith, although Ferguson and Aufrichtig have the image of two nice young guys who saved the city, they ruthlessly do whatever it takes to get what they want. He cites the example of a woman who had a club called The Lounge: he says that when the landlords wanted her out, they dumped all her stuff in the street and removed the floorboards to make the place uninhabitable, thereby thwarting an interdict the woman obtained.

All in all, Leith believes the duo want him out so that they can develop the part of the building he now occupies into offices.

Approached for comment landlord Ferguson described Leith to *noseweek* as "a squatter", claiming that his lease was not renewed beyond 30 June 2009, and that their lawyers are taking steps to evict him. He could barely disguise his contempt for Leith.

Ferguson also pointed out, in an email to *noseweek*, that, had Leith "exercised his option to rent and we had increased the rent by 10% that would have made his rent R6388. [...] we proposed the rent to go up to R9950 (R41/sqm – the average rate in the Old Biscuit Mill is R60/sqm)".

Ferguson also claims that no agreement was made concerning parking – "in his lease, verbally or any other way". And the tent? "The tent is outside his rented premises and not part of what

he rented." What of the smaller tents? "Mr Leith is not renting the open space nor the parking."

Ferguson denied that the area of the premises rented to Leith had been overstated. As regards the evening events that Leith is complaining about, Ferguson declared: "We had approximately five evening events over the last year, in space not rented by Leith. It is our prerogative to rent our space." He denied that Leith had been short-changed on a deal involving Cape to Cuba: "Why would Mr Leith bring this up more than two years after Cape to Cuba moved in – I am sure he would have approached the courts to recover money if it were due."

He did not deny that they have plans for the building: "We submitted plans about three years ago to renovate the

Leith believes the duo want him out so they can develop the part of the building he now occupies

space above him; these plans were approved by council. We are not going ahead with this building at the moment – it is not the right time to do it." Ferguson ended by telling *noseweek* that "the credibility and education of your people making these claims is seriously low – Mr Leith has a Standard Six education". (Apparently the developers are in the process of doing a huge, very lucrative deal with government; maybe it's time they were told the President achieved a Standard Two.)

So, no real comment from the landlords on the claims regarding the evening events, nor about the way in which the tenant of The Lounge was treated. In fact, little attempt to correct any impression of some pretty hard-arsed landlords, or an inference that they either want Leith out so that they can develop the building, or that they are happy to have him but only if he pays a rental that is more in line with what others are paying.

All in all, *noseweek* doesn't fancy the prospects of Cape Town's grey-haired rockers keeping their turf at the Old Biscuit Mill, but we'll keep you posted. ■

Yet another bad day at the office for Investec

IT FALLS TO NOSEWEEK to record yet another bad day at the office for Investec Bank's collections department. Well, not quite: in fact it was the alert Grahamstown correspondent of the *Despatch* newspaper in East London who last month reported that one of the companies in Sandton property developer Zunaid Moti's Abalengani group has been ordered into provisional liquidation by the Grahamstown High Court.

Noseweek readers have long known that the flash-trash young millionaire (the *Despatch* calls him a "high-flyer") Moti owes Investec more than R1bn – and that by now he has been in arrears with his monthly repayments for at least a year (*noses*118,119&120).

The Moti company now in provisional liquidation, is called 85 Grayston Drive Developments (Pty) Ltd as it owns the undeveloped 2954 sq m property at that Sandton address, the

property is encumbered with two bonds in favour of Investec, for a total of R53m. However, it was not Investec that applied for liquidation, but Johannesburg businessman Vivien Natasen, who is owed a mere R8.8m by this Moti company.

What might be of some concern at nearby Investec House is this: If Natasen has his way, the liquidation will result in Investec's bonds being set aside, leaving the bank to compete for its money on equal terms with Natasen and other creditors.

According to court papers, Moti had intended erecting a "very exclusive" commercial office complex on the Grayston Drive property. Natasen had wished to buy the entire third floor of the proposed building, for over R40m, and in 2006 paid Moti a deposit of R8.8m. But construction never began, and in 2008 Natasen obtained a court order declaring the sale agreement



void, and ordering Moti's company to refund Natasen's R8.8m deposit.

In the meantime two mortgage bonds had been registered on the property in favour of Investec Bank, for R13.6m and R40m respectively. In October 2009 Investec concluded an agreement with Moti, in terms of which the bank took effective control of most of the properties owned by the Abalengani group – including the one at 85 Grayston Drive.

Investec had then proposed to Natasen that if the property was sold for an amount in excess of the R53.6m mortgage bonds, Investec would use the surplus to pay him out his R8.8m. Natasen did not fall for the ruse: he knew, he said, that the property was worth "no more than R12m" and there was therefore no prospect of recovering any money were he to go along with Investec's proposal.

Natasen argues in his court papers that the registration of the bonds in favour of Investec Bank constituted a so-called "disposition" way beyond the company's means and the value of its assets – the R53m mortgage by far outweighed the R12m value of the undeveloped property. In terms of the law, if a disposition of property was not made for the value of the property it could be set aside in insolvency.

Natasen told the court: "I submit that there are reasonable grounds to believe that, upon a proper investigation of [Grayston Drive Development's] affairs, and in particular the circumstances surrounding the granting of mortgage bonds to the value of R53.6m in favour of Investec Bank, a



FINE MUSIC RADIO
101.3

liquidator may recover proceeds for disposal for the benefit of unsecured creditors or the general body of creditors.”

In a subsequent radio interview by *Moneyweb's* Alec Hogg, Moti denied that 85 Grayston Drive owes Investec the full R53m covered by the bonds. The bonds, he said, had been to cover anticipated development costs, and that “only about R30m” had been paid out by Investec against the bonds. (Which also calls for explanation, since no development has taken place.)

Moti also told *Moneyweb* that his company and Investec – both cited in the liquidation application – had

decided for “strategic reasons” not to oppose the application.

Might these reasons include that, right now, it suits neither of them to have to state anything under oath on the public record about their joint affairs? Another question for *noseweek* readers to ponder: why was the application to put a Sandton property company into liquidation brought in the far-away Grahamstown High Court? Answer: because the company's registered office is in the even more distant country town of Cradock.

(*There's a R5 reward for the reader who comes up with the best explanation for that – Ed.*) **m**

Gordon's Bay: DA incompetence

BACK IN MARCH 2009, councillor Ian Neilson (currently City of Cape Town Deputy Mayor), then chairperson for the powerful Mayoral Committee for Finance, Economic & Social Development, told *noseweek* to forget it when we asked to see the lease agreement that had handed a prime Gordon's Bay property to Alexander Acavalos' Ocean Diners cc (*nose114*).

Said Neilson: “I am very suspicious of what happened in some of the old municipal fiefdoms. But I cannot go on a wild goose chase on a 20-year-old decision when we can do nothing about it now, and when we have more than enough work on our plate.”

But *noseweek* didn't give up – and we're now in proud possession of a copy of the aforesaid agreement. And, alas, it seems that, contrary to councillor Neilson's claims, there has long been plenty of scope for the City to intervene in the matter.

For instance, Clause 9 of the agreement says: “The lessee [Acavalos, aka Ocean Diners] shall not assign this lease nor give occupation of the said premises or any portion thereof to any other person, nor shall it let the whole or any portion thereof without the prior consent of the lessor (City of Cape Town) given in writing under the hand of the Town Clerk. The sale or disposal of more than 50% of the shareholding in the lessee will be regarded as an assignment of the lease and may not be made without the prior consent of the lessor as aforesaid.”

Since Ocean Diners has repeatedly sublet the premises (to various operators of a Spur restaurant, for up to R65,000 per month), without getting municipal consent, the City certainly did, and does, have sufficient legal grounds for terminating the agreement.

Additionally, the agreement required Ocean Diners to demolish the original property and erect a new one, by not later than 30 November 1988. Yet, since 25 May 1988, when the lease was signed, no plans for such a development were ever submitted to the City for approval – suggesting that this condition of the lease was not fulfilled. What is not clear is whether Ocean Diners collected the City's 50% contribution towards the erection of the new development, as provided for in Clause 3.6 of the agreement, and if so, how much the Council paid.

Noseweek's source in the City of Cape Town says there are several other properties which have similar agreements in place: “The main problem with these agreements is that the City of Cape Town is bound to grant the lessees the first option to rent at the end of the lease. At R10 per annum, who wouldn't want to exercise that option?”

The Ocean Diners lease is due for renewal in October 2013, but with councillors like Ian Neilson running things, who show that they aren't willing to take action against tenants who seem to do as they please, this and other prime City properties may well continue to earn good money for private individuals. **m**



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Enemy of bullshit

WE MUST CHERISH Rian Malan. Just as the *bien pensants* subside into semi-comatose acceptance of South Africa's bewildering contemporary contradictions, the author of *My Traitor's Heart* shuffles back onstage to scour the mind and heart with an enormously energising selection of creative journalistic observation in *Resident Alien*.

It's a hugely refreshing exercise in times dominated by mealy-mouthed public debate.

While our public broadcaster interviews itself lovingly in the mirror of political expediency, Malan plays the classic investigative reporter, often risking life and limb to produce an intensely readable range of features on astonishing ventures into the interiors of remarkable human beings. While worthy folk are dangerously distracted by the vocabulary of political correctness, he has the courage to say what he sees and hears. And feels and believes.

The insights are sometimes poetic, the research is impressive and he shares lots of disgraceful fun with the reader. Malan is cunning enough to anticipate a certain amount of personal criticism: he confesses to a thread of sentimentality here and there – and he exploits a fine sense of theatre to dramatise a memorable cast of characters.

Sometimes melancholy obtrudes – but then, who wouldn't blub at some of the baffling excesses his curiosity reveals?

Most readers perceive him as a tribalised Afrikaner. *Alien* reveals the shock-horror truth that his mum was English-speaking, and mad keen to flourish the Union Jack. There are those who imagine that his often acid castigation of the South African *rooinek vulgaris* constitutes deep-seated

LEN ASHTON
REVIEWS

Resident Alien

(Jonathan Ball Publishers)

By

Rian Malan

Afrikaner prejudice against the sons of Empire. Truth be told, as far as Malan is concerned, it's a pox on all our warring benighted South African houses. Though he does appear to be partial to Zulus.

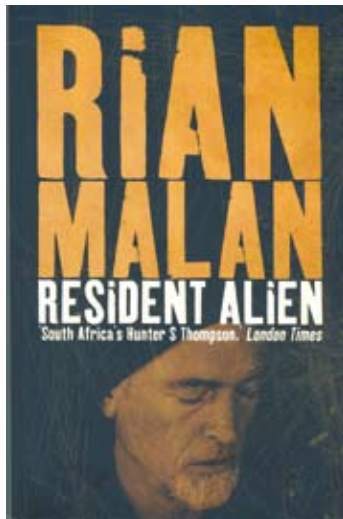
One of the most riveting features is titled "Those Fabulous Alcock Boys", and it tells a vigorous tale. The two blonde Alcock boys were raised in a Zulu mud hut by formidably idealistic parents who decided that their offspring should be taught the arts of survival the ancient African way. The startling outcome? Read the book.

By contrast, "The Last Afrikaner" presents the astonishing survival, culturally intact, of an ancient white dame, forgotten by history, somewhere near Mount Kilimanjaro. She has honey-coloured sons and grandchildren, lives in a primitive hut, but continues to define herself as a *boer*.

Malan marches to his own drum. The cover picture makes him look like a miserable git, but he is a beguiling story-teller. The adjective "passionate" is grievously abused in South Africa these days (job ads seek "passionate sausage-makers", and apparently passionate municipal clerks proliferate), but it is appropriate as applied to the walkabout Malan.

He is a maverick, but not for the sake of it, perhaps moulded by the *On the Road* likes of Jack Kerouac and his ilk.

Now he is grown to wry wisdom, but remains a fierce enemy of bullshit. Let the PC beware. **W**



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WHO NEEDS TO VISIT the big city, or be a dedicated nose-hound, to catch the whiff of a juicy fraud? Right here, hidden away in this narrow country life, scribbling away for my small-town rag, *Guardian Yase Mpumalanga* (formerly the *Umjindi Guardian*) fraud stories come my way.

Of late I have been knee-deep investigating something that may well be the most disturbing – and, it seems, all too common – acts of fraud plaguing the nation. I'm talking about the defrauding of intestate estates (estates left without wills). A truly big problem, it turns out, in local black society.

The scenario goes like this: The deceased, usually a man, dies without leaving a will; what he does leave behind is a common law wife and their children – but, nearly always, he also leaves behind a lover, and sometimes more than one. And this is where the problem begins.

No sooner is the man's death announced, than the lover swoops in like a vulture, and has herself appointed administrator of the man's estate. To secure this appointment, the lover convinces the magistrate's court that she is the legal or "rightful" spouse of the deceased. This she does by first providing a fake lobola certificate, in most cases secured from the local chief's office, and then by under-representing the value of the estate. (If an estate



Dudu Shongwe with children Vusi (left) and Busi

Where there's no will, there's no justice

verifying the certificate's legitimacy.

Now why would someone's own family do this? Sad to say, it's due to anything from discontent with, or even hatred of, the legitimate customary life, or, as in most cases, promises by the lover of a share of the spoils (pension or insurance payouts).

By the time the legitimate customary wife and her children get to court to begin dealing with their husband's or father's estate, they are dumbfounded, devastated and utterly confused to hear that an appointment has already been made – and the lover is now in charge.

Once a lover is appointed she wastes no time in swooping down on the estate's assets, taking everything from cars to every cent the deceased had, either in savings or due from funeral policies, pension schemes or life insurance policies. This leaves the "real" or deserving beneficiaries, the customary wife and her children, with absolutely nothing.

My findings – backed by the testimonies of a string of victimised customary wives and their kids – show that these "lovers" are merciless, ensuring

that the estate is totally cleaned out. So much so that even small children can be left absolutely penniless.

The courts seem powerless to protect the victims. According to the Barberton magistrate's court, in appointing the estate administrator they rely on the documentation (lobola certificate) presented by the claimant (lover) and the testimony of family members. They do not have mechanisms in place to check whether the claims are bogus or not.

The whole thing first came to my attention when I investigated one such case, which implicated Umjindi municipality (Barberton) manager Sibongile Mnisi in allegedly assisting the lover, Cynthia Mabuza, of a municipality employee, Thomas Makwakwa, in being appointed administrator of his estate.

Makwakwa's wife, Dudu Shongwe, died from complications of Aids two days after I interviewed her. Her last words during the interview were: "If that woman (Mnisi) and that girl (Mabuza) had not taken all the money Thomas left for me and the kids I would have been able to go to the clinic to get those pills for Aids."

I did say the thing is disturbing.

Publishing this case in my little rag has brought forth quite a few claims of intestate estate fraud victimisation, just in my little Barberton. If that's the situation way out here, what is it like in cut-throat places like Soweto? Disturbing thought. ■

No sooner is the man's death announced, than the lover swoops like a vulture

is worth R50,000 or less, the appointment may be made by the administrator at the magistrate's court; if it exceeds that it must be referred to the Master of the High Court – and it's easier to get away with fraudulent lies at a magistrate's court.)

But the most shocking aspect of all is that faked lobola certificates are often backed up by various members of the deceased's own family, who give testimony to the intestate estate administrator at the magistrate's court,



Mrs H

MRSH IS ENTIRELY COVERED in cloth, head to foot except eyes, nose, lips and fingers. This cloth is exactly the colour of her skin and her skin is exactly the colour of her eyes and her lips. Her soul too is this colour, a pale greyish ochre, no pink of life. She appears to have been made, body, raiment, soul and all, on some monstrous sewing machine with but one bolt of cloth and matching thread. Mrs H is also entirely covered in righteousness, but no exceptions. To sustain his wife's righteousness Mr H will bring no lustful thing into his home, no rude music, no rude books, rude videos nor any other thing which is rude.

It is a great big home; Mr H has lots of money, see, from genteel investments somewhere around Taiwan, South Korea, thereabouts, you know, where there are no troubles from greedy labour unions nor any such unrighteous culture. Mr H has a neatly trimmed small beard and moustache as required to be a true man and he doesn't talk about his money because he is a true gentleman. He is also a true liberal, allowing his wife to choose all furniture and interior fittings for her home. This is her domain. Here she rules.

Visiting Mrs H's home is like entering an intensive care ward. Neither germ nor insect settles here. No aroma arises here, except when the prevailing sou'westerly wind wafts a wee whiff of Dettol from the direction of a distant bathroom. No picture hangs on any wall, nor any decorative feature. Neither painting nor embroidery nor woven carpet. No mosaic. There is no colourful carpet on any floor nor colourful plant in any pot. Mrs H has chosen an excellent indigenous timber for the great family table in the living room. It is sedulously polished to bring up the grain and a 6mm sheet of plate glass cut to size and bevelled is placed upon it. You cannot rub your hand on the wood and feel its warmth and sniff it. Six chairs are expertly upholstered in fine Harris tweed. Transparent plastic sheeting covers this tweed lest one rub one's bottom

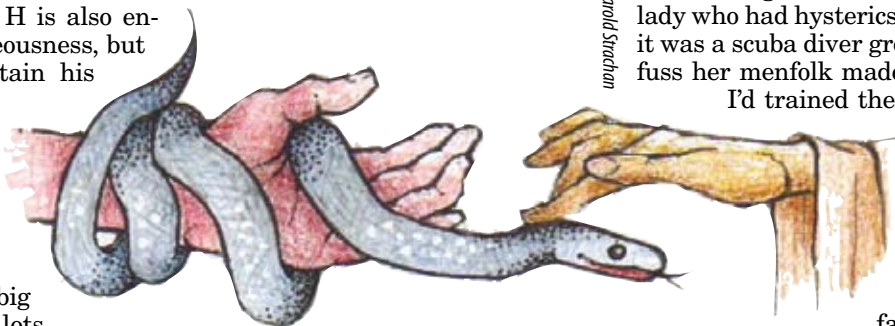


Illustration: Harold Strachan

on it on a cold rainy day and get a sense of warmth.

I sit at this table to discuss a problematic tree growing in my garden next door which Mrs and Mr H fear will shed leaves on their side and maybe fall on the boundary wall at great expense of removal and restoration. Their side is tarmac end to end, smooth as the family table with no single green leaf nor any flower. I explain my tree is a conifer, evergreen, whippy, it won't fall over. While Mr H is very politely drawing up a thing for me to sign that if it does fall over I will be financially responsible, I fall to fantasising about his missus and whether she removes all those drapes to take a shower. I remember such ladies bathing fully clad in the sea with the family when I was fishing nearby, and one day the nice big 15kg fish I was hauling ashore ran up against one such lady who had hysterics because she thought it was a scuba diver groping her thighs. The fuss her menfolk made you'd swear to God

I'd trained the bloody fish to bump against women's fannies, but they calmed down when I presented them with my catch, a Garrick of insipid eating, which fact they didn't know.

Anyway, here I sit contemplating a peep through the bathroom keyhole, schoolboy fashion, when I realise Mr H is suggesting his good lady come to inspect this conifer *in situ* while he goes off to make more money. These things they do, there and then.

She steps gingerly about. Can't you employ somebody to sweep up all these leaves? she asks. And these old flowers? No, I like them, say I, I don't have a lawn, see, and they keep the ground underneath nice and damp and puddingy; there are earthworms there as long as your arm. She hunches her arms up, just in case. The garden is full of hadedas sticking their beaks in the ground. This is a piece of Pangea, man, there are species here from the whole world. Some are classified invasive but I don't mind being invaded, it makes for a joyous jumble. Come over here, say I, I'll show you my snake. SNAKE? She shudders. Ja, say I, a Red-lip Herald, he's not venomous. I lift him up and he wraps around my wrist. Stroke him, I say, he won't bite. She does, hesitantly, she must be forty and never done anything like that in her life. I show her the alpha skink, a lizard, I explain, pre-dating the dinosaurs. I catch a nunu and he takes it from her fingers. This summer glade is dim and cool and alive.

After a bit she turns and moves away. I realise she is weeping. I leave the street gate unlatched and go inside for a cuppa. ▣

Visiting Mrs H's home is like entering an intensive care ward. Neither germ nor insect settles here

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PERSONAL

H & S Loving thanks for all the gifted years of *noseweek*. *P & M*

Deon, give Jhb a miss – it's time to haul the crayfish in. *Martin*

Well done Arniston Rate Payers Association! Keep up the good work. *G CJ*

Barry, sink those putts and birdies will cuckoo on 31st. *PJS*

Memory Clive Clucas blown to bits Ellis-park ANC Shake devised Nyanda escaped TRC. *Joe Lazarus*

Gabi and Matty, keep up the tennis. See you at Wimbledon soon. *R Fisch*

Great news for Arniston. Well done! The good guys always win in the end. *Peter Crawford*

Congratulations to Chardo & Narley on their marriage. *From the Cuzzins*

Please tell everyone not to litter Keep South Africa clean – like it used to be. *RJS*

A healthy and happy 2010 to all *noseweek* readers and their loved ones. *From the Jayes*

If directors of FNB have committed crimes they should be prosecuted. *michael@meharris.co.za*

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