

news you're not supposed to know

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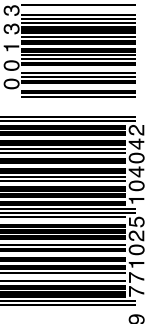
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NOVEMBER 2010

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noseweek

NOVEMBER 2010

ISSUE 133



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Arms wrestling

What a movie your lead story about the ANC's role in the cover-up of apartheid's rotten secrets would make! Since *nose131* and now *nose132* I have trawled the media to find the obvious follow-up stories – but nothing. It was described as “probably the most serious case of sanctions busting and money laundering yet recorded”, so it boggles the mind that it's not front page news everywhere.

This is exactly why the ANC wants to muzzle the media. (Most already have been – clearly.) They've perfected what the Nats started, learned from their mistakes in being found out with the arms deal and, no doubt, are looking for another round of deals. They've done the navy and the air force. A little birdie happened to mention the army is next in line for some new toys. Keep it coming Mr Nose. Tell us all.

Belinda Shaw
Hout Bay

Then there's Eskom and Hitachi – and R500bn-worth of nuclear power stations! And steel deals. And oil deals. And Vodacom shares. And, and, and... If you had all that on your commission/kickback/BEE agenda, would you be wanting to do anything for the press and the people – other than to tell them to shut-the-fuck-up? – Ed.

One doesn't have to be a rocket scientist to know they've got lots to hide.

Archer
Karkloof, KZN

Great Transnet Robbery

In your last issue, SA van der Spuy of Cape Town (*Letters nose132*) related how Transnet had upped its profits by robbing its own pensioners, as a conse-

Hot foot

As an insurance broker who has specialised in marine and transit insurance, I read your article “Hot Wheels” in *nose131* with some interest.

I find it hard to believe Time Freight's claim that they had no insurance. In their letter they repudiate the claim “because the cargo was insufficiently

The ANC have perfected what the Nats started and are, no doubt, looking for another round of deals

■ When are we going to have the names – like who the Gnome is and who the other conspirators are – or are you aiming to keep us in suspense? What intrigues me most is why the ANC haven't blasted this whole affair wide open and tried to recover these huge amounts.

quence of which the value of his pension has halved since 1996.

With that in mind, your readers might also wish to note that Transnet's latest annual report reflects that acting CEO Chris Wells was paid over R10m in salary and various other

forms of remuneration over the last financial year – an increase of more than 40% on an already massive salary.

In addition, Transnet under Wells' stewardship recently awarded striking workers wage increases of more than 11% – some three times the inflation rate.

While pensioners continue to be short-changed, it seems that executives and staff are well looked after in this state-owned entity.

D Wolpert
Rivonia

It has been duly noted in the little black book. – Ed.

or not correctly packed for road transportation”. Not too many laymen keep those phrases on the tips of their tongues, but the Institute of London Underwriters Cargo Clause A has an exclusion which relates to “loss, damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject matter insured” – which suggests there may have been a policy.

I advise my clients not to rely on transporters' insurance unless they have proof that appropriate cover is in force AND that premium payments are up to date. (But then, I've also had an instance where the road haulier had insurance, but when the truck and its load went up in smoke, pocketed the entire insurance payout and disappeared.)

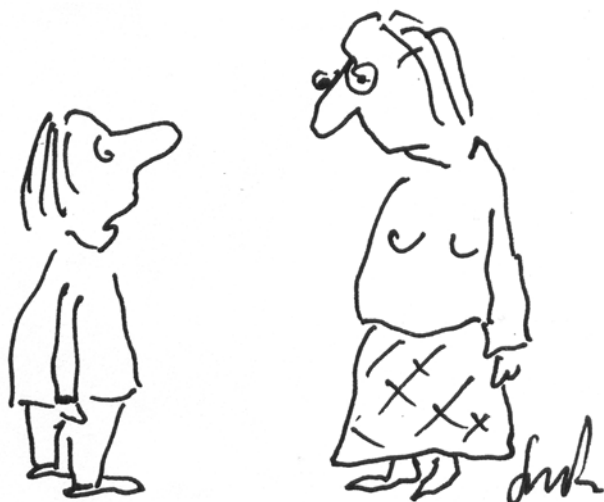
Terry Ortlepp
Constantia

Day of Bekhining

Once again Bheki Mashile has hit the nail on the head when it comes to life on a commercial farm in South Africa. Having once farmed myself, I can relate to the experiences of having to

Gus

MODERN PARENTING No. 37



“Mummy, was I an unintended consequence?”

Stent

deal with the peculiar and frustrating tendencies of the local populace.

Bheki, keep up your sterling efforts at exposing fraud, graft, theft and corruption in your part of this beautiful country. I hope that you live to a ripe old age and can one day tell your grandchildren how you helped improve the lives of the residents of Barberton.

It's a pity that we can't get a copy of your esteemed journal here in KZN.

Nick McConnell

Howick

Bheki, the empire beckons! – Ed.

Poor me

Despite its claims to being “the warmest place to be”, the Durban City Council displays racist bias when it comes to extracting payment from debtors.

Some years ago I challenged the methodology around the now defunct JSB/RSC levies, as it prejudiced enterprises with a high turnover/low profit model and those who derive their income from commission, like estate or travel agents.

The courts were not interested and I ended up with a judgment against me of R260,000.

The Council are extremely pro-active in chasing up this debt but show no interest in recovering the R200m owed by hostel dwellers and R600m from township residents for arrear rates and water (of which R160m is written off).

I can only assume that it is because I am a white person/business and have a fixed address and perhaps some assets.

So much for our non-racial, democratic society.

Tony Ball

Durban

Our readers will know we have little sympathy for the Durban council – but perhaps it makes more sense to collect from people who might pay, rather than waste more money trying to collect from people who can't? – Ed.



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Forward to the past

HOW BAD IS "THE SITUATION" in South Africa, really? That is the question we are most often asked, not only by foreign visitors but by our own readers. Let's think about it. Our lead story about the goings on at the SABC is a laugh a minute – except that the collapse of the national broadcaster is no laughing matter. On page 8 we have yet another story which demonstrates how the country's companies and intellectual property register (CIPRO) continues to be gutted and discredited as a result of rampant corruption and incompetence.

City councils, provincial governments, state departments one after the other; Eskom, Transnet ... the same story of corruption and incompetence is told about all of them, week after week. And then there's the government's shameful decision to close down the arms deal investigations. And its continuing threat to muzzle the press. We might as well call those two the terrible twins, because they are umbilically linked.

It is important to remember that the bribery and corruption involved in the arms deal has its origins in Europe, where the arms dealers follow a centuries-old tradition: European traders in Africa have always been ready to exploit any moral, material and intellectual weakness of the indigenous leadership that they might be lucky enough to discover. There is plenty of evidence to suggest that the ANC leadership were actively encouraged by European arms vendors and their governments to solicit and accept bribes, and that then minister of defence Joe Modise and his aides succumbed and took huge bribes.

And then there's our president. It is fairly obvious that a politician who has multiple wives and a score of children cannot support them in a style appropriate to their status – without "help from friends" and "gifts from admirers". Given the available evidence, and on the overwhelming balance of probabilities, Jacob Zuma solicited and benefited from arms deal bribes.

Most disturbing of all: he was elected president despite the evidence of corruption.

Why are we so relentlessly critical of these developments? Because we fear for the loss of privilege? Maybe. But, even more, we do so from pity for those growing millions who have no job, no home, no health care; for those who get such lousy schooling that they cannot possibly make it through university – unless, of course, we reduce those institutions to sham universities that are happy to award "affirma-

tive" sham degrees.

What, one asks, would they be affirming by giving such degrees? The insulting suggestion that black South Africans are hopelessly, irredeemably incompetent? That the only hope they might have is an irrational one?

That somehow, by destroying their own crops and slaughtering their own herds – for that is what the ANC is doing by destroying the country's infrastructure – they will succeed in escaping the challenges of a more modern, more technologically sophisticated outside world? A world that requires its children to have had 12 years of thorough education before they are able to participate effectively in a modern industrial economy? An "alien" outside world so annoyingly represented by "white" South Africans who, by an irrational act of black self-destruction, might be driven "back to where they came from", thereby miraculously solving the problem?

Which, it is said, is what Nongqawuse hoped to achieve nearly two hundred years ago with her claims to that insane "vision". What in today's world might be called the "Zimbabwe option". Sure, most of the latter country's white population fled "back across the sea" – but then so did half its black population – to South Africa. Robert Mugabe is the ultimate symbol of a leader who has been successfully corrupted into delivering his people into starvation – thereby exposing them to a new level of exploitation.

Two centuries ago it was customary for "favoured" tribes or chieftains in British Cafferria to be paid off – in brandy and trinkets – for delivering up their own or neighbouring tribesmen into slavery or other forms of economic exploitation. Today all the evidence points to South Africa's leaders and its dominant political party having been corrupted and paid off to much the same end. What else was the arms deal but a case of European traders exploiting the moral and intellectual weakness of our leaders in order to rip off the entire nation?

Corruption creates the illusion of success. All that the grand cars and grand lifestyle enjoyed by various of our political leaders proves is that they have been successfully corrupted. Don't they see the implied insult?

Now the BIG question: will the media be muzzled before they are able to warn voters of the impending catastrophe, should they continue to support such corrupt and delusional leaders?

The Editor

Checkers takes the gap

PROPERTY DEVELOPMENT may appear complex because of the many environmental and social conditions that must be met – but actually it's quite simple. All developers need is a slippery grasp of the law, as the highly controversial Checkers development in sleepy Hermanus has proved. A bunch of determined characters vigorously opposed a big retail, residential and office development by Checkers, in the already constricted town centre (noses97,98&102), only dropping their court action when Mr Whitey Basson at Checkers announced that his company would ask the court to award costs against the objectors as individuals, rather than against their voluntary organisation, should Checkers win the case. The development went ahead.

One of the conditions imposed by ANC Minister for Environment Tasneem Essop was the provision of low-cost or "gap" housing, which meant flats in the development for people earning no more than R7,500 per month. Checkers made no fuss about this requirement; it even used it to advertise the "inclusiveness" of the new development.

The super-sized centre is nearing completion but people are saying it bears little resemblance to the drawings they were shown, in terms of either scale or architectural style. They also note that there are a rather large number of luxury apartments – 35 to be precise. As these range in price from R2m to R3m, it's not likely that anyone earning under R7,500 per month will be moving in. The developers appear to be targeting a rather special (hitherto untapped) market of well-off folk who think it's cool to live on top of a Checkers.

Checkers has now come clean: "We decided not to comply with the condition [to build gap housing]," said the company insouciantly on 6 September in a report hidden away in the

lapdog local rag. Why? Because "the condition was made applicable to lots of developers in the Western Cape and the Cape High Court has in the meantime decided that the minister did not have the power to impose such a requirement". Instead, Checkers has decided to "give money of an equivalent amount to the Overstrand municipality for housing".

But did the high court judgment specifically deal with this development and, if not, surely the condition still applies? Did the fact that the condition was imposed by a minister from a party that was subsequently voted out influence the decision to ignore the condition? Besides, even if there were no legal requirement to provide flats for poor people, why not do it for reasons of inclusiveness, as boasted earlier by Checkers? Just how much is being paid? When and for what?

A Checkers "company spokesman" referred *noseweek* to a judgment in the case SLC Property Group versus The Minister of Environmental Affairs and Economic Development (Western Cape), where the judge held that the imposition by Tasneem Essop of a condition that a developer of a fancy development in Stellenbosch provide gap housing was *ultra vires* (beyond her powers) and that it should be set aside.

The spokesman went on to say that, in light of the decision, the current minister (the new "improved" DA version) was approached with the suggestion that instead of providing gap housing, the Shoprite Group make an equivalent monetary contribution to the Overstrand council. "The Group's proposal was received favourably by the Overstrand council who will apply the contribution to their housing projects where the most urgent need exists."

No answer to the other questions, so *noseweek* posed them to the Overstrand municipality. And got, yes – "No comment".

Outrageous Plotz foiled in Bantry Bay

JUSTICE HAS PREVAILED in the outrageous case of the Bantry building developers who told one story to the council and another to prospective buyers (*nose127*). On 23 September Judge Louw of the Western Cape High Court found for the plucky residents of Bantry Bay who took on Gregor Plotz and Adriaan Marais (shielding behind companies Midnight Feast 24 and Eco Ventures Property Developers), ordering that the City's decision to approve their plans be reviewed and set aside.

The tricky two planned to build an imposing 39-unit apartment block called The Bantry Bay at the corner of Kloof and Queens Roads, Bantry Bay.

Interesting features of this scheme included the strange and secretive conduct of the City of Cape Town, the fact that the plans submitted and approved by the City differed significantly from those used to market the development (the total number of habitable rooms jumped substantially from 68 to 120), and that the plans concealed the fact that the basement parking was partially above ground.



It's nice to be important

GRAYDON ILDERTON'S STORY gets weirder and weirder. He's the guy who lost two motorbikes, worth some R210,000, when he sent them to the Cape from Gauteng with Time Freight, and the truck caught fire at Three Sisters (*nose131*). Ilderton hadn't taken out insurance because he'd assumed Time Freight had insurance, but the company rejected his claim on the basis that its Terms & Conditions say that goods are sent at the customer's risk.

On the day the story broke Phil Hayes, CEO of The Laser Group (of which Time Freight is a member) emailed Ilderton: "I am keen to meet with you regarding your unfortunate experience with Time Freight, as reported in *noseweek*. I would welcome the opportunity to meet with you. The matter is one that we are taking seriously." Chatty emails followed, with Hayes saying: "Might even try and convince you to use our other services. Presumptuous I know!"

Meetings followed but the matter wasn't resolved. Finally Ilderton came back to *noseweek* with an interesting claim: Hayes had admitted to him that Time Freight was paid out by its insurers for his bikes and the money had either to be repaid to the insurer or paid over to Ilderton. But Hayes was offering him only R75,000 – on condition that he hand R25,000 of that over to a social responsibility programme.

"I find it quite absurd," says Ilderton, "that they only try to negotiate a settlement with me after two years – and only after a *noseweek* article – and then tell me where to invest my money. It's laughable."

A meeting with Hayes added some nuance to the situation. "Although I'm the CEO of the Laser Group," Hayes told *noseweek*, "I only became aware of the matter when the *noseweek*



story appeared. I took the view that, although we'd been correct in law, we could have handled the matter a bit better, especially as Ilderton's company, Nomadik Tents, is an established customer. What I told Ilderton was that we do have an insurance policy intended to deal with catastrophic situations where important customers

suffer major losses, and we feel that we'd like to make a discretionary payment to retain their business. After the Three Sisters incident we put in a claim under this policy, and this included claims from the four bike owners [there were five bikes on the truck, two belonging to Ilderton].

"Our insurer told us that the three bike owners who had their own insurance shouldn't be reimbursed, so they paid us some R600,000, being some R200,000 for Ilderton, and R400,000 for the 20 or so people who put in claims for small parcels. We then took a decision that it would be wrong to reimburse the one bike owner who hadn't bothered to take out insurance and not the others, so we immediately repaid the R200,000 to the insurer.

"The R75,000 I offered Ilderton is a figure I decided was reasonable, and it was unrelated to any insurance monies. The offer wasn't conditional upon R25,000 being applied to a social responsibility programme, it was simply a suggestion. I know Ilderton does things like sponsor black riders and I thought it might be good to team up with him. The whole thing became academic because Ilderton made it clear that he wanted R200,000 or nothing, so we're no longer negotiating. We've no doubt lost a customer, and that's a great pity."

(See Letters on page 4.)

Phoney auditors forge ahead

THERE HAS BEEN much interest, and not a little amazement, at Mr Nose's revelations (*nose132*) regarding the many thousands of Companies and Intellectual Property Registration Office (Cipro)-registered companies and CCs that bear the names of but a few auditors, including current record holder Mr M Hlabano, registered "auditor" of 94,000 registered companies and CCs, and Mr MM Masilela, who's

never been an auditor but is nonetheless "registered auditor" of 82,000 enterprises.

Having dismissed a suggestion that these gents perhaps work for large accountancy firms, such as PricewaterhouseCoopers or DeLoitte, Mr Nose decided it was time for a little footwork, and took himself off to Sunnyside, Pretoria, where the Cipro offices are located. There he spent a pleas-

ant few hours observing the comings and goings in Meintjies and Esselen Streets, where, it seems many of the dubious registrations are transacted.

Along Meintjies Street he found about 20 pavement stalls manned by gents perched behind old-fashioned typewriters, busily cooking the books for aspiring company directors and would-be fraudsters.

If you want to register a company,

Much tap-dancing at Investec

ATORNEY MIKE MURPHY, the man who first brought Investec's alleged illegal phone tapping to the attention of the police in a long and detailed report (*nose130*), has gone over to the enemy: he recently accepted an unusually well-paid job at Edward Nathan Sonnenbergs (ENS) in Johannesburg.

Readers will recall that ENS are Investec's attorneys – and that they were at the centre of the telephone eavesdropping scandal: senior partner “Lennie the Liquidator” Katz has been accused in an affidavit by one of the main conspirators of having played a leading role in the phone tapping scheme, and to have eagerly listened to the illegally acquired recordings of clients' and staff members' private telephone conversations.

Judging by the report Murphy drew up at the time, he could be expected to be a key witness in any prosecution of those that commissioned and carried out the illegal phone tapping. *Noseweek* is sure Murphy has joined ENS for entirely altruistic reasons – and is as sure that he has, inevitably, also been compromised as a witness.

That should have been enough to lift one eyebrow. Now for the other: Stephen Powell, the lead prosecutor in the prosecution of former Investec employee Laetitia Peyper, has recently joined the forensic division of ENS's Cape Town office – which falls under Leonard Katz's liquidations division. The illegal phone-tapping culminated in the prosecution of Peyper (who was then represented by Murphy) and there is reason to suspect that the inside information acquired in the telephone tapping may have been used to pressure Peyper into a plea bargain – without its illegal source being disclosed by the prosecution.



The plea bargain enabled Investec to claim a R62m payout from its insurers, Lloyds.

Earlier this year criminal charges were laid with the police in Cape Town by at least three of the victims of the illegal telephone tapping. The accused are Investec and its directors, the directors of private investigations firm AIN (who carried out the telephone tapping) and attorney Katz of ENS.

The Human Rights Commission has also confirmed that it is investigating complaints against Investec relating to the illegal interception of the private communications of clients and employees.

Thought somehow to be related to these developments is the demotion of the head of Investec's recoveries department, Johan Cronje, and the sudden resignation last month – after 17 years with the bank – of the head of Investec Private Bank, Wessel Oosthuizen.

“It's a great bank and my reasons are entirely personal,” was all Oosthuizen would say when approached for comment.

Cop charged over TK stabbing

FOLLOWING our report on the death of 23-year-old Ntokozo “TK” Mahlangu (“Left to Die”, *nose132*), Metro cop Alvin Naidoo and Vicky Maharaj appeared at Wynberg, Johannesburg, magistrate's court on 12 October. Maharaj is charged with murder; Naidoo with attempted murder, pointing a firearm and assault with intent to commit grievous bodily harm. The hearing was adjourned until 19 October, by which time *noseweek* had gone to press. Both accused are out on bail and were accompanied to court by men who appeared to be bodyguards.

TK's friends – white, black, coloured and Indian – were there in force, TK's erstwhile fiancée Melissa Singh cuddling a tiny white pit bull puppy.



CC or co-op quickly and without any fuss, you go to Cipro, get a CC name reservation document and clip down the street to visit one of these typewriter “agents”.

That worthy slips a pre-signed auditor's letter into his typewriter and inserts the reserved entity name in the appropriate spot. The customer then strolls the 50m back to Cipro's offices, where an obliging government employee enters the data into the internet-based system. You're in business. The whole process – from

reservation to registration – takes an average of two hours.

It could be much quicker, but since you're possibly paying the Cipro clerk to assist in this dubious operation, it can't be seen to be done too fast.

In the interest of accuracy – Mr Nose got it wrong when he named M Hlabano as registered auditor of 94,000 enterprises. The correct figure is 94,010. So who is this busy gent? Believed to be a Nigerian, Hlabano used a Zimbabwean passport to obtain permanent residence in South Africa, where he became an accountant. He has a staff

complement of 11, working in two offices: one in Braamfontein, Johannesburg, and the other right across the street from the Department of Trade and Industry campus, wherein are found the offices of much-maligned Cipro.

However, Mr Hlabano's days as no.1 registered auditor may be numbered. Mr Nose learns that Mr Maphotoma (45,000 enterprises at last count) has forged ahead and is expected to coast past Mr Hlabano any day now. Mr Maphotoma and his alias, MC Diale, are to be found in Block A of the DTI campus, where he rents offices – from the government.



BREAKING NEWS

The truth behind a naive and expensive plot to bore us with SABC sunshine broadcasts

THE SABC IS A SHAMBLES – everyone agrees on that. Even the chairman of the SABC board, Dr Ben Ngubane, who on 24 August submitted a report to a parliamentary portfolio committee entitled “Brief on Dysfunctionality of the SABC Board”. His eight-page report makes it clear that the fault lies with every SABC board member whose surname isn’t Ngubane.

These people, says Ngubane, “do not understand the difference between corporate governance and management”, engage in “dreaded micro-management”, call for an “inordinate number of meetings”, send “angry and confrontational emails to and about management”, adopt “adversarial and

acrimonious stances against those who are legally entrusted with day to day management”, and – horror of all horrors – adopt “a stance where government is effectively interpreted as inherently antithetical to the SABC”.

Honourable members, pleads the distraught doctor, you must “institute an impartial investigation”. (*Noseweek*, too, interprets this as a plea to help get rid of the horrible people who are making SABC staffers do their jobs, and taking them to task for being government lackeys.)

Ngubane is one of 12 non-executive members of the SABC Board. He clearly doesn’t get on with his fellow board members, because the remaining 11 non-executive members took the highly

unusual step of submitting their own report to parliament. This report was much longer, and used slightly more temperate language: the board “has not been optimally functional since taking office on 10 January 2010” and is perhaps “partly dysfunctional”, but this can be attributed to “the actions of the chairman and the Group Chief Executive Officer (GCEO)”.

But the parliamentary portfolio committee never considered this report. Which is a bit odd – surely parliament, as the body that ultimately oversees this massive public corporation, would want to know why there has been a complete breakdown of relations between the chairman and the board of directors?

Apparently not. When Ngubane gave his presentation, the parliamentary portfolio committee insisted on closing its doors, which suggested that the board members would also have to present *in camera*. This prompted the South African National Editors' Forum to rush off to court and get an order requiring the presentation of the remaining 11 directors to be heard in public. This didn't suit the powers-that-be, so the matter was simply adjourned.

The next meeting of the portfolio committee, open to the public in terms of the court order, was scheduled for 20 October. Chances are that the directors' 57-page report won't see the light of day, since a number of SABC board members have resigned, and Ngubane has persuaded the majority of the remainder to support him on the issue that caused all the trouble. Whether or not the parliamentary committee allows the public sight of it, *noseweek* has a copy. It's worth close examination.

But first some background.

The previous board, chaired by Ms K Mkonza, collapsed and was eventually dissolved by parliament. Among the many things that happened during its administration were the axing of the Group Executive (GE): News and Current Affairs, Dr Snuki Zikalala (after his friend Mr Thabo Mbeki got the boot from the top job), and the suspension of CEO Dali Mpofu, which led to his receiving one of those wonderfully generous fuck-off packages. On top of that, the SABC's 18 radio stations and three TV channels reported declining audiences and income, and the Auditor General and the police asked awkward questions about allegations of corruption and incompetence. The corporation was, quite simply, a basket case.

A five-man interim board was appointed to stabilise the corporation, and it managed to secure a vitally important R1bn loan from Nedbank, on the strength of a R1.473bn Government Guarantee.

On 15 December 2009, shortly before the new board was due to take over, the interim board pushed through the appointment of a new CEO, Solly Mokoetle, until then the SABC's chief operating officer. The fact that Mokoetle is an ANC military veteran no doubt helped his cause – cadre deployment is



Ben Ngubane

apparently rife at the corporation, with a good example being Chief People Officer (yes, seriously) Phumelele Ntomabela-Nzimande, who's the wife of none other than Higher Education Minister Blade "Press Freedom is A Grave Threat To our Democracy" Nzimande. (Mrs Nzimande seems to share hubby's enlightened views on press freedom – she recently crapped on a financial publication about its reporting, and seemed to support the proposed media appeals tribunal.)

The interim board, however, shied away from making an appointment to what appears to be the most contentious post at the SABC – Group Executive (GE): News and Current Affairs, a post that had been vacant since Snuki snuck away in early 2009. The interim board did conduct interviews, but felt that none of the candidates, including acting head of news, Phil Molefe, was suitable.

On 10 January the new board took office. It consisted of three executive members: CEO Solly Mokoetle (recently suspended, *see Box*), chief financial officer Robin Nicholson, and acting chief executive officer Charlotte Mampame. There were also 12 non-executive members, including chairman Dr Ben Ngubane, a medical doctor who jumped

ship from the Inkatha Freedom Party to ANC when he saw which boat was the sturdier, and whose qualifications for the job include that he was previously the premier of KwaZulu-Natal, the Minister of Arts, Culture, Science and Technology, and the ambassador to Japan, that he is also the chairman of that other beacon of sound corporate governance, the Land Bank, and, most importantly, the fact that he's a good pal of Jacob Zuma. The remaining 11 non-executive members were deputy chairperson Felling Sekha, Barbara Masekela, Magatho Mello, Cedric Gina, Desmond Golding, Pippa Green, Peter Harris, Clifford Motsepe, David Niddrie, Clare O'Neil and Suzanne Vos.

The new board's main task was to turn things around, pronto – the government made it very clear that the *quid pro quo* for its largesse (the Government Guarantee that secured the loan that kept the SABC in business), was that the corporation had to boost revenue, cut costs, improve working capital, and reduce capital expenditure. But this hasn't happened. And the main reason has been that the chairman's priority has been the appointment of a new GE: News and Current Affairs. Which, for Ngubane, has meant just one man – Phil Molefe, the acting head of news, who failed to crack the nod from the Interim Board. And it's this obsession with getting Phil Molefe appointed that has, to a large extent, led to the breakdown of the relationship between Ngubane and the board.

The new board appointed a sub-committee to handle the appointment of a new news head, an appointment that was regarded as critical because SABC news audiences have been in steep decline. The sub-committee then instructed management to prepare a job advertisement that it would consider. This instruction was ignored – Chief People Officer Nzimande prepared an advert that was inadequate in that it didn't set out all the requirements, and



SABC board members (left to right): Pippa Green, Felling Sekha, Suzanne Vos and Barbara Masekela

gave it to Ngubane who approved it without referring it to the board.

The advertisement attracted 17 applications, and Ngubane unilaterally prepared his own shortlist. The board rejected this list and insisted on considering all the applications, eventually preparing its own shortlist of four. When it came to the day of the interviews, Ngubane unilaterally cancelled the interviews without consulting his fellow panel members. Ngubane then re-scheduled the interviews for 14 May, despite the fact that three panel members were unavailable on that day, which meant that a reduced panel of five interviewed the four candidates.

The eventual interviewing panel consisted of Ngubane, CEO Mokoetle, Cedric Gina (the NUMSA president), Pippa Green (journalism professor at the University of Pretoria), and Barbara Masekela (former ambassador to USA and France). Ngubane was adamant that the candidates had to be “scored” immediately, using a complex system of his own devising and that, to no-one’s surprise, favoured Phil Molefe. The other members of the panel dis-

agreed, however, as they had already instructed CEO Mokoetle to propose an entirely new structure for the news and current affairs division, and they wanted to see this proposal before scoring the candidates. So the meeting ended and the panellists agreed that they would reconvene on 17 May. But Ngubane was very angry (*see Box 2*).

The panel reconvened on 17 May and the meeting was nasty, with Ngubane crapping on the panellists for showing signs of independent thought. To avoid a deadlock, it was decided to await the CEO’s report on restructuring before revisiting the matter. But Ngubane

and without advice, as has admitted that he was “frustrated” by his fellow directors’ refusal to see things his way. Even in his parliamentary submission, Ngubane seems to admit he acted unlawfully: “While a literal reading of the powers of the board might well suggest that even acting executive positions are the board’s prerogative...”

On 22 May the 11 non-executive directors met and passed a unanimous resolution recognising that there had been an “irrevocable” breakdown of trust between themselves and the chairman. They also passed a resolution declaring that the chairman and

Board members tried to call Ngubane, but for days he simply refused to take their calls

Board rage

AFTER THE MEETING at which the four candidates were interviewed for the post of GE: News and Current Affairs, SABC board member Pippa Green gave fellow board member Barbara Masekela a lift home. When they left the SABC garage they found the road was blocked, so they turned around – to discover Ngubane standing in the road alongside his car. Thinking that it may have broken down, the ladies stopped. But it wasn’t the car that had broken down, it was the man – a furious Ngubane shoved his fist through the window and screamed at the ladies, claiming that they had adopted a “subjective approach” at the interviews, and threatening he would “go to court if necessary to ensure the appointment of his preferred candidate”. Ngubane stormed off, leaving the women “shocked and intimidated”, especially as it was clear he had followed them from the garage and had been waiting for them on the road. Ngubane has never had the grace to apologise for the incident.

had no intention of waiting. On 20 May he instructed CEO Mokoetle to appoint Phil Molefe as GE: News and Current Affairs, without the knowledge of the board. Ngubane also instructed CEO Mokoetle to provide Phil Molefe with a very generous contract (thought to be some R2m per annum – and for a full five years, notwithstanding a previous board’s decision to limit contracts to three years).

No board members were told of this, and they heard about it in the media. In fact, deputy chairperson Felling Sekha received a call from a journalist asking for comment on the appointment, and she embarrassed herself by denying that one had been made. Board members tried to call Ngubane, but for days he simply refused to take their calls.

What Ngubane did was clearly illegal, which has been confirmed by a number of Senior Counsel briefed by the directors. That’s because the Memorandum and Articles of Association of the SABC state quite clearly that “The board... shall approve the appointment of senior executives at the level of general manager and above”, and nowhere is there provision for this power to be delegated.

Ngubane claims to have taken legal advice which said he could make the appointment, but refuses to show anyone the opinion and won’t reveal the name of his lawyer. It seems very likely that Ngubane acted impulsively

CEO had acted “without authority”, and that their actions were “null and void”. In other words, that Phil Molefe was never appointed. The board members then arranged a meeting with Ngubane for 26 May, but the good doctor didn’t pitch.

On 8 June the board met with Minister of Communications Sipiwe Nyannda, who agreed that the appointment had been improper and instructed the board to “fix” the problem and make sure that South Africa wasn’t embarrassed during the upcoming World Cup. The Board agreed to preserve the good name of South Africa, and what followed was a period of absolute farce.

The selection process went ahead, with candidates being interviewed and being asked to “present”. This despite the fact that the position had been filled, with Phil Molefe already drawing his salary. And despite the fact that Ngubane was hopelessly conflicted as a panel member. Why? Because, Ngubane was slowly coming to realise that if Phil Molefe’s appointment was set aside, and if Phil Molefe decided to sue for the money he would have earned during his five years, Ngubane might be personally liable – the Public Finance Management Act creates personal liability for “irregular expenditure or fruitless and wasteful expenditure” (Amusingly, in his own report to parliament, Ngubane himself takes board members to task for having

conflicts of interest in the selection process: "Some people had their own personal favourites... at least one board member was effectively conflicted in this matter, having previously applied for the position ... This raises troubling questions about how many other cases of conflicts might be behind some of the negative attitudes.")

So, not only did Ngubane go to great lengths to ensure that Molefe became head of news, he also had a very real interest in ensuring that his plans weren't derailed. As soon as the furore started, Ngubane instructed the company secretary to ensure that no board meetings were held without his express permission – which led to increasing concern amongst board members.

In an email on 19 July, board member and human rights lawyer Peter Harris said: "We are now in breach of our Articles and our fiduciary duties. I have pointed this out on a number of occasions and have yet to receive a single response from the chairperson of the board. As things stand, the SABC slides further into chaos and incompetence and we as a board are not even convening, while external government departments put together turn-around teams to salvage the organisation." In an email on the same date, board member David Niddrie wrote: "The last ordinary board meeting was scheduled for 23 June, but did not take place. The board thus appears to be in material breach as it has not convened in an ordinary meeting since 29 January." (It had held many "special" meetings, most of them not attended by chairman Ngubane.)

In effect, Ngubane played the long game. And won.

Earlier in July Barbara Masekela wrote to her colleagues: "This board has effectively been immobilised. In the event that there is no movement in this matter, and various others raised in the last few months, I'm afraid I will have to conclude that there is no way that I can make a meaningful contribution to the SABC." By the time the Board met on 5 September, three board members had resigned (Felling Sekha, Barbara Masekela and Magatho Mello), and Ngubane managed to get a majority of the remaining members to endorse the appointment of Phil Molefe.

Why this incredible determination to



Picture: Avusa

Phil Molefe

appoint Phil Molefe as head of news? As already mentioned Ngubane is a good friend of JZ, and the Dear Leader clearly wants the somewhat ineffectual Mr Molefe in charge of the news that's seen and heard by the masses.

The directors' report makes this quite clear: "It is to be noted that on other occasions and prior to the short listing process, the chairperson has stated to other directors, individually, that he was operating under the direct instructions of the President of the Republic and that he was resolved to appoint his preferred candidate, whom he identified by name. He has also been quoted in a newspaper as stating that he was operating under political instruction when making the GE: News appointment." (*Which he later denied* – Ed).

So why should Mr Zuma care who's in charge of SABC news? Well the answer probably lies in a document with the decidedly Marxist-sound-

ing title: "Social Reconstruction: Mobilising Public Participation and Partnership – SABC News And Current Affairs, Programme Of Action". This document, we understand, was drafted by a certain Ziki Kodwa of the Presidency, and Phil Molefe is now telling SABC staffers that it's "policy".

The document speaks of the fact that the new South Africa "spawned a new set of socio-economic conditions characterised by moral degeneration, a groundswell of illegal cross border activities, high unemployment levels and widening income gaps". It contains this anonymous quote: "African Media should

Not overly animated suspension

ONE VICTIM of Ben Ngubane's campaign to get Phil Molefe appointed GE: News and Current Affairs, seems to have been CEO Mokoetle. Because Mokoetle failed to do anything to turn things around at the SABC, the board suspended him for non-delivery and insubordination on 17 August, which meant that chief financial officer Robin Nicholson became acting CEO. Mokoetle, whose arbitration hearing comes up in November, may well argue that he didn't get much of a chance, what with his chairman obsessing about Phil Molefe's appointment. Mokoetle has publicly denied that he'll be seeking one of those non-performance/severance packages to the tune of R30m, but that's probably exactly what he's looking for. Not bad after eight month's work. Perhaps Mokoetle's not really a victim, after all.

not only be observers in the process of development on the continent but should be part of the processes of the betterment of society."

And it tells us that "SABC News must lead the campaign to mobilise social involvement. No more will we helplessly carry news of robbery, rape, hijacking, house break-ins, prostitution, child molestation, xenophobia and many other social ills without decisively embarking on a programme of action to support initiatives aimed at reversing the tide. The major driver of the initiative will be the Group Executive: News and Current Affairs".

So there you have it readers: if you want no more bad news, all you need to do is tune in to the SABC, where you'll get endless reports on what wonderful work our president is doing. And for a full five years. Long enough for Mr Zuma to negotiate all those tricky hurdles – the 2011 municipal elections, the ANC's next "Recall the President" conference in 2012 and the next general election.

But it does, of course, make a complete mockery of the SABC's Charter, which says that the organisation enjoys "freedom of expression and journalistic, creative and programming independence as enshrined in the Constitution". ■





Hands off!

Office tiff at law firm erupts into legal battle

A COUPLE OF SLAPS, harassment, victimisation and unfair suspension are some of the charges levelled by a 43-year-old legal secretary against her former boss, a senior director at the Sandton City offices of one of the world's leading law firms. Veteran legal secretary Ursula Smith (not her real name) spent five eventful months working for attorney Peter Kemp at corporate law firm Eversheds in a deteriorating relationship that ended in tears after an unseemly tussle over a lever arch file.

Kemp, 49, denies all wrongdoing and tells *noseweek* that Smith is "a consummate liar". He claims that at a recent internal hearing "the chairman was unable to make a finding" regarding Smith's complaint. This last statement is not supported by the written decision of Eversheds deputy chair-

man Lavery Modise, who chaired the March grievance hearing. His six-page "Chairman's Decision", which has been kept secret, ends: "I am of the view that the probabilities favour the grievant's [Smith's] version that Peter slapped her hand. At the very least, the evidence clearly shows that Peter was aggressive during this altercation."

Close on 100 legal secretaries work for Eversheds in Joburg. The firm was formerly Routledge Modise until a 2008 link-up with Eversheds LLP, the London-based legal conglomerate with 2,550 attorneys in 47 offices around the globe. Here the firm describes itself as Routledge Modise practising as Eversheds.

Modise, 55, was admirably suited to dig out the truth. One of the country's top labour lawyers, he has chaired high-profile disciplinary hearings

relating to misconduct by senior management at bodies such as the Department of Home Affairs and the Department of Labour, Wits University and the Limpopo Department of Transport.

When *noseweek* first spoke to Ursula Smith the single mother agreed that her real name be published. "I am disgusted and think it's about time secretaries stood up and spoke about the abuse we have to endure at the hands of employers, so-called professional legal people who act like complete psychopaths," she declared. However, after "thinking about it" she did not wish her name to appear "because it will definitely affect my chances of finding permanent work". Hence her appearance as "Ursula Smith" in this legal soap opera.

Smith is a number all right. Large,

noisy and extremely forthright, she says exactly what she likes – and doesn't care to whom she says it. "Now that shows what sort of person you are!" she screamed when the *noseweek* writer tried to convince her to appear under her real name.

Her parents died when she was 18, at which age Miss Smith found work as a receptionist with a firm of attorneys, working her way up to legal secretary. "I've become a total bitch and I know how to survive," she says. "I've worked for lawyers since the age of 18, so I've learnt from the masters what they do." She entered the portals of Eversheds at 22 Fredman Drive as a mornings-only temp in April 2008. First there was a six-week spell with senior director Danielle Magidson in the commercial department ("she's wonderful, treats people perfectly"). After that there was a stint with the firm's chairman.

But when her afternoon job as IT manager with another law firm ended – she took that employer to the CCMA for constructive dismissal; they settled – she needed a full-time position. Eversheds obliged.

At her interview with human resources director Nikki Webb and future boss Peter Kemp, the attorney said: "Please just tell me you're not one of those that's going to have a nervous breakdown." Smith replied: "You'll be the one that will have a nervous breakdown."

Why should Kemp, a commercial lawyer specialising in information technology and corporate mergers, have made such a comment? According to Smith, Kemp's two previous secretaries both had nervous breakdowns.

Smith started work for the tall "strikingly good-looking" Peter Kemp on 14 October last year. "He's charming, a real ladies' man," was her first impression. But after just a fortnight she received an SMS from the former occupant of her desk, just out of Sandton Clinic following her breakdown. "I know his [Kemp's] way of working; just watch him. Had this ugly side of him a long time. You will see."

Kemp had problems of his own. Last December, in the build-up to Christmas, he SMS'd Smith: "Things are really shit and Martine [his wife] and I have split so I'm coming back early."

Around this time emails from a Sandton dating agency started arriving at Kemp's work email address. Smith warned him about this indis-

cretion and opened a special email address for his dating activities, with gmail. "Thank you for the email re email," her boss replied. "My wife has given me such a bad image of myself. My nephew put my details on."

But by the end of January relations between boss and secretary had started to cool. A major cause of friction was Kemp's "outstandings" – unpaid clients' fees, which go in the outstandings file and are regularly scrutinised by the firm's board. Smith claims that Kemp would remove these from the file, list them as write-offs and put them back in outstandings when the board had finished checking the file. "He tried to blame me for things to

called in chief operations and marketing officer May-Elaine Thomson. The pair tried to calm her down, asked her to write a statement about what happened and gave her three homeopathic sedatives before sending her home.

Later that morning Peter Kemp emailed human resources saying he wanted to institute a disciplinary hearing against Smith for being repeatedly late for work, insubordination and failing to follow instructions.

Three days later Smith was back at work. "He calls me straight in and says 'How can you go and make up this whole story that I slapped your hands. You liar.' He was aggressive, he was horrible. He said: 'I don't even

Smith reached over and Kemp aggressively slapped her hand away

do with his time-keeping, billings and outstandings," says Smith.

Although she was still on three months' probation, she started answering back. "I'm not someone who bursts into tears when he's rude. He started getting all stropky for no reason, about stuff that was completely out of my control."

The "assault" took place on Friday 5 March this year. In her written complaint that is part of Lavery Modise's Chairman's Decision, Smith says: "Peter Kemp had sent a request asking for ICX invoices to be given to him, and all the write-offs. I sent him an email to tell him I had already done all that a few weeks ago and it was in his outstandings lever arch file."

When she arrived at work she handed Kemp the lever arch file open at the ICX tab. "He then grabbed the file violently and started paging through the outstandings. I reached over and he aggressively slapped my hand away. I said 'you're not allowed to physically hit my hand as far as I know' and I tried to show him the write-offs – and again he slapped my hand away.

"I was so shocked that I started to cry and I just said to him quietly 'I refuse to be treated like this'."

Smith went to human resources, where HR assistant Elize Botha

want you here now after what you've done'. During that week he made my life hell."

A highlight of that week was what Smith describes as "this huge fight". Chief operations officer May-Elaine Thomson was present and Smith secretly recorded the encounter on a dictaphone concealed in her bosom.

"You act like a baby, you need to grow up!" Kemp told her. "That's rich, coming from a married man who's joining dating websites and acting like a horny 17-year-old!" retorted Smith. "You should have seen his face when I said that!"

After this meeting human resources

Peter Kemp



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told Smith that her presence was disrupting the entire fourth floor and she was suspended indefinitely on full pay. This lasted for a month, during which time her grievance complaint against Peter Kemp was heard on 26 March. Kemp's requested disciplinary hearing against Smith never took place.

In his evidence, Kemp said he tried to close one of the pages in the lever arch file but Smith would not move her hand from the file. She then pulled her hand back.

Kemp, who has been practising as an attorney for 22 years, tells *noseweek*: "She accused me of assault. I don't want to waste emotional energy and emotional time and effort with that woman. I had to bury the issues I had with her, the help I gave to her when she had no money. She came to me, I gave her a job, I put up with her as a person. And then, when it suited her, she turned on me.

"We've gone through the whole procedure internally and the chairman was unable to make a finding. She offered to do a lie detector test and I said I'd love her to do that, because that would smash it. She is a consummate liar."

Grievance hearing chairman Lavery Modise does not agree with that last remark. In his written analysis of the evidence of Kemp and Smith, Modise says: "On face value it would appear that their versions are mutually destructive. However, on close analysis of the evidence I am of the view that the grievant's version is more probable than Peter's.

"I find it disturbing that Peter appears to have stooped to the grievant's level, when by virtue of his position as a director he should know better and be exemplary. Peter did not deny having pulled the file away from her whilst they were talking. As a director Peter should have been circumspect by controlling his temper.

"It is possible that Peter was provoked by the grievant, but that cannot excuse the way Peter reacted. I still do not understand why Peter, without any prompting, admits to 'passive aggression'. In light of the above, I am of the view that the probabilities favour the grievant's version that Peter slapped her hand. At the very least, the evidence clearly shows that Peter was aggressive during this altercation."

After her month-long suspension Smith returned to Eversheds as a

"float" secretary, to fill in when other legal secretaries were away, and this August found her working for labour and employment law attorney Imraan Mahomed. "From the moment I was there he was so rude and horrible to me, the whole week," she says. "I'm the float secretary but Imraan was getting all uppity with me if I helped any of the other lawyers who needed me."

Human resources director Nikki Webb called the pair to a meeting. "Imraan sits back in his chair and says 'I'm not someone you can mess with, I'm a director'," says Smith. "He throws a one page memo across the desk at me and says 'This is sub-standard work, you didn't even put Yours Faithfully at the end'. I said: 'Nobody puts Yours Faithfully at the end of a memo'."

Smith demanded that the meeting be recorded, but Webb refused. Smith walked out and Webb later emailed her at home to say that the walkout constituted resignation. Eversheds would pay her up to that day, 18 August. Two days later Smith's grade 11 daughter crashed her scooter on the way to school and was rushed to Olivedale Clinic where x-rays revealed bleeding on the brain. Facing massive medical bills, Smith called Eversheds to ask if they had cancelled her medical aid with Discovery Health.

The response was an email from Webb to say she would be paid for the whole of August and would remain a member of the firm's pension fund and medical aid scheme until 31 August – but only on condition that Smith signed the attached agreement. This stated that she accepted the *ex-gratia* payment for the dates 18 to 31 August 2010 "in full and final settlement of any claim of any nature whatsoever that the employee may have against the company, its directors, officers or employees".

Smith got a friend to phone Discovery Health, who confirmed that her fees for August had already been paid. She did not sign the agreement and in the end it seems her daughter's condition was not serious.

Ursula Smith has now filed a complaint with the CCMA claiming she was "victimised, defamed, assaulted, harassed, subjected to unilateral changes to employment contract and unfair suspension".

■ For the past three years, Eversheds LLP (UK) has featured in *The Times* Top 50 "Where Women Want to Work". ■



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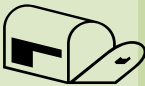
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High tackles in rugby admin row

IS THE SOUTH AFRICAN Rugby Players' Association (SARPA) in meltdown? Or are certain individuals simply stirring the pot for their own ends? *Broedertwis* basically.

You may be surprised to hear that there is a trade union for rugby professionals – after all, the idea of Bakkies Botha and Pierre Spies toyi-toying down the leafy lanes of Newlands is as ridiculous as it is disturbing. But it's worth remembering that the Springboks came very close to going on strike a few years back, when they threatened to withdraw from a Mandela Cup match if they didn't get their way on a particular issue.

SARPA, the brainchild of 1995 World Cup hero Hennie le Roux, was formed in 1998, and negotiates on behalf of the pros with the South African Rugby Employers' Organisation (SAREO), which represents all the provincial teams, with the exception of the Sharks of KZN. (They still do things differently in the last outpost.)

When SARPA describes itself as “an association with muscle to negotiate on behalf of the rugby players” it means what it says – Victor Matfield is chairman, Bismarck du Plessis is president, and Chiliboy Ralepelle vice president. There are also a number of lesser-known players on the union's executive committee (exco), and they are joined by three non-players – full time CEO Piet Heymans, insurance man (and former player) Ross van Reenen, and South African Rugby Union (SARU) employee Andy Marinos.

Most of the 500 or so pros plying their trade in South Africa belong to SARPA, but, in terms of the Labour Relations Act, the collective agreement between SARPA and SAREO binds every rugby player employed by the provincial teams. Membership of SARPA comes with various benefits – players get medical and dental cover at special rates, and there's a retirement fund.

One major benefit available is

Dispute over control of union funds

income protection insurance, which provides an income to injured players. It's provided to SARPA by a certain Andre van Rensburg through his business Sports Solutions, with the policy underwritten by UK-based Sanlam subsidiary Channel Life.

Van Rensburg has provided this service to SARPA for many years, and says he has built up valuable intellectual property in claims histories and underwriting information – profiles on injuries incurred in different player positions, expected duration of such injuries, injuries incurred on particular fields, etc.

For a number of years Van Rensburg outsourced the admin relating to the processing of income protection claims to SARPA – which meant SARPA had access to his information. Despite a non-disclosure agreement SARPA CEO Piet Heymans passed this information on to fellow board member (and insurance man), Ross van Reenen, who used it to seek competing quotes for income protection from insurers in the UK, using former Bok and now Saracens coach Brendan Venter as link man. Van Rensburg says that in 2009 Van Reenen admitted to him that he

got the information from Heymans. Van Rensburg then threatened Heymans with legal proceedings.

“*Nou is ek in groot kak* [Now I'm in big shit],” said Heymans, and meekly agreed to respect Van Rensburg's confidential information in future and refrain from competing with him in matters of insurance. He didn't demur when Van Rensburg took back the administration relating to the claims.

That's as Van Rensburg tells it; Heymans remembers it rather differently. Heymans accepts that there was a non-disclosure agreement, but denies that it applied to claims histories. He says that Van Rensburg flatly refused to get competing quotes for income protection insurance, insisting that the Channel Life policy was the best.

Heymans claims that when fellow board member Ross van Reenen said he could get competing quotes, Heymans passed the claims information on to him. He also says that when Van Rensburg threatened litigation he felt it would be best to simply settle, and that part of that settlement



was agreeing to an extension of Van Rensburg's contract, until this October. Heymans says he wanted nothing more to do with the administration of the claims and told Van Rensburg to do it himself.

Who knows where the truth lies, but since 2009 there's been bad blood between Van Rensburg and Heymans. Van Rensburg has recently laid criminal charges with the Hawks against Heymans and SARPA, claiming that they hacked into his computer. These rather serious charges stem from an anonymous email sent to various people in rugby and media circles in February, and which were followed up by more anonymous memos that made some pretty damning allegations about SARPA.

For example:

■ SARPA doesn't make its financials available, and the last set of accounts, dated 2008, show some worrying items: a loss of R228,237, hefty travel expenses of R566,982, staff costs of over R1.1m (without detailing how many employees there are and what they earn), and unexplained remuneration to office bearers of R322,505.

■ Heymans sold his car to SARPA because he was struggling to get a decent price for it on the open market.

■ The income SARPA gets from Sports Solutions for admin isn't reflected, and on one occasion Van Rensburg gave Heymans R7,000 in an envelope.

■ Heymans has been pocketing the money he receives from representing SARPA on the South African Rugby Union (SARU) board.

■ Heymans is useless – he's managed recently to lose SARPA's representation on SARU, and he deprived pros of millions by resisting plans to form a commercial entity that would deal with the players' commercial interests.

■ Former SARPA president, Bok prop Eddie Andrews, gets special treatment – Heymans threatened to take the income protection insurance contract away from Van Rensburg if he didn't make sure Andrews got a hefty R250,000 payment for loss of income, and SARPA money has been donated

to a church that Andrews is linked to, called the Joshua Foundation.

■ There's something amiss with the SARPA Pension Fund – it's under investigation and Alexander Forbes is trying to get players to make huge back payments for premiums.

Closely allied to this is the suggestion that SARPA is fundamentally flawed. The claim goes like this: If, as seems to be the case, it is compulsory for all members of SARPA to belong to the SARPA pension fund, and if, as is suggested by a list of members, that there are only 63 of them, how is it that SARPA is deducting R85 per month in membership fees from all 500 player members? On what basis does SARPA represent all SA rugby players?

Heymans laughs off the accusations. "I see Andre van Rensburg and Hennie le Roux have come together and decided on a joint attack," he says, when *noseweek* meets him at his Stellenbosch offices. And why should they do that? Well, says Heymans, Le Roux is bitter because the players voted him off the exco in 2009, as they thought his commercial interests clashed with his SARPA duties. Van Rensburg is just desperate to hang on to a contract that's worth some R1.5m per annum.

SARPA isn't running at a loss says Heymans: the 2008 accounts didn't reflect a large payment due by SARU for a benefit match played by the Springboks. This has now been paid and is reflected in the 2009 accounts. What Van Rensburg and Le Roux don't realise, says Heymans, is that the 2008 figures were for an 18-month period, which is why expenses, like travel costs, were high. In any event, travel mostly relates to flying exco members down to Stellenbosch for meetings and putting them up in a hotel.

As for the staff costs – SARPA have now specified the individual salaries, says Heymans, and the 2009 accounts show that he earns around R50,000 a month. He found the complaint about the large amount for office bearers' remuneration odd: firstly because the bulk of it went to Hennie le Roux himself, and secondly, he says, because "these guys don't understand the difference between remuneration and renovation – they've taken the office

bearers' remuneration figure and complained about how much SARPA spent on renovating its offices". As for the sale of his car to SARPA, the minutes show this was authorised by the exco.

The hidden income? Sports Solutions' payments are clearly there, under "administration fees", and as for that R7,000, Van Reenen knows exactly what that's about – Heymans paid a claim to a player called Kleinjan Tromp and Van Reenen simply repaid him when the insurance eventually paid out (Van Rensburg flatly denies this, saying Heymans told him Sports Solutions hadn't paid the full admin fees and he should pay what he could in cash to make up the shortfall).

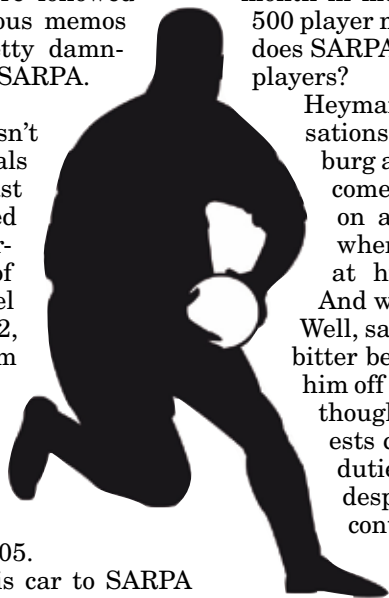
As for the R5,000 a month he receives from SARU, says Heymans, there has never been any suggestion by exco that this should be SARPA income.

It's neat of them to blame him for the loss of representation on SARU, but it had nothing to do with him – the decision was taken by someone on the SARU board who is anti-union; even SARU president Oregan Hoskins was caught unawares when it happened.

"We're taking this matter to arbitration and I know for a fact that SARU has received three separate opinions from senior counsel, each of which says SARU will lose. The commercial entity was in fact formed in 2009 under the name SARPACOM, after we received advice from the Registrar of Labour Relations that a union can have a commercial arm, but that it must be a separate company."

Heymans says he certainly didn't threaten to take the contract away from Van Rensburg, but did tell him that if Eddie Andrews' claim was rejected because it was filed late, he would take the matter to the ombudsman, who takes the view that late filing is not grounds for repudiation. As for the Joshua Foundation – this isn't a church but a rugby development programme in the Cape Flats, and the SARPA exco approved it.

The retirement fund – well there's admittedly been confusion about this, says Heymans. All players who've signed professional contracts since 2006 have to belong to the retirement fund (this was a condition of getting beneficial tax status), but unfortunately the provinces haven't been deducting the players' contributions. SARPA have however made it quite clear to them that the provinces must do so.



Heymans claims that 99% of pros have joined SARPA and have therefore agreed to the monthly R85 fee, but says that in terms of the law SARPA can deduct the fee from those who haven't, as an "agency fee".

So who sent the February 2009 anonymous email? Heymans says he briefed Deloitte and Touche to do a cyber audit, and they reported that it had been written on the computer of someone called Andre, and had been sent by someone called Devon. (*Noseweek* asked Graham Dawes of Deloitte whether this constitutes hacking or any offence under the Electronic Communications and Transmissions Act and he responded that "Deloitte was not involved in any unlawful conduct in relation to Mr Van Rensburg".)

Heymans and his attorney, Duncan Korabie, then called in Van Rensburg and bluffed him into "fessing up".

Van Rensburg apparently admit-

cluding monthly income and expenditure statements."

Further sparring followed and on 27 July Korabie wrote: "Our further instructions are that these so-called complaints emanate from a document handed to your client by a certain Andre van Rensburg. In addition Van Rensburg circulated an email to provincial CEOs making wild allegations against our client."

SARU hasn't responded, but Frikkie Erasmus claims the issue is far from dead, and the union will wait for the arbitration before taking it further.

Heymans has retaliated by lodging a complaint with the Financial Services Board about Van Rensburg, claiming that an insurance man who sends out anonymous documents "is not acting in a fit and proper manner as required by the FSB".

Correspondence between Van Rensburg's attorney and SARPA's attorney

Heymans and his attorney bluffed Van Rensburg into "fessing up"

ted he'd penned it and sent it to Le Roux, who sent it to his attorney, who circulated it. Van Rensburg also says his computer was hacked and that explains why attorney Korabie was keen for him to sign a document authorising access to his computer (Van Rensburg refused).

There's been considerable fallout. Not only are the Hawks considering a charge of computer hacking by SARPA, but in June SARU attorney Frikkie Erasmus wrote to SARPA claiming that it had "received a number of complaints regarding the activities of and functions performed by SARPA", and asked a whole lot of questions.

A fairly feisty response came from SARPA attorney Korabie: "We place in dispute your client's authority to investigate our client and further our client's obligation to report to your client. Your questions pertaining to the finances of our client come as a surprise as your client holds a seat on our client's executive committee [Andy Marinos] and has insight into all financial information of our client, in-

suggests that Van Rensburg's chances of getting his contract renewed are not very good. On 26 March Korabie wrote: "Considering the most recent history of smear campaigns and threats by your client and involving our client, it is abundantly clear that our client will have great difficulty renegotiating or nominating your client for reappointment as the insurance broker. It is our client's view that your client is trying to force a relationship with our client, or prevent our client from entertaining alternative proposals from other insurance brokers and is therefore acting in an uncompetitive manner."

■ Shortly before going to press *noseweek* heard that Andre van Rensburg and Piet Heymans had resolved their differences: they have agreed to stay out of each other's way and SARPA will extend Sports Solutions' contract for two years. Hennie le Roux was not party to the discussions, and he is allegedly trying to persuade SARPA members to remove the SARPA executive committee. ■



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Too good to be true

ANOTHER DAY, ANOTHER PONZI. Compared to Tannenbaum's massive operation this one is small-fry, but that's hardly consolation for the good people of KZN who've lost their "investments". A complaint has been lodged with the Hawks in Durban (investigating officers are Colonel Naidoo and Captain Govender) by an attorney who's been stung – Ian Kalil of Margate. This after the Public Protector made something of a bad joke of himself by declaring he could see nothing wrong with the scheme.

The company behind the scam is Exclusive Finance (Pty) Ltd, owned by husband and wife team Johan and Caroline Swart. The head office was in Ballito and at one stage there were some 40 branches, mainly in KwaZulu-Natal. The Swarts are hiding out, and

it's not yet known how many poor suckers are nursing broken dreams.

To the (usually poor) man or woman on the street, Exclusive Finance operated as a micro-lender and low-cost housing developer. To wealthier types it offered a tantalising investment opportunity – people were approached discreetly and offered the opportunity to invest (in multiples of R100,000 please) for a set period, and then receive generous rates of interest, from 3% to 5% payable monthly.

Over some years, Ian Kalil invested various amounts for himself and for friends and family. There was a set investment term, an agreed rate of interest, and a three-month notice or call-up – but all contracts were verbal. The only thing in writing was an Acknowledgment of Debt, signed not by the company but by Johan and Caroline Swart. This stated that a loan – not an investment – had been made, and specified the rate of interest. In one case where Kalil invested R700,000, a fixed interest payment of R26,000 per month was specified.

Kalil thinks the investments were described as loans as a ploy: he says the National Credit Act specifies that only accredited financial institutions may lend more than R500,000, and if a bigger interest-bearing loan of more is made by anyone else, the capital shall be forfeitable to the state and no interest shall be paid.

At first things went swimmingly – every month Piet van Heerden, an employee of Exclusive Finance,

would bring Kalil his interest, in cash. Kalil got to know the Swarts quite well, popping into the head office whenever he was in the Ballito area. Then he started receiving some disturbing calls.

The first was from a lady who told him she had worked for Exclusive Finance, so she knew he was an investor. She said there were big problems at the company: R5.2m of R10m received from the National Housing Scheme had gone missing, and of R20m in investor money some R17m was missing. She wouldn't give Kalil her name, claiming that her ex-employers had threatened to burn her house down if she spoke to anyone about the business. A few days later Kalil received a call from a man who told him much the same story, and also wouldn't identify himself.

So Kalil told Exclusive Finance that he wanted out, and asked the Swarts to pay back his capital and outstanding interest – and got an outrageous response from an attorney acting for the company: You have lent the company in excess of R500,000 which makes the contract illegal; as a result you have forfeited the capital, and you must repay the interest you have received. Kalil was threatened with legal proceedings if this wasn't done.

Soon thereafter Exclusive Finance sent text messages to its "investors", saying that an attorney called Kalil was making trouble, and as a result the company was dropping the interest rate to 2% per month to comply with the National Credit Act. This news caused great unhappiness and a run on the bank, with lots of investors demanding their money back. In every case where the amount invested exceeded R500,000 the answer was the same as given to Kalil. Where the amount was less, the answer was that accountants were looking into the matter, but for the moment there was a moratorium on repayments. Needless to say the moratorium was never lifted.

Kalil is in for some R700,000 and knows of 51 investors who've been stung for a total of some R17m. Exclusive Finance has closed most of its branches, but some are now operating under new names. The Swarts have made a run for it: Caroline is believed to be in Hope Island in Australia where her parents and sisters live, and Johan is thought to be hiding out in the couple's home at Zimbali Estate in Ballito. Their attorney, Jonathan de Wet, says he isn't authorised to talk on their behalf. ■



Not even the rabbi can help



The sad tale of one who lost everything at Century City

ERIC SACKS WAS, until recently, a tenant of the Colosseum shopping centre at Century City in Cape Town, where he ran a Postnet-like business called CopyPrint. Now he's almost destitute, and blames the Rabie property company for his woes.

Sacks' landlord was Rabie-owned Century City Property Developments, with Rabie Property Administrators as the managing agent. Sacks' rental was in the order of R11,000 per month but, when things got tough in 2009, he was unable to meet the payments. So he went to Rabie and told them he was looking for a buyer willing to take over

the lease, and promised to pay his rental arrears of R60,000 out of the sale.

In November 2009 Sacks found a buyer in the person of Laurent Duval who agreed to pay R295,000 for the business. Sacks sent Duval to see Leigh Metcalf, a director of Rabie Property Administrators, to arrange a cession of the lease. But Metcalf did a strange thing – she said Duval was paying over the odds for the business and told him to go back and negotiate a better price.

So Sacks dropped the price by R15,000 and a deal was done, with Duval paying a deposit of R37,000 to the selling agent and immediately moving in. But things didn't work out. Duval had tak-

en over Sack's email address as part of the deal, and found an email that suggested Sacks was negotiating to buy a similar business in Table View. This was in breach of the 50km restraint of trade Sacks had agreed to in the sale, and Duval pulled out of the deal.

Sacks says the email related to a deal he had been looking at before he sold to Duval, and claims that Duval, whom he describes as a "buyer from hell", was looking to get out of the deal because he didn't have the IT skills to handle the business. Duval replies that Sacks was a seller from hell, and claims the business was "a complete mess".

Although the cancellation was a setback, it wasn't the end of the world, because others were interested. Firstly there was a potential purchaser, Riana Moller, who, apparently realising that Sacks was in a weak position, offered only R160,000. Not a fantastic deal, but more than enough to cover the arrears.

So Sacks sent Moller to see Leigh Metcalf to arrange for a cession of the lease – but Metcalf told her not to bother buying the business as Rabie was about to evict Sacks. Indeed, a few days later, the sheriff arrived and took possession of Sacks' stock, effectively putting him out of business. Metcalf then offered Moller a brand new lease (Moller didn't

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take this up).

Sacks also found a potential investor, one Zenith Mitchell, who was prepared to pay the arrears and sign a new lease. But Metcalf showed no interest, saying it was too late to save the business.

So Sacks lost his shop, and now Rabie is chasing him for the arrears: the sheriff has been around to his house to attach furniture, only to find he has nothing left – not even a car, which he had to sell for a ridiculously low price; not even the gold watch he's had for 20 years, which he had to pawn. Sacks expects a follow-up visit to attach his home (which he thinks is worth around R550,000), even though it has already been attached by the body corporate for unpaid levies, and the bond holder has sued for arrear bond payments.

Sacks is mighty pissed off with Rabie, because it very much looks like a personal factor was involved. Why else would Rabie take steps to put the kibosh on deals that would have suited them both? (Sacks says the shop is still unoccupied, not unusual in a centre where a number of businesses have failed; he cites News Cafe, Chatz Cellular, Harleys Hairdressers, Spunkys women's wear, and John Wilson liquor store). Rabie's hard-arsed approach also caused grief to Sacks' customers, many of whom lost mail when their post boxes disappeared.

But why would Rabie have it in for him? Sacks is fairly sure that Leigh Metcalf intensely dislikes him, for various reasons. In the cession of lease agreement Metcalf had insisted that Rabie be allowed to keep Sack's initial deposit for a further six months. As this was money Sacks urgently needed he was a bit upset and told Duval he thought Metcalf was a horrible person (he used a word that rhymes with runt, which not even *noseweek* prints). Sacks thinks that Duval told Metcalf.

Furthermore, as part of his due diligence, Duval looked at Sacks' books – and may well have told Metcalf that Sacks had understated his turnover figures (tenants have to provide Rabie with turnover figures from time to time). Sacks admits he did this, but claims all tenants do it, to ensure that landlords don't go mad with the rentals.

When *noseweek* spoke to Duval he wouldn't confirm that he had mentioned this to Metcalf. Sacks' potential investor, Zenith Mitchell, was more forthcoming. He told *noseweek*

that Leigh Metcalf clearly didn't want Sacks to be part of the meeting he had with her, and says it soon became evident that this "wasn't about business, it was personal". When Metcalf mentioned that Sacks had called her the word that rhymes with grunt, Mitchell decided it was time to get out.

Metcalf scoffs at these claims. The Duval deal: "It was in both of our interests to get the Duval deal done. Duval cancelled his agreement so cession of lease couldn't happen. Maybe Mr Duval would like to elaborate on why he cancelled the agreement." By the time Moller arrived on the scene Rabie already had judgment against Sacks, so "we explained to Ms Moller that the lease on the premises had been cancelled and she would have to enter a new lease".

As for Mitchell: "Mitchell showed initial interest in purchasing the business but seemed to lose interest and did not follow through on it." And the claim of a vendetta? "What nonsense. I don't respond to hearsay. This is not a personal issue. It's simply business. The six-month deposit was not an extraordinary or punitive requirement."

For Sacks, it has been one sadness after another. A 60-year-old, he has prostate cancer; he's had two spinal fusions and neck surgery following a crash with a drunk driver – and he's had to give up his medical aid. He has no business and no furniture; his house is already attached and Rabie has a judgment against him for over R60,000. He has been supporting a ten-year-old daughter who lives in Israel with his ex-wife and whom he hasn't seen for over two years. (Sacks was planning to use the proceeds of the sale of his business to join his ex-wife and daughter, and go onto the national health scheme.)

As he told *noseweek*, Sacks has nothing to lose by going public. (At *noseweek* we're pretty battle-hardened, but it's been a while since we've met a man so obviously broken.) He's simply amazed how Rabie have treated him. Even Sacks' rabbi, who is also rabbi to Rabie MD Leon Cohen, has been unable to help.

Rabie head honcho John Rabie seems to have forgotten a promise he made some time back, when things first got difficult for Sacks. On that occasion, says Sacks, John Rabie put his arm around him and said: "Don't worry, we're from the same tribe, we won't let you go down." ■

The phone just never stops ringing

THEY INTRUDE ON YOU from every side and at any time of the day – or night. Their voices are on your phone, their text messages flood your cell, their personalised mail arrives unsolicited in your post box. In their persistence they mimic the scavengers of the veld, the greedy crows that never miss their chance. Asked how they obtained your personal details they chant the One Mantra: “From the database.”

Such are the unapologetic commissions-driven salespersons or fundraisers, always with some “new” product to sell, or chatting brightly on about a deserving charity that needs your monthly contributions to keep the lamps of hope and humanity burning.

A Cape Town dentist, for instance, complained to *noseweek* that he receives an average of five calls and a similar number of text messages each day: “It’s impossible for me to work. I use my private cellphone for emergencies, yet I kept receiving these calls from people offering me everything, from cell contracts to insurance policies.”

While it’s virtually impossible for the average citizen to establish who has sold their contact details, and often other personal information besides, *noseweek*’s patience finally paid off when we were able to identify one peddler of personal details – Leisure Books.

This Media24-owned book club claims in their website: “Leisure Books is South Africa’s largest book club and offers its members the widest choice of the world’s top authors — and prices are at least 20% cheaper than retail. Our book buyers choose the cream of the publishing crop with the latest bestsellers, reference, cookery, gardening, children’s books and much more.”

What they don’t tell club members is that to recover the claimed 20% discount, they happily sell your personal

details, which earns them R9,945 (plus VAT) for every 5,000 contact profiles. Exactly how much data they sell every month even *noseweek* couldn’t establish.

When *noseweek* asked why the contact details of some of the magazine’s staff were sold to various corporations and organisations by Leisure Books, contact centre manager Shareen Martin apologised, but declined to state where they had obtained permission to sell the information. Martin also declined to say how many other club members’ details had been sold to third parties.

One way to identify anyone who sells your private contact details is to slightly misspell your name when you sign up for any club membership or product offer. When you receive an unsolicited sales-letter or email addressed to the misspelled name, you’ll know who sold your contact details, and who to complain to – if that’s any help.

In the meantime, the state isn’t being terribly helpful to consumers.

Implementation of the Consumer Protection Act, which was to come into full effect last month, has been pushed to the end of March 2011. The Department of Trade and Industry can’t seem to get its house in order and until then entities like Leisure Books will continue to profit from selling personal information supplied in good faith. **W**

NEW YORK

IN
48
HOURS

Martin Welz nibbles
on the Big Apple



YOU'RE OFF TO NEW YORK FOR A CRUCIAL ONE-DAY meeting, but with late air bookings you end up with two days to spare in the capital city of the world. You cannot possibly do New York in a day or two, exclaim those who know – the Metropolitan Museum of Art alone will take you two days!

I beg to differ. On just such a recent trip I got myself a grab on New York and the current state of America that I'll cherish for the rest of my life. (I skipped the MMA.)

Keep it simple, Stupid, I reminded myself. Why not a slow walk down the length of Fifth Avenue, the spine of the Isle of Manhattan, which is the heart of New York? From Central Park down to Wall Street and City Hall; then across Brooklyn Bridge to view the famous skyline from the river and maybe catch a glimpse of Lady Liberty.

For several years now, Dennis Nick has advertised his New York apartment in *noseweek*. One hand washes the other, so I called him – and I could not have done better than Dennis's \$120-a-night apartment on the seventh floor of The Leonori on the corner of Madison Avenue and East 67th Street (east of Central Park, that is). I could have taken a posher, only slightly larger, "Junior" suite in the 5-star Lowell right next door – at \$1,069 a night (but the staff at their reception desk aren't half as nice as The Leonori's).

The Leonori is just two short blocks from the southern tip of Central Park, from where





Fifth Avenue heads south. I started out at 8.30am. Two of New York's grandest hotels, the Sherry Netherland to the left, the Plaza to the right – for a stately entrance to the world's ultimate shopping street. It not only offers a snapshot of the state of retail America; a walk down Fifth Avenue is as good as a tour of a world-class art gallery. In this city window dressing is a fine art.

In between the great names in fashion I find the Apple store, set apart by its aesthetic glass cube entrance – an inspired hi-tech symbol of intelligence and transparent dealing. Trooping down the stairs to the basement store are hundreds of young people determined to try out the latest iPhone or iPad, or to consult the scores of Apple "genius" attendants.

Just a block further, by contrast, the Diesel shop sets out to shock with a delinquent display that cleverly celebrates brazen sex and drop-out stupidity. The perfect way to flog torn jeans as high fashion.

Just around the corner on a side street I spy the Nike shop; the dis-

plays are appropriately dynamic and eye-catching, but on closer inspection it's all cheap junk from various unhappy places in Indo-China. The poorly-paid counter staff are uninterested, even hostile. Fifa's perfect World Cup partner.

On the next corner on Fifth Ave we're in the "diamond district": there's our own De Beer's new shop – with its oldest customer, Harry Winston's store, on the opposite corner. (The latter displays rows of huge and hideous men's wristwatches, each encrusted with up to 50 large diamonds – rocks, no less. Only a mafia don looking for a means to move his drug takings across the border would wear one.)

But the recession in America must be serious: even Fifth Avenue can't always put a pretty face on it. The seven-floor, super-deluxe department store Takashimaya has recently closed down. A simply typed goodbye message is pinned to the door. No, a former employee I chance to meet tells me, they didn't quite go bust – the billionaire Japanese owners simply decided they could earn a better return on their capital by opening in China. Everywhere there are gaps in the smile: empty shops with faded "To Let" signs in their windows. Outside Saks a woman carries a billboard announcing that the same expensive suits are available at less than half the price on an upper floor of a



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stock unavailability.

nearly office block.

This monument to human vanity and other worldly values is also home to some famous houses of worship, though personally I found St Patrick's cathedral's vast, dark, fake-gothic interior, celebrity archbishop Timothy M Dolan and shop selling "holy" objects pretty worldly, too – if not downright spooky. It struck me that the "solemn pontifical mass" advertised for 10.15 on Sundays had something in common with Harry Winston's diamond-encrusted watches. (The rows of memorial or votive candles lit by passing faithful were a touching, redeeming feature.)

Presbyterian St Thomas's, just two blocks away, is – appropriate to its WASP congregation – stiffly "proper". (A sign at the feet of the saint's image declares you may not eat your lunch-time sandwich on the church steps.)

Which did remind me that it was time for an early lunch – half a block to the right, at the fabulous bar in the Museum of Modern Art. I spent an hour looking at the pictures, and an hour and a half over a designer lunch chatting to the wise and witty barmaid who, appropriate to the arty venue, had me drinking (American) absinthe.

Then back to Fifth Avenue. Twenty (small) blocks further along, on the corner of 29th Street, I'm stopped in my tracks by an older, more modest Dutch Reformed church (a reminder that this city, too, was first settled by the Dutch). Known as the "Marble Collegiate Church", it obviously plays quite the reverse role to its South African cousins: here on Fifth Avenue it flies the flag of the American pacifist movement. These Calvinists object to America's present wars, and mourn the loss of lives, American and other. Each Friday they hang, from the iron railing that rings the church, an orange ribbon for each US soldier who has died that week – and blue ribbons to mourn the loss of Iraqi and Afghan lives. No-one

can pass by the many thousands of orange and blue ribbons by now hanging there and not be moved to a moment of silent contemplation.

A block or two further along it's time for a brief, titivating visit to the brand new Museum of Sex. A museum? Surely this suggests that sex belongs to the past? At my age, I get the idea. But this museum, I suspect, is there to reassure Americans that sex is actually quite respectable: as respectable as Apple, art and the study of dinosaurs. The museum shop was doing a roaring trade, and the display of finely-crafted, life-size, life-like and "loveable" sex dolls in the first-floor gallery was proving very popular. (They're available by mail order at \$30,000 or more apiece.)

By then the wedge-shaped Flatiron building – for a brief period New York's tallest skyscraper and still its most aesthetically pleasing one – comes into view. It's time to take the underground back to The Leonori on East 63rd.

Next morning early I take the underground all the way down Manhattan and under the Hudson River to Brooklyn, so that I can walk back to Manhattan across Brooklyn bridge to view that fantastic skyline and catch a glimpse of Liberty upstream in the hazy distance.

It's just as it is in the movies, only here, now, 100 yards out over the Hudson river, it's for real!

Descending the bridge ramp you find yourself in front of City Hall; left down Lafayette and you're in Canal Street – the heart of China Town. Another block and you're on Mulberry Street and in Little Italy. Clearly old-time mafia territory: standing out among the pasta and coffee shops is John Jovino's gun shop. New York was made for the movies – and a two-day visit!

■ *The author flew British Airways from Cape Town to Heathrow, spent 36 hours in London and then, with a dozen BA flights each day to choose from, took an afternoon flight to New York. He entered The Leonori's welcoming lobby just as the sun was about to set.* ■



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Economic growth has taken us to the brink, writes **Hilary Venables**

DYING OF CONSUMPTION

CITIES DECIMATED BY DISEASE, famine, and violence, sluggish rivers choked with filth, farmland turned to dust, coastal waters empty of life, forests plundered to extinction, social and economic chaos – this is the future Finance Minister Pravin Gordhan is unintentionally wishing upon us.

He's not alone. Left, right and centre; rich, poor and just getting by: the majority of the global population shares the seemingly unshakable belief that our future prosperity depends on economic growth.

But there's a problem.

It's not just that growth has consistently failed to deliver what it says on the box: if it creates jobs, they are crappy jobs; if it "lifts" the masses out of poverty, it's by a whisker, while it elevates the already rich into the stratosphere; if it encourages innovation, it is only innovation that can rake in huge amounts of cash for already-bloated corporations.

The problem isn't even that GDP was never designed to be a measure of human development or well-being, and that the citizens of some of the richest countries are among the most miserable in the world. The problem with growth is that it's bad science.

More than 150 years ago, physicists formulated the universal laws of thermodynamics, which state that while the amount of matter and energy in the universe remains constant, the stuff tends to become less useful over time.



Entropy increases, order is lost, chaos ensues.

It wasn't long before scientists began to apply these laws to the economy. The "biophysical economists" studied the flow of useful energy and materials from

the environment into the economy, and the return flow in the form of less useful, often dangerous, waste. If humans continue to accelerate this process, they concluded, at some point, the ecosystem would be so starved of usable energy and materials it would collapse, taking the economy with it.

What they couldn't foresee was how soon we would reach that point. In the 1970s, the last time there was any public debate about the wisdom of the growth model, computer simulations conducted by a team of scientists from the Massachusetts Institute of Technology predicted that "the most probable result (of continued economic expansion) will be a rather sudden and uncontrollable decline in both population and industrial capacity" within 100 years. According to their report, *Limits to Growth*, no amount of human ingenuity or technological innovation could save us.

The authors of that report now believe their models were too conservative. We are already on the brink.

And considering all the indicators, from fresh water to fer-



Seven percent suicide

A 7% GROWTH RATE sounds ambitious, but not completely unreasonable for a country with resources like ours at a time like this.

It's only when you compound that rate over 20 years, as Pravin Gordhan says we must, that the figures become scary.

According to the investment formula known as the Rule of 70, any quantity that grows at 7% a year will double in 10 years. If it continues to grow at the same rate, it will double again in the following 10 years.

So by 2030, Gordhan envisages an economy four times the size it is today. To reach that magnitude, we would have to produce and consume close to four times as much as we have produced and consumed in the whole of our history so far.

Growth pundits argue that technological advances will improve efficiencies and enable us to "decouple" economic activity from environmental impacts. Unfortunately, the laws of science and the experience of history demonstrate only too clearly that that's dangerous nonsense.

tile soil to fish stocks, it's hard to disagree. And let's not even mention climate change or the desperate search for oil.

But our finance minister's plan, in fact the only plan on the global table, is to hurtle down the path to total destruction as fast as humanly possible.

There is another plan. It may be the only one with any chance of success. Certainly it's hard to think of a third alternative, apart from a miracle.

Former World Bank economist Herman Daly coined the term "steady state" in the 1970s to describe an economy in dynamic equilibrium with its natural life support system.

Daly's model permits "qualitative development but not aggregate quantitative growth".

"Growth is more of the same stuff; development is the same amount of better stuff."

A steady state economy would entail a drastic reduction in the consumption of energy and materials and therefore in the production of waste. Durability and self-sufficiency would replace obsolescence and consumerism. Fractional banking would cease, debt would shrink and the income gap would be substantially narrowed. Resources would be expensive but knowledge would be free. There would be meaningful work, more opportunities for entrepreneurship and invention, as well as more leisure time for all.

And of course it would help if we stabilised the population.

Forty years on, and with twice as many human mouths for the earth to feed, Daly's model is finally gaining traction.

Biophysical economics, now better known as "ecological economics", is drawing thinkers from a range of disciplines, including the natural sciences, to challenge the dogma of the expansionist church.

And the heresy is spreading, not just through academia but through the global social and political movement which includes environmentalists, anti-globalisation activists, indigenous rights groups, peak oil lobbyists, organic farmers and community initiatives like transition towns and eco-villages.

While the mainstream media ignore or ridicule any alternative to the growth meme, the internet has become a vital channel for the exchange of steady state ideas, from the scientific to the philosophical to the practical.

There is a sense that even in the high towers of commerce, and behind the tinted windows of ministerial limousines, the light is beginning to dawn.

You can't read a policy document or financial report these days without stumbling repeatedly upon the term "sustainable development", although it's invariably misused.

What few policy makers or corporate strategists understand, or are willing to admit, is that sustainable development is just another way of describing the workings of a steady state economy.

Compelling though the case for zero-growth may be, getting there is fraught with peril.

The current system is so entrenched, not only structurally, but culturally and psychologically, that it will be hard to dislodge, and dismantling it is bound to cause considerable short-term damage.

Nevertheless, the cracks are beginning to show. The financial crisis has shaken the faith of ordinary people in conventional economic wisdom. High profile industrial disasters like the BP gusher, the toxic sludge flood in Hungary and our own acid mine drainage catastrophe-in-waiting are daily reminders of the risks we're already taking with our life support system.

We have reached a critical point in human history. But, unable or unwilling to confront the fundamental problem, our leaders flail around for some kind of ideological or even spiritual solution to our crisis.

What we really need is an open, inclusive and, above all, rational debate about our collective future, based on the best scientific information at our disposal. Anything else will only make things worse.

Find out more at www.steadystate.org and www.ecoeco.org. Also worth a browse is the Association for the Study of Peak Oil, South Africa; www.aspo.org.za. Further reading: *Steady state economics* by Herman Daly, *Prosperity without growth* by Tim Jackson, *Collapse* by Jared Diamond. ▣

Sticking to his GUNS

IN APRIL 2007 I found myself sitting in front of Dr David Klatzow's desk at his Rondebosch, Cape Town, office/laboratory, seeking his expertise on a forensic matter relating to the case of Jimmy de Lange (*noses* 92,106,120&127). I wanted to know whether it was possible that De Lange had shot Meloney Kriel first, as claimed by the police, before she returned fire. For three hours we went through the four volumes of trial transcripts, cross-checking with the post-mortem reports, and closely examining the testimony of experts involved in the trial, with Klatzow breaking off occasionally to call one or other fellow authority to verify an opinion or discuss a suspicion.

At the end of those gruelling hours, to my utter disappointment, all this rigorous man would tell me was that he would be picking his way through it all again before offering a scientific opinion.

Two days later I was back. Klatzow's conclusion: A high-velocity 9mm round to the head from a handgun would drop you immediately. If you didn't die at once, you wouldn't have the strength to lift an arm, let alone squeeze a trigger. De Lange must have been fired at first, and he clearly had his back to his assailant. The case had been badly handled, the evidence was not properly led and De Lange's defence was below par. There was no real cross-examination of the key state witnesses.

I've since spent many more priceless hours picking Klatzow's brain, discovering in him a resource who knows exactly who to consult in any scientific field – and he's the only person I know who has successfully invoiced a bank for wasting his time.

This is the David Klatzow readers will meet in the pages of *Steeped in Blood: The Life and Times of a Forensic Scientist*. A man who has stuck to his guns over the decades, and whose experiences provide a fascinating record of the changing patterns of police and judicial uses of forensic investigation.

Among other things, the book recounts, in simple and vivid language

MARK THOMAS

Reviews

Steeped in Blood: The Life and Times of a Forensic Scientist

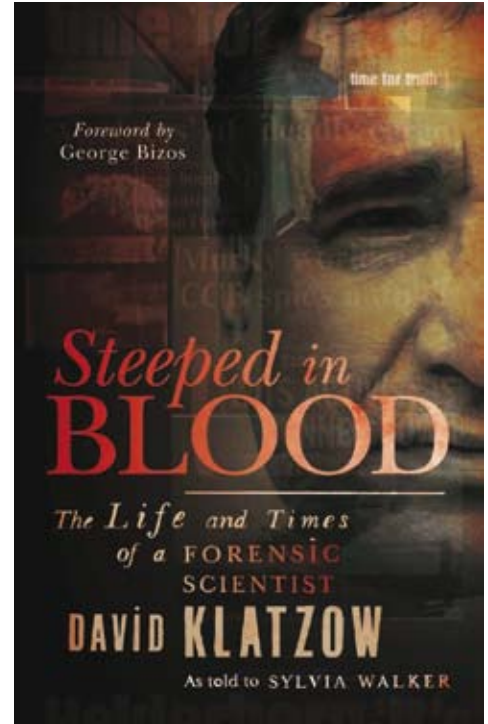
(Zebra Press)

**by David Klatzow
as told to Sylvia Walker**

what too many South Africans have discovered: the police tend to work over the evidence to fit their chosen suspect. The narrative opens with Inge Lotz's murder where detectives zeroed in on her boyfriend Fred van der Vyver as chief and only suspect. The crime scene pointed to someone she knew well – nothing was stolen and there was no sign of forced entry. What's more, they had just had an argument. Fred had motive and opportunity, and from the outset the police investigators clearly believed he was guilty – and set out to shape the evidence to prove it.

In Klatzow's analysis each piece of "evidence" fell horribly short when subjected to scientific scrutiny. Any ideal of forensic science had been abandoned in the face of an almost desperate desire to gain a conviction.

In her opening note author Sylvia Walker, to whom Klatzow told his story,



ous to know more.

David Klatzow's Jewish father, who married out of the faith, was obviously a larger-than-life character – like his son. Apparently he was something of a gambling addict, and when young David was only nine tragedy struck. Klatzow narrates: "My father had a sustained and unjustified belief in his ability to predict which horses would

**The crime scene pointed to someone she knew well –
nothing was stolen and there was no sign of forced entry**

asks: How does one encapsulate over twenty years' worth of work and more than 3,000 cases in one concise book? Together they've done a magnificent job, and kept the account of Dr Klatzow's childhood brief and to the point – though leaving the reader rather curi-

win at the races. This caused considerable financial stress in the family after a particularly bad loss: my father was disgraced and ostracised by his friends and acquaintances, and found himself unemployed. Ruin was imminent, and he attempted suicide. The suicide at-

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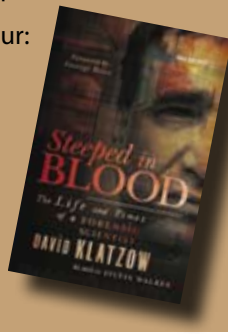
Noseweek has five autographed copies of David Klatzow's *Steeped in Blood* to give away. To stand a chance of winning, answer the following question:

Which event does Klatzow refer to in his chapter Not My Finest Hour:

- (a) The Trojan War
- (b) The Helen of Troy Kidnapping
- (c) The Trojan Horse Massacre

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you know is incorrect, you become beholden to your client and your credibility suffers in the long run.

"The secret is to stay true to yourself in your profession, always."

It's also an attitude that translates into many a curious tale – like the one about Klatzow the lock picker, who picked the lock of a Kimberley judge's chambers, during a tea break, to prove that any lock could be picked.

For me, some of the most fascinating revelations concern Klatzow's role in some of the key cases involving anti-apartheid activities. The book tells the inside stories of a number of such cases, including the 1985 shooting by the police of Saul Mkhize, who had defied the Group Areas Act, and the 1985 Cape Town Crossroads fires. In the latter the forensic scientist was able to prove without doubt that the fires had been started by "unofficial police agents". Dr Klatzow's involvement in the investigations and subsequent inquests of the Gugulethu Seven and Ashley Kriel are also sharply documented.

But the man isn't afraid of revealing his limitations, and this adds depth to his narrative, such as in the chapter "Not My Finest Hour", which details his involvement in the investigations of "The Trojan Horse Massacre". That is the kind of a person I know the scientist to be – always ready to own up to his shortcomings.

The book also shows how, in apartheid South Africa, the police force and judicial system were rampantly politicised, including the police forensic laboratory. Klatzow writes: "General Lothar Neethling established a fine laboratory for the police, yet his attitude and in-junctions were allowed to contaminate the laboratory and cast a shadow over the work of even the better forensic scientists working there.

"I fear that we may be moving in that direction again. This thought is frightening, and it is painfully ironic, after all we have been through in our country, and after all I have seen in my independent forensic work over the years. Yet the wheel seems to be making a complete revolution. Those who do not know history are condemned to repeat it."

Reading *Steeped in Blood* involved re-living some of those precious moments I've spent with Dr David Klatzow as he helped me analyse complicated stories. His animated face kept popping off the page and I finally understood why, whenever his phone rings, one hand presses the "record" button as the other reaches for the receiver. **W**

tempt added to the stigma."

Anyone who has encountered Klatzow will appreciate the character who appears in these pages: love him or hate him it's the David Klatzow who doesn't mince his words. Calling a spade a spade and never a big spoon, he names individuals and institutions whose morality and professionalism he would rather not emulate. From fellow forensic scientists like the late General Lothar Neethling, who headed up the police forensic laboratory, to attorneys, prosecutors, insurance companies and banks – Klatzow names them, dead or alive.

One way Klatzow has maintained his independence has been by declining to act as a hired gun for the insurance industry. For a young struggling consultant, says Klatzow, insurance investigations can be very tempting indeed. The danger comes in when an insurance company's agenda differs from the scientific agenda: "I have always refused to bow to their requests and have exercised the utmost integrity in my work. I believe that once you start altering scientific reports to suit the client or submitting information that

Steeped in Blood is published in paperback by Zebra Press with a published price of R220. It is available from Loot.co.za for R184. We accept payment by Visa, Mastercard, or direct deposit to our ABSA bank account.



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(Hout Bay & Llandudno)

A funny thing happened on the way to the border

RECENTLY I WAS HIKING, as I have been doing of late (got to get the bloody car sorted out), to the neighbouring *dorp* of Badplaas and was picked up by a delivery van on its way to Swaziland. The kind fellow behind the wheel was a very talkative somebody. Usually I prefer a quiet ride while gazing at the beautiful scenery, but this fellow was able to grab my full attention.

He went on and on about current affairs and was impeccably well-informed, at a level that seemed to surpass even mine – and I’m supposed to be a journalist. He was even listening to SAfm while we chatted. I was impressed, particularly since he appeared about 25 years old and could be taken for just another *Kasi* boy. (Never judge a man by his *pantsula* hat.) During the course of our 55km ride he touched on many issues, including the big one – the Josh story.

For those of you not as well informed as this Bongs (that’s the name saved on my cell), the story of Josh recently made serious news here in Mpumalanga. This Josh was allegedly the assassin responsible for numerous murders, with two of the most well publicised being those of Mbombela municipality speaker Jimmy Mohlala, and communications director in the province’s Sports, Culture and Recreation Department, Sammy Maponyane.

The speculation is that Mohlala was taken out because of blowing the whistle on shady dealings surrounding the Mbombela World Cup stadium, while Maponyane is said to have been taken out because he would not “play ball” when it came to the stadium tenders. They were both snuffed out at their homes in neat, clean, quiet, mafia style and there are still no suspects or leads.



Bheki Mashile's
Country Life

Murder mystery
tales grip the
imagination in
Mpumalanga

Bongs was particularly aggrieved at this state of affairs. Why can’t they find this Josh? Somebody has revealed his name, so why can’t he be found? And why can’t the media get to the bottom of the story? We want to know who this Josh is, declared my young friend.

Then Bongs threw a curve ball. The only journalist I know of who might get to the bottom of this, he tells me, is a guy by the name of Bheki Mashile. How does one react to such a compliment? I kept quiet, and went on listening. When we got to my destination and as I climbed out of the cab, handing over the expected 20 bucks for the lift, I said: “By the way I’m Bheki Mashile.”

So this one is for you Bongs; by the time you read this, hearings in the Josh matter will have begun in the Nelspruit Regional Court.

As I mentioned, over the past couple of years Mpumalanga has been rocked by a spate of murders – apparently assassinations – culminating in the killings of the above-mentioned Mohlala and Maponyane.

Then early this year a colourful character by the name of James Nkambule hit the headlines, claiming he knew who the killer was and that this assassin was willing to come forward. According to Mr Nkambule his name was Josh and he was a Mozambican national based in Swaziland.

Now Mr Nkambule is a disgraced ANC comrade who once held the powerful position of Mpumalanga Youth League secretary. So powerful was this fellow that Mathews Phosa, when he was premier, dubbed him a “ris-



Mzilikazi Wa Afrika
interviewed by the SABC



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ing star” who would one day become premier. But Nkambule’s true claim to fame is that he’s allegedly the man behind the infamous conspiracy to remove Thabo Mbeki, Phosa, Cyril Ramaphosa and Tokyo Sexwale, in a *coup d’etat*.

Nkambule was thrown out of the party and has now pinned his hopes on Cope for a future in politics. Unfortunately he might not have much of a future as a free man, let alone as a politician. Mr Nkambule, you see, is back in the conspiracy game: it turns out that he concocted the existence of this assassin, Josh.

It’s a long and detailed story, but let me briefly summarise: According to a reliable source (who must remain anonymous due to his involvement in the matter), a police officer spotted a character by the name of Xolane “Bazooka” Nangu lurking about at the Swaziland border post of Balembu, not far from Barberton. Knowing Bazooka as a career criminal the police officer had him apprehended and his vehicle searched.

Bazooka was reportedly clinging to an envelope, which the police insisted he hand over – and in it they found documents referring to the spate of murders that has rocked the province.

Bazooka was taken into custody, where he apparently sang like a bird, telling the cops that he was hired by Nkambule, and others, to play the part of Josh. He was at the border gate as part of a ruse to fool journalists whom Nkambule had invited to meet “Josh” to receive the damning info on the murders. He was to give the impression that he had come across from Swaziland. One of the journalists is supposed to have been none other than the *Sunday Times’* Mzilikazi Wa Afrika.

Two weeks later, Nkambule’s house was raided by the police, and he too was taken into custody. He’s been slapped with numerous charges including fraud, *crimen injuria*, defeating the ends of justice, and whatever else they could throw at him. Nkambule was let out on R10,000 bail – nobody knows who paid this. Bazooka is on a witness protection programme.

Apparently Nkambule’s aim was to discredit Premier DD Mabuza and get him out of office – perhaps the murders were meant to be laid at Mabuza’s door? Bazooka seems to have done it for the money, allegedly

getting R10,000 for each meeting with the journos.

But a disturbing allegation said to have been made by Bazooka was that some of the payments had come via Wa Afrika. Did the authorities have reason to suspect him, after all? With no hard information and allegations flying from all directions, this one is still undecided.

The funny thing is I’ve actually met these two odd birds. Nkambule stomped into my office one day back in 1997 when I was publishing a weekly broadsheet called the *Mpumalanga Times*. “Do you know who I am?” said Nkambule. “And who the hell do you think you are?”

He was pissed off about an exposé I had published on a controversial land deal – “the Dolphin Deal” – that would have seen some higher ups pocket a reported R1bn. Now get this: the story was written by Wa Afrika, at the time writing for African Eye News Service in Nelspruit.

As for Bazooka: I became acquainted with this delightful self-confessed criminal around 2002, when I wrote a story for a local rag implicating him in the robbery and kidnapping of a sangoma. Bazooka threatened to kill me – in fact, his exact words were: “I can kill you right now and it would not matter whether I go to jail or not; jail is my second home. I am a criminal and will die that way.” On certain matters the guy is upfront and straightforward.

Nowadays I happen to enjoy good relationships with these guys – though I don’t know how things will look after I publish their story in my *Mjindi Guardian*.

■ On 7 October James Nkambule died after a long illness. Nkambule had claimed his illness resulted from being fed poison at a function some years back. In his postmortem report Mpumalanga chief medical officer Dr Gantcho Gantchev says Nkambule died of “unatural causes”.

■ Oh – I almost left out a little tidbit: I also knew where Bazooka was holed up on the witness protection programme. The smart people behind the programme had allowed Bazooka’s girlfriends to visit him – and back in Barberton they let on discussed where they’d been. The case against Nkambule has now been withdrawn, but it’s unclear whether Bazooka is still on the witness protection programme, as the docket remains open. ■



Aria

MY GRANDNIECE-IN-LAW – I think that’s what she’d be, my sister’s grandson’s wife – she’s from Toronto, see, a real tidy place like New York built by the Swiss, she says you don’t get old fag-packets and empty coke bottles lying around in the street. This she observes as we happen to pass certain old fag-packets and empty coke bottles lying around in West Street, now renamed Something Revolutionary Street, which something I forget but never mind, it wasn’t until I was well into old age that I discovered West wasn’t a point of the compass at all but some important historical gent hereabouts name of Martin West of whom no single citizen I ever met has ever heard. Anyway, we also happen to pass a heap of smelly old clothing lying in this street, with an empty beggar inside, who is either sleeping, unconscious or dead. Such heaps come and go, I explain to Grandniece-in-law. Some, I suppose, arise and stumble off to lie down elsewhere according to the weather, others, I dare say, get scooped up at night by some discreet squad with a big sort of scooping-up thing and unscooped in a hole somewhere because the cost of fuel for burning people is getting a bit much: it’s got to be either paraffin or no Christmas bonse-las for the City Councillors this year.

That’s dreadful, says Gn-in-l. That’s nothing, say I, you should have been here when Durbs was a pissy police-state dump trying to be like Zurich designed by the Swiss. Zurich full of Caucasians, that is. Comfortable Caucasian ladies buying swanky dresses and things at Stuttafords and Payne Bros, that is. Until 12.30 pee em on Saturday, when everything would shut down WHAM! until Monday. You could have landed a passenger jet down West Street without hazard except from the pigeons which took over the city; in the CBD you could hear their gurgling all about in the otherwise cemetery quiet. I myself was under noisy house arrest with two kids and two dogs, I had to get permission from the Chief Magie for me very own mom to visit me very own home. That’s really dreadful, says Gn-in-l, what did you do with your life, says she, just sit and stare at the TV? Well actually, no, say I, we didn’t have TV in South Africa in those

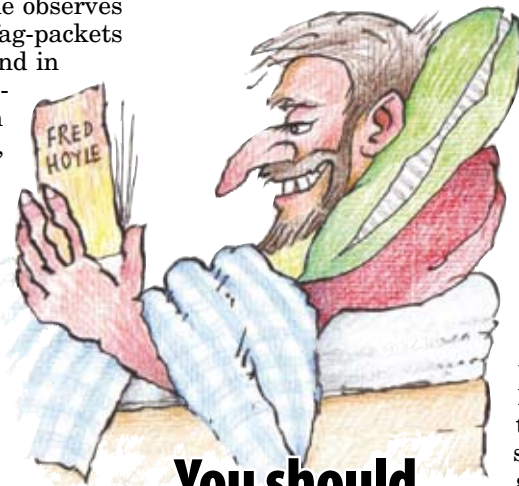
days, you should understand, because of communism and pornography creeping into the country. WHAT? she cries, that is truly dreadfully dreadful! How do you live without TV?

Well you wash nappies, cook family grub. You get a long copper cable and bolt one end on to the iron roof and bury the other end so you don’t all get fried if lightning strikes your house. All that handyman goeters, laaik. You apply the many skills you learned in boep, you know, polishing light switches with Brasso, polishing the floor with wax, polishing everything else with something else. Full-time living, I tell you. And plenty time for reading. Then there are those nice things that normal folks haven’t time for, like keeping fowls. I turned the old-time servant’s bog in the back yard into a hen-house, cemented over the hole in the floor and put in a ladder-perch and made a hole in the door big enough for a hen but too small for a dog, got half a dozen big clucky Rhode Island Reds and a bloody great coq d’or, a gold-mantled rooster who would see all his ladies to bed at sunset and come indoors himself and perch on the piano and crap all down the French polish and when my missus came to practise her Mozart would bust out in 100-decibel greet-the-dawn crowing. I think ol’ Wolfie would quite have liked it, said she, he’d have written a symphony to go with it, like Haydn with his clock symphony, chimes and ticks and tocks.

And one winter’s evening round about seven thirty the missus and kids are all toffed up and bustling about because they’re off to *Don Giovanni* in the Playhouse and Marisa Marchio of Cape Town is singing. Such a voice! Clear, limpid, precise. Such a presence! An Italian presence the likes of which other folks can’t quite get right, full, fruity. But I’m happy enough to climb into bed with a fine SF novel by Fred Hoyle called *The Black Cloud*, it’s a bloody cold night and I’m all tucked up nice and warm in my winter pyjamas. Everybody’s nagging at everybody else because it’s getting late and they must be off now! When suddenly there’s a ringing at the front gate and the family chorus cries Damn! But they open up anyway, and there unlawfully stands Marisa herself. She bounces in and sits on the end of my bed. All smiles. Hullo, say I, aren’t you going to be late? Hell, says she, one is entitled to be late in an emergency, I have come to sing to you because you can’t come to me. She parts her lips and knocks me flat, I tell you, I have never heard a sound so passionate come out of a human throat. *Voi che Sapete?*, she sings. What is this feeling? I think I want to cry, says Grandniece-in-law. Don’t be bloody silly, say I, this isn’t Toronto.

It’s okay to talk thus roughly to your family, see. ■

Illustration: Harold Strachan



You should have been here when Durbs was a pissy police-state dump trying to be like Zurich

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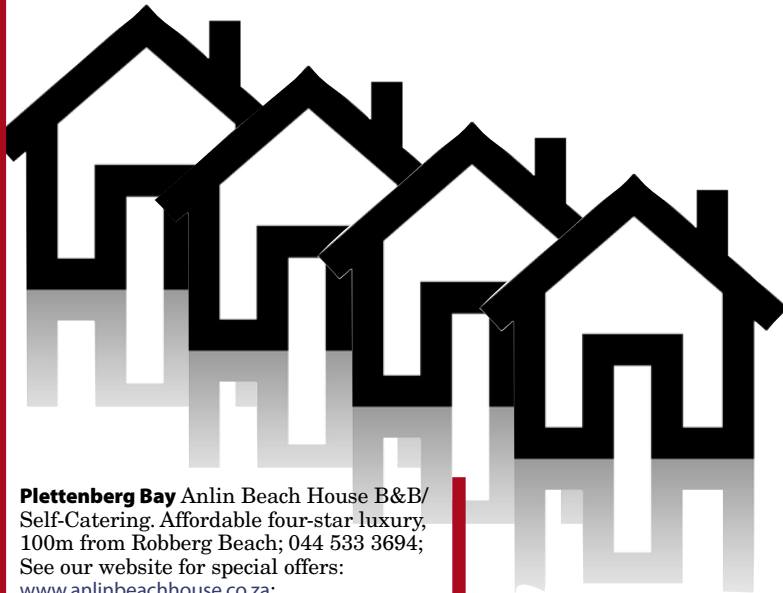
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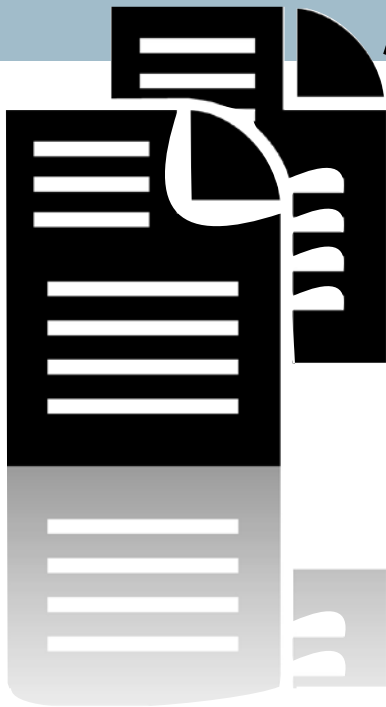
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