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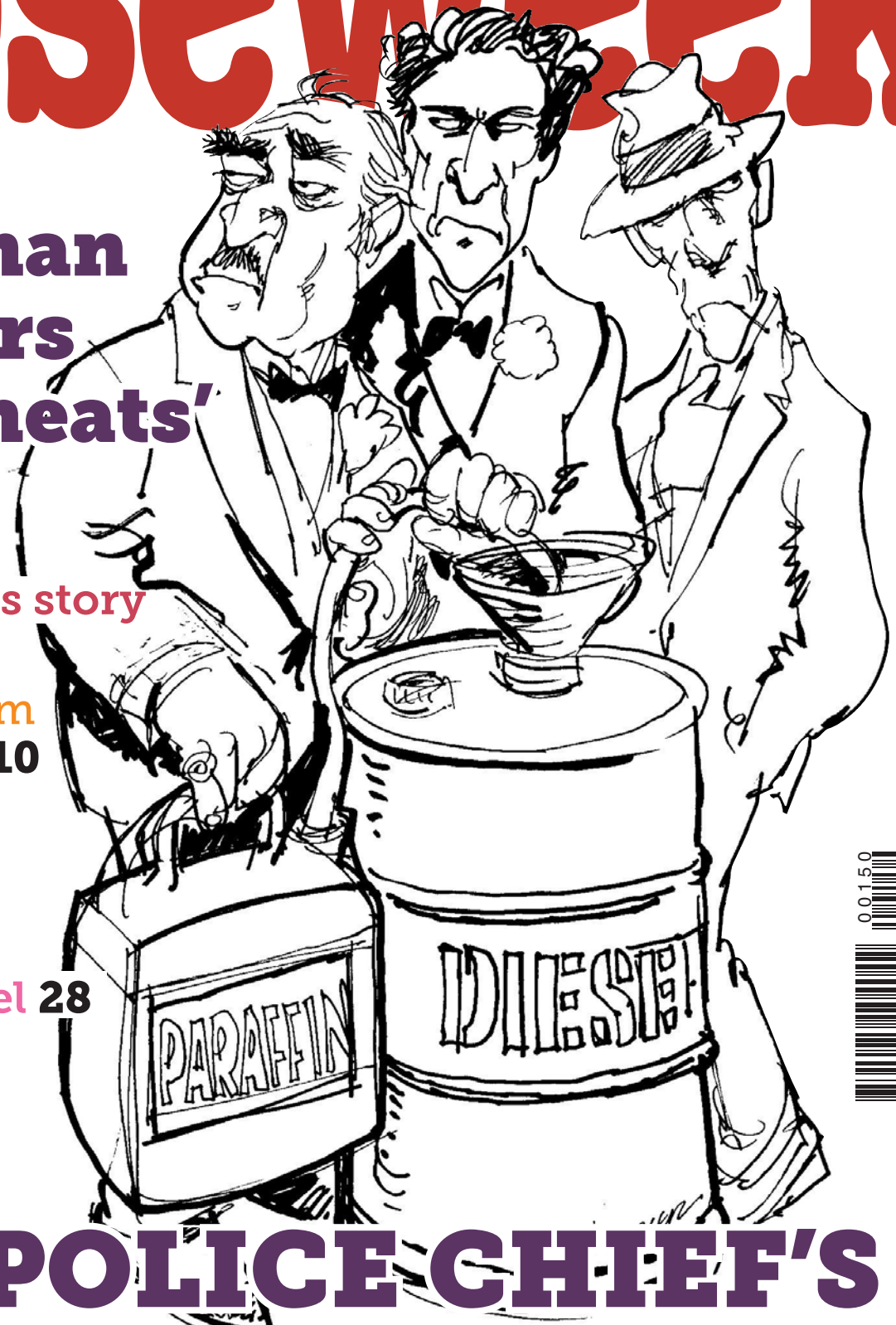
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150 APRIL 2012



THE POLICE CHIEF'S DIRTY SECRETS

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BY GRAHAM BECK

noseweek

APRIL 2012

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True colours

BRILLIANT! – *Nose149* on FNB’s racist bond rates.

I am also up against FNB (in my case the FNB Pension Fund) who have lied and abused their financial power and controlling grip on the legal profession.

Thank you *Noseweek* for exposing the bliksems.

Adrian Albertyn
Hermanus

■ THANK you for publishing the article “Racist FNB overcharges black clients”.

I look forward to the follow-up story where hopefully FNB will respond.

Zama Zungu
by email

See box, facing page. – Ed.

Labyrinth of deceit

YOUR disturbing story about rogue cops and a doctored dossier once again reminds me how journalists (in this case I refer of course to the *Sunday Times*) can get it horribly wrong.

Presently I am reading Charles van Onselen’s magnificent biography on Joseph Silver, *The Fox and the Flies*. Silver was a psychopath racketeer of note in the late 1800s and early 1900s who operated internationally but spent many years in South Africa, toxifying Bloemfontein, Kimberley, Johannesburg, Pretoria and Cape Town.

What Van Onselen brings out so clearly is the world of “agents” who work in the spaces between high-flyer criminals and corrupt and not-so-corrupt police officers and who cleverly use and abuse the legal system, sometimes bamboozling judges and magistrates in the process. Silver himself was a past master at this,

milking his police informer status to wipe out rivals and avoiding imprisonment by making deals and playing one side against the other in a hellish labyrinth of deceit that most journalists are incapable of understanding or researching properly.

When police pretend to be criminals and criminals pretend to be policemen, all hell usually breaks loose. It’s often impossible to tell the two sides apart. Corrupt and inept police officers, some

of whom are likely to be mentally ill, eventually lose the plot and resolutely begin to believe their own lies.

Garth King
Fish Hoek

Taken for a ride

LAST WEEK was the first time I bought and read *Noseweek*. I am very impressed. Yours must be the only open, unbiased and principled publication around.

As for Lulu Tan Tan and Inge Peacock, we have first-hand experience. She still owes us R45 000 from four years ago. In the meantime her business was liquidated – or was it? Because it is still trading but it is impossible to even contact her.

There must be hundreds of companies or individuals who have been taken for a ride by her over the years. If there is anything we can contribute to put her behind bars or make her pay, let us know.

As for Stuttafords, no more shopping there either until they demonstrate any regrets and improvements in their purchasing.

Willi Wighard
Cape Town

■ INGE Peacock is something else! She seems to leave a trail of destruction wherever she goes. You have got to see her lifestyle, too: everything is six star, man! Sumptuous house in Valley Road, Hout Bay, with horses wandering about in the back garden – literally outside the back door.

Noel Pratten
Cape Town

Good riddance

THUMBS up and well done for exposing those Ebrahim Uncles. I am an ex-Oasis employee who lasted about two years and it was the worst two years of my life!

Keep the articles flowing, I’m loving it.

Habiba Sungay
Office manager, Randsure
Insurance Brokers, Parow

New tunes, old scores

OPEN letter to attorneys Munnik, Basson, Dagama: I have received much correspondence demanding, pleading for – and offering deals in respect of – a purported Standard Bank debt.

Despite having indicated I had no knowledge of the “debt” and that such a debt would have long since prescribed, I continue to be pestered. So, it is with interest that I read *Noseweek*’s, story, “Extortion by another name” (*nose149*).

1. “Shady lawyers are at it again demanding debt payments that have prescribed”. Does this accurately reflect on MBD?

2. “...didn’t have a clue what it (prescribed) meant...” Would this explain why MBD have continued to send me correspondence?

3. “Please stop pestering me with this rubbish”. Has MBD understood that this is what I have really been asking all along?

4. “...not to intimidate people into paying money they don’t owe...”. Does MBD truly subscribe to this notion?

I look forward to an end to this absurdity.

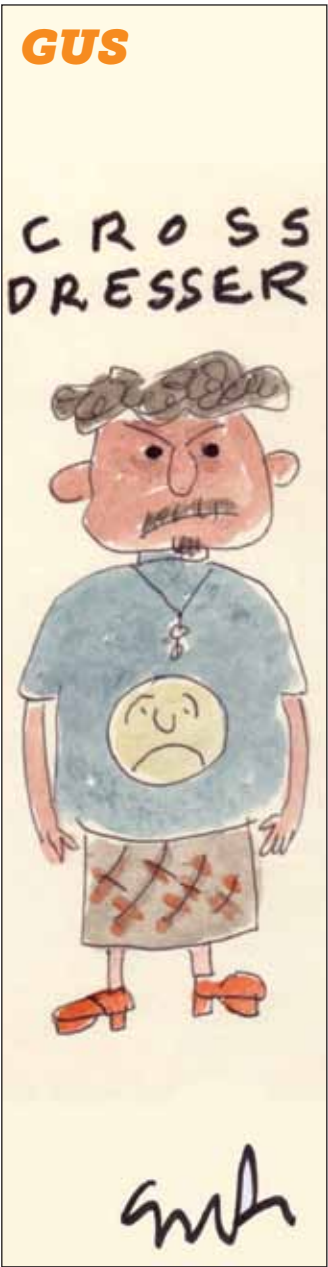
Hilton Webber
See page 10. – Ed.

What’s cooking?

HOW I regret not bothering to read your publication until last year. When I did, I just could not wait for the next issue.

If anyone can get to the bottom of the shenanigans and double dealing in the halaal food industry it must be *Noseweek* with your sources

To page 6



FNB won't take its hand out the cookie jar

FOLLOWING *Noseweek's* editorial on FNB's racist bond rates, I would like to add the following:

From June 1990, banks in South Africa were not permitted to discriminate against black home-loan clients by charging them a higher interest rate than white home-loan clients as FNB did.

At that time, most banks became involved in low-cost (black) housing. Because of the proportionally higher administration costs on black housing, the banks informed the government at the time that they were going to charge black home-owners a higher interest rate than those of the white market to cover the higher administration costs. This was not acceptable to the government and it was decided between the banks and government that the Usury Act would be amended to allow banks to charge a monthly administration fee of R5 (VAT excluded) on every home-loan account, to cover the additional administration costs.

The Usury Act was amended to allow banks to charge this R5 fee and in return not to discriminate with higher interest rates. (Ref: *Hansard*, 6 June 1990 page 10 937 to 10 994

During the mid-1990s, Saambou targeted clients in the low-cost housing sector, as this market was a lower risk market than the high-cost housing sector for the following reasons:

- All mortgage bonds were government subsidised loans.
- The majority of applicants were government employees.
- Their monthly instalments were paid by debit order deducted from their salaries.

There was no reason for Saambou/FNB to charge these low-cost housing sector clients a higher interest rate for the following reasons.

- Their salaries increased yearly.
- The value of their property increased.
- The outstanding balance decreased over the period.

The default risk of a client is not determined by the area in which he or she stays. The risk is determined by the following factors:

- Value of the property
- The amount of the loan in relation to the value of the property
- Income and payment history of the client

If a client does become a high-risk client and the bank wants to increase his/her agreed interest rate, it

is the duty of the bank to inform such a client. This gives the client the option to move his or her mortgage to another financial institution. If the client agrees to the increase, the two parties must enter into a new written agreement.

Saambou/FNB have claimed that the bank was entitled to charge these inflated interest rates, as the bank's base or prime interest rate was not linked to the Reserve Bank's repo rate; the bank used a discretionary rate and therefore was entitled to charge these inflated interest rates at its discretion.

However, forensic auditor Greg Johnson analysed the internal memorandums sent by Saambou head office to their branches at the time of each change of the interest rate. In these memorandums, the branch managers were informed of the date when such a decrease or increase came into effect and the percentage of such an interest increase or decrease. He found that Saambou/FNB's interest rates were indeed linked to the Reserve Bank repo rate.

Last, in the past Saambou raised and lowered its base/prime rate in sync with changes in the Reserve Bank's repo rate – until Johann Myburgh was

appointed CEO of Saambou in 1993 when, unannounced, it started unlawfully deviating from the repo rate in order to charge its clients a higher rate. The bank finally reverted to linking its rate changes to repo rate changes in 1999, when I referred the matter to the Registrar of the Usury Act. But the already inflated balances owing were left unchanged. FNB has had this information at its disposal for several years, but has nevertheless not corrected the accounts by removing the overcharges made in those years and then recalculating the correct due balances. On the contrary, it persists in going as far as suing clients to recover the illegally inflated amounts and having families expelled from the homes – even when, had their account been correctly calculated, they owe the bank not one cent.

As I write, the Landbank has just been found guilty of trying to pull the same trick on its clients – and ordered by the North Gauteng High Court to pay a group of farmers several millions in refunds. The judgment is likely to trigger a flood of claims against that bank.

FNB is next.

Emerald van Zyl
Welgemoed

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From page 4

and investigative expertise. Please help us Muslims to clear up the mess.

A K Mia

Marshalltown, Johannesburg

By the book

DURING the apartheid years I remember being able to slip in George Orwell's brilliant political satire *Animal Farm* while teaching in the English department at the University of Zululand, and feeling the hard edge of subversion in doing so. I'm led to wonder: would there be a chance of doing

it there, and at our other, rapidly collapsing universities now, when it seems as appropriate, or more so?

Jim Phelps

Fish Hoek

Not The End

I WAS TAKEN aback by your claim (*nose149*) that the *Sunday Times* article about the Cato Manor Police Unit was the result of a ploy to manipulate the journalists and the publication. [Not so. It was to disable the investigation and prosecution of politically well-connected criminals and corrupt police

officers. – Ed.]

As a citizen concerned about the repeated flouting of the law by police and government security units, I follow news about police conduct closely.

I was particularly perturbed by your implied suggestion that three of SA's most highly regarded investigative journalists had been so naive.

But now I read in the *Sunday Times* that *Noseweek* didn't even check with *Sunday Times* writers before making its claims.

For any publication to "cash in" on a major scoop of another publication – a

scoop of great benefit to the public, as the Cato Manor one is – it really needs to *double-check* its facts before casting doubts on the credibility of the original report. If *Noseweek* honestly failed to contact the writers, I will stop reading *Noseweek*.

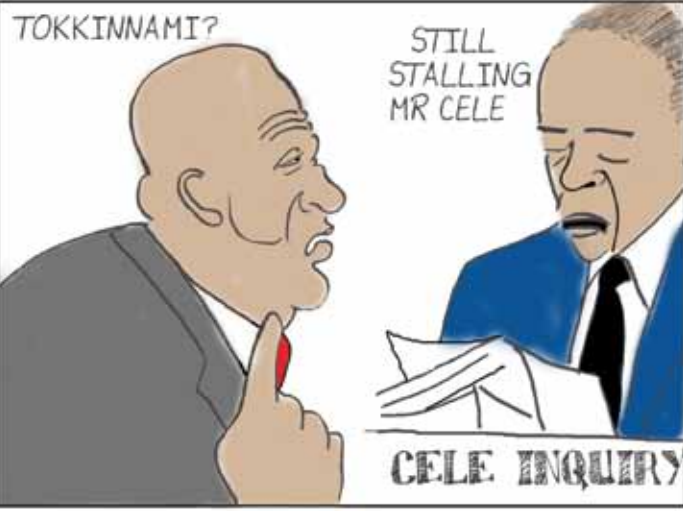
I'm not interested in any refund for the remainder of my online subscription.

Louise Cook

Kraaifontein

Naive isn't the word I would have chosen. See editorial, page 7 and the story, for coverage of this continuing saga. – Ed.

StEnT



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Lieutenant General Richard Mdluli

THE POLICE COMMISSIONER'S DIRTY SECRETS

Picture: Peggy Nkomo/The Times

IN MOST countries the crime intelligence division of the police performs a highly sophisticated function collecting and analysing often sensitive information about high-level crime and criminals. But a secret report that has been buried in the files of the National Intelligence Service since November, shows that in South Africa, the SAPS Crime Intelligence Division is too busy defrauding and stealing from the public to be much bothered with other people's criminal activities.

The criminal network operating within the division is headed by no less than the Divisional Commissioner of Crime Intelligence, Lieutenant General Richard Mdluli himself – and a mysterious, unnamed person who is apparently so powerful that the author of the report dares refer to him only as “the Prominent Individual in KwaZulu-Natal”.

Contrary to convention, Mdluli was hand-picked to head the unit by Minister of Police Nathi Mthethwa and a committee of ANC ministers. Normally the heads of police divisions are selected and appointed by the Commissioner of Police, advised by senior professional policemen, not by politicians. So controversial was the appointment that former National Police Commissioner Tim Williams publicly described Mdluli's appointment as “completely unusual” and “not regular” and claimed that the politicians had “hijacked” the process.

The damning secret report, dated 4 November 2011 and marked Secret on

every one of its 13 pages, was written by the Head: Intelligence Analysis, Co-ordination and Surveillance, Major General Mark Hankel, and was countersigned by the Acting Divisional Commissioner: Crime Intelligence, Major General C P Kock.

It was addressed to the Inspector General of Intelligence, and copied to the Deputy National Commissioner: Crime Detection, and the National Commissioner of the SA Police Service. It is noted in the report that the Inspector General of Intelligence had been briefed orally on the same matters four days earlier.

In July last year a case of corruption and fraud was registered by the Hawks at Silverton Police Station as Silverton CAS 155/07/2011. The accused was Lieutenant General Richard Mdluli, head of police Crime Intelligence.

Informed sources have confirmed that, within three months, extensive evidence of corruption involving Mdluli, senior police officers and even journalists had been uncovered. However once the investigation began to look at renovations carried out at Police Minister Nathi Mthethwa's home and a Mercedes Benz ML350 bought by Mthethwa with secret police funds, it did not take too long for the Inspector General of Intelligence to become involved.

First the Inspector General had a meeting with Major General Mark Hankel about the investigation, then Hankel was ordered to submit a report to the Inspector General of Intelligence, detailing exactly what it was that the

probe had uncovered so far.

In the concluding paragraphs of his report, Hankel finds it necessary to state the following: "It is submitted that the Intelligence Services Oversight Act does not negate the statutory duty to report corruption to the police for purposes of criminal investigation."

This would seem to suggest that it had been proposed that the intelligence service take over the investigation to the exclusion of the police.

Shortly afterwards Mthethwa ordered that all the investigation dockets be sent to the Office for the Inspector General of Intelligence. Since then nobody has seen anything of the investigation dockets – and all charges have been "provisionally" withdrawn against Mdluli.

The situation echoes that of the case registered at the Berea police station in Durban by DA MP Diane Kohler-Barnard against Jacob Zuma's lawyer Michael Hulley, after it emerged that Hulley had obtained recordings of telephone interceptions between senior prosecutors involved in the case against Zuma. Once this complaint had made its way to the Inspector General of Intelligence there has only been one development: the Inspector General confirmed that the phone interceptions were legally undertaken. But Kohler-Barnard has never been told whether Hulley legally has possession of the tapes – a key part of her complaint.

"I suspect the Inspector General is a whole new way for those in power to defeat the ends of justice. This is outrageous," she said.

When the Crime Intelligence Division leaked a CD of crime scene photographs to *Sunday Times* reporter Mzilikazi Wa Afrika some time in the latter half of last year – as he has claimed happened when interviewed by *Noseweek* – they clearly had their reasons for wanting him to use the material to discredit the Hawks'

organised crime unit: the Hawks had not only arrested Mdluli and charged him with various serious crimes, including murder and kidnapping; they had by then cottoned on to some of the more lucrative criminal conspiracies operating at Crime Intelligence.

Rackets operating in Mdluli's Crime Intelligence Division and exposed by the Hawks investigators revolve largely around the so-called Secret Service Account, a secret police slush fund that was supposed to be used to fight crime, but, it emerges from Hankel's secret report, was used instead to fund crime.

They range from paying one unnamed journalist R100 000 to write a positive story about them, and another unnamed journalist R50 000 not to write a negative one that "would have been extremely prejudicial to a very senior female general in the SAPS", to buying houses and luxury cars for family and friends, to installing Mdluli's entire extended family plus various girlfriends in well-paid fake jobs funded by the taxpayer, to making regular payments of R50 000 in cash to that mysterious Mr Big in KZN.

On the subject of Mdluli's illegally acquired family benefits, Hankel reports: "It is evident that besides the employment, inappropriate promotion (some at senior officer rank levels) and placing of family members of Lt Gen Mdluli in the agent programme of Crime Intelligence, family members of a Major General and a Colonel in the division, as well as that of a prominent person recruited to allegedly influence the National Commissioner of the SA Police in favour of Crime Intelligence were [also] placed in the programme."

In total 23 people that fall in the above category are deployed as: "Principal Agents" in the programme. As far as can be ascertained, none of these are actually involved in *bona fide* undercover operations of the SA

Police Service Crime Intelligence Division.

"It is alleged that especially the family members of the prominent person in KwaZulu-Natal go about their 'normal private lives' with no benefit to the SA Police Service."

The report deals in some detail with the fraudulent use of money drawn from the Secret Service Account to purchase luxury cars for the personal use of, *inter alia*, one of Mdluli's girlfriends – and for the National Commissioner of Police "for use around his residence in KZN". (It adds that "the present whereabouts of the vehicle are unknown".)

Another intriguing snippet: "A luxury vehicle was purchased for a Lieutenant General in another division of the SA Police Service in order to improve the working relationship between herself and General Mdluli."

The report also records the purchase of a string of houses all over the country, ostensibly for use as "safe houses", but in fact to house the friends and family of just about every Tom, Dick and Harry in the division – or simply to generate rental for some individual's private benefit.

At the bottom of the list of criminal activities, this: "Documentary evidence is available from which it would appear that [in contravention of the *Police Act*] Crime Intelligence sought to influence political processes in KZN through the deployment of a select few covert intelligence field workers from Head Office. This activity included buying influence and access."

And, perhaps predictably, the probe report confirms that, even at the very early stages, there was a serious attempt to stop the investigation: many frightening examples are detailed, leading Hankel to conclude: "There exists a concerted effort from within Crime Intelligence, and specifically the SSA (Secret Service Account) environment to derail the investigation. This includes the spreading of disinformation. The situation includes what is believed to be a threat to lives and personal safety and integrity of persons involved in the investigation... There is also a risk to witnesses..."

Of Mdluli and his corrupt cohort, Hankel declares: "They have placed the entire institution, including the agent placement programme, covert air travel, service providers and even operations at risk by abusing the system and exposing it to individuals of dubious character." ■

A police force run by criminals

THE extraordinary and damning report, exposed here, on the corruption-ridden Crime Intelligence Division of the police – is an example of the sort of information that we may not in the future be able to publish for fear of facing a stiff jail sentence – should the Protection of State Information Bill before Parliament become law.

We publish it here not to be provocative, or to make sensational headlines, but because publication is so clearly and urgently in the public interest. When our police service – or a major part of it – is run by criminals, where are honest citizens to turn for protection against crime and corruption? – The Editor.

DEAD MAN TALKING

Tape reveals fuel scam



WINKELHAAK Petroleum Distributors, established 10 years ago on a country road out of Standerton, is today the biggest independent petroleum distributor in South Africa. Its plant at Platrand looks like a mini Sasol. It's fleet of 68 tanker trucks plies the country roads from 12 depots, supplying over 1 000 farms from Newcastle in KwaZulu-Natal to Brits in North West Province, mainly with diesel – 15 million litres a month of it – but also with petrol. And just a few customers, with paraffin.

Paraffin is the cause of much controversy surrounding Winkelhaak. It's said Winkelhaak has illegally been adding paraffin to diesel. Paraffin costs roughly R1-a-litre less than diesel and is VAT exempt. So the supplier who sells paraffin as diesel scores both the rand and the VAT he charges for diesel but does not pay (on paraffin).

Verdi Scholtemeyer, a Standerton farmer and trader, had occasion one morning in January 2009 to discuss the matter with his old friend John de Wet, a founder and major shareholder of Winkelhaak. He recorded the conversation. Before the end of that year John had died of cancer.

Scholtemeyer's daughter is married to John de Wet's son. He was trying to persuade John to sell because of the damages claims Winkelhaak might one day face. For his daughter's sake.

John's son has inherited half his father's stake in Winkelhaak. Now Verdi is desperate to blow it all wide open – while his daughter and son-in-law can still plead ignorance. It was he who brought the story – and the tape recording – to *Noseweek*.

Verdi Scholtemeyer opens the taped discussion, saying the business could be sold simply on the basis of the litres traded, "I promise you'll never have to mention the paraffin story."

John: "They'll never get their money back if they just work it straight."

Verdi: "They're mixing 20%."

John: "You can make it higher, you

can go up to 80%, but if they catch you, you're in jail. They mustn't make the risk too great."

Verdi: "The people you get the paraffin from, do they give you invoices reflecting it as diesel?"

John: "At times yes... If you don't mix, your profits are nil – perhaps three cents a litre."

Verdi: "How do you remove the marker?" [*By law, paraffin has a chemical marker added, to be easily detectable when added to other fuels.*]

John: "No, that's a trade secret. We pay big guys overseas who tell us how. That information I can't give you. Anyway, Verdi, no-one's going to buy a business without having been allowed to look at the books."

John (later): "We're not afraid of being caught out ...we've removed the tracer ...today we're making a shitload of money. [*We*] mix 20%. They'll not catch us, they can't. We buy from all the companies, Shell, Total, Engen..."

Winkelhaak consists only of CCs because Pty Ltd companies' books must be audited "and then the shit begins", he explains. Petrol companies, he says, "at times give you invoices for diesel when it's paraffin. But that's by mutual agreement. If you're going to go and talk about it, I'm going to say, where did you come on that shit? Confidentially, they've got such a surplus of paraffin, they're more than willing to invoice it as diesel. But these things happen half under the table."

In 2006 Bafana Petroleum Distributors, part of Winkelhaak, sued Rubica Carriers for an unpaid diesel account. Rubica refused to pay, alleging that four of its trucks had damaged engines which, experts had said, was because the diesel was laced with paraffin – up to 30% of it.

Winkelhaak's former general manager, David Mathys van Aswegen, confirmed they had mixed paraffin with the diesel "on a large scale".

Bafana then withdrew their claim, thereby avoiding the publicity of an

open trial. Today the members of Winkelhaak cc are Pieter Diedericks, managing member (45%), N J de Wet, son of the founder, married to the daughter of the whistleblower, 22.5%, Carin de Wet Ambrosini, daughter of the founder, and wife of Dr Mario Ambrosini, MP, and Manus van Aswegen, an accountant and also a founder member, 10%.

Dr Mario Ambrosini's response: "My father-in-law, John de Wet, put up the money to start up Winkelhaak... He was a thoroughly decent man. My wife Carin inherited 22%. When Scholtemeyer first alleged irregularities, the management assured my wife there was nothing irregular.

"My wife and I have never had anything to do with one another's financial affairs. I don't get money out of Winkelhaak. If something's wrong, they must be brought to book."

"Paraffin added to our diesel? Let me tell you the history," says Manus van Aswegen. "I'm sure the person scratching is Verdi's daughter Nadia, married to shareholder N J de Wet. They're most likely keen to get me and Pieter out so they can have it all. We did add paraffin to our biodiesel when, for a short time, we ran a biodiesel plant. It was part of the recipe to add 20% paraffin to the soya oil.

"We ourselves dropped the hint that we're not doing everything according to the law, to frighten off potential competitors. If they think Pieter and I are going to sell, it's not going to work.

Noseweek: Did they add paraffin to the ordinary diesel?

"We comply with all legal requirements. The only thing we don't comply with is BEE." (95% of their tanker drivers are white.)

NW: Have you ever added paraffin to your diesel? Have you heard the recording?

"No, never. There's no tape."

Pieter Diedericks, the MD, says: "We sell 15 million litres of diesel, petrol and paraffin each month."

NW: Who buys paraffin?

Diedericks: "A bakery. Some black people – oh, and it's used as fuel for crop-spraying aircraft. SARS is still investigating a complaint that we mixed paraffin in our diesel ...but no, we haven't. Except in winter on the highveld, we add 10% paraffin to stop it freezing." ■

Parkhurst's parking pandemonium

THE JOHANNESBURG kerbside parking controversy isn't going away. As reported in *nose149*, the good people of Joburg will in future be charged for parking by marshals employed by Ace Parking, a company that will keep 75% of the revenue and which appears to be owned by one person, Juliet Paulsen. The payment system has been in place in Braamfontein and the CBD for some time, has recently spread to Parkhurst and will be reaching out to many more suburbs shortly.

On 6 March, Mervyn Smith Attorneys submitted an Access to Information request to the city, together with a demand that the implementation of the parking system be suspended pending the response. The attorneys, acting for "a number of concerned world class citizens", want a raft of documents including minutes of meetings, information regarding the tender process for the contract, the contract itself, the letter of appointment, documentation explaining how the 20 affected areas were chosen, and documentation showing how the hourly parking rate of R8 was determined. Their letter quotes liberally from the *Noseweek* article, and makes some interesting new claims:

- The system is shambolic. It was introduced to Parkhurst without notice in January when a firm called Servest suddenly started demanding a fee of R8-an-hour for parking, which caused an uproar. On talk radio, metro police spokesman Chief Superintendent Wayne Minnaar phoned in to say even he didn't know what was going on, and he would be suspending the system while he sorted out the matter. Parkhurst residents then made submissions to the city, asking for, *inter alia*, free parking for 15–30 minutes. But these requests were ignored. And then, suddenly, Ace Parking appeared on the scene demanding the parking charge.

- The system is "unlawful, immoral and unconstitutional". Why? Because the Constitution provides that the purpose of local government is to provide democratic and accountable government for communities and to ensure the provision of services in a sustainable manner. However, the document that has been seen (a blank agreement) shows that no municipal services are being provided and that this is simply a revenue-generating exercise: parking meters are even referred to as a "revenue collection system" and the stated aim of the agreement is to

"remove all costs and financial risks from the city in respect of providing a kerbside parking solution". Parking meters, say the concerned citizens, should be a means of facilitating traffic management rather than of generating revenue.

- There's been a lack of transparency and a breach of the city's obligation to provide democratic and accountable

government. Why on earth is there a confidentiality clause in the contract between the city and Ace Parking? And why did Ace Parking refuse to tell *Noseweek* whether it had been given an equally generous revenue share by the many other towns where it has contracts?

- The contract between the city and Ace Parking was signed a year before the

Ambrosini makes racket over consumer protection

MR NOSE has been known to find a situation so dire as to justify the unthinkable: a quote from Ayn Rand. It is with a similar sense of trepidation that he finds himself reporting with approval a speech made in Parliament on 28 February by IFP MP Mario Oriani-Ambrosini. He posed the question: How much protection does our government – and Minister of Trade Rob Davies in particular – really offer consumers?

It seems not much.

"For two years I have been requesting the Chairman of the Portfolio Committee on Trade & Industry, the Hon Joan Fubbs, to schedule public hearings specifically to receive the grievances of a multitude of consumers against our banks, insurance companies and cellular communication companies – and then to launch an investigation into why the Consumer Commission is so ineffective in these three fields. It seems that these three groups of companies are above any type of accountability.

The Hon Fubbs and the ANC management team in that committee have thus far refused to hold these companies accountable.

"I have been the victim of extortion by Vodacom which forced me to pay outrageous international data roaming charges which it could not even begin to explain or document.

"My wife has been the victim of an aggressive marketing scheme of Cell C, which borders on fraud. I have first-hand experience of the incompetence of the insurance ombudsman,

as well as of the collusion between Outsurance and First National Bank.

"If I, as a Member of Parliament, could get no redress from their customer services departments, ordinary citizens are left with no help. We have allowed banks and insurance companies to shield themselves with their own ombudsmen, who they pay and control."

Ambrosini said he would be launching a website, called www.daylightrobbery.org on which members of the public would be invited to place their own "horror" stories. These stories will ultimately be presented to the minister and the parliamentary committee "in the hope that they may finally choose to listen to the voice of the South African people and stop protecting those who, effectively through racketeering, are imposing on us all some of the world's highest costs for banking, insurance and telecommunications".

It was, he said, the responsibility of Parliament and the minister to hold the Consumer Protection Commission accountable for its failures in this matter.

Noseweek has, of course, for years been canvassing these issues on behalf of its readers. Type the name of any South African bank, insurer or cell-phone service provider in the search field at the top of our home page and strings of relevant article references will come up.

(See the latest on the Hon Mario Ambrosini MP on page 12.) ■

bylaws were amended to provide for a parking system

● In the agreement, the city has agreed not to cancel or reduce any parking fine – this limits the discretion the city should have in these matters.

● The city suspended the provisions of a previous parking management contract with a company called International Parking Management (Pty) Ltd, which gave the company 90% of the fine revenue. The reason is that the Director of Public Prosecutions told the city he objected to contracts that gave private companies a percentage of fine revenue, because private companies are motivated by profit rather than traffic law enforcement.

● No explanation has been given as

to how the 20 affected areas – listed in *nose149* – were chosen. To hazard a guess, perhaps the City of Johannesburg has chosen areas where it believes the residents can afford to pay for parking and where they're unlikely to lynch anyone asking them to do so.

● In Parkhurst, the system is already being abused, with marshals demanding R8 up front, irrespective of the proposed stay, despite the fact that there is a R4-per-half-hour option.

The recent Cosatue-tolling protest march shows that the people of Johannesburg are not prepared to pay for the privilege of driving on their roads. We suspect that they may feel as strongly about having to pay to park on their roads too. ■

The house that fraud built?



THE SPECTACULAR mansion, above, at 88 Addison Drive, La Lucia is the home of Mrs Shauwn Mpisane who is due to go trial in the Durban Regional Court in June, charged with tax fraud. No surprise here at *Noseweek*. In May 2008 the neighbourhood was rife with wild speculation about who the new owners might be – they had bought the property for R17 million and then embarked on extensive renovations. The flash house was one thing, the automotive pornography parked in the driveway, another: an Aston Martin DB9 sports car, a Lamborghini Diablo and a Bentley Continental – all in shiny black – and the entire package guarded by men in dark suits, carrying assault rifles. The registered owner is Wiseman Sibusiso Mpisane, a constable in the Durban Metro Police, who was recently promoted to sergeant. He has since left SAPS to become a man of leisure. His wife, Shauwn, has the more interesting connections: her brother was a cash-in-transit robber who was shot and killed by the police more than a decade ago and her mother, Florence Mkhise, is chairperson of the Durban municipality's housing committee and has a municipal office block named after her. The charges against Shauwn Mpisane relate to alleged fraud involving R2.4m. She owns Zikhulise Cleaning, Maintenance and Transport CC, and is accused *inter alia* of submitting false invoices to reclaim VAT and of managing a business while disqualified from doing so because of a previous conviction for tax fraud. Her former bookkeeper, Kishal Reddy, has pleaded guilty to similar charges. ■

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The lawyer is an ass

Munnik Basson Dagama Inc (MBD), Attorneys (nose149) have been up to their unseemly shenanigans for some 10 years. Consumer websites are awash with complaints about this firm.

IN THEIR early days, MBD were collections attorneys for the South African Broadcasting Corporation (SABC) – and still are. In the late 1990s *Noseweek* reader “Ben” moved from Cape Town to the United Kingdom and, before doing so, he contacted the SABC to ask what steps to take when one disposes of a television set and leaves the country. He was told to advise them by registered mail and include the name and contact details of the person to whom he had given or sold the television. This he did. And he kept the proof.

In due course a letter arrived at Ben’s South African address from MBD demanding payment of R216 on behalf of the SABC plus R9 for the letter of demand. The letter referred to previous correspondence that had been ignored.

On 16 February 2000 Ben contacted MBD and spoke to Claudine. She was clueless regarding the “previous correspondence” and only interested in when the debt would be paid – and in how many instalments. Ben’s explanations that there was nothing owing, that the licence had been cancelled and that he was due for a refund, fell on deaf ears. Ben followed up with a fax to MBD noting the discussion. No response.

On 20 June 2000 another letter arrived from MBD which was opened on Ben’s behalf. It was a “Draft Summons to be Issued and Served” which now claimed R246 (inclusive of interest) plus attorneys’ fees of R75.58. On the face of it, it was a summons from the Johannesburg Magistrates’ Court, fully setting out all of Ben’s details. But his attention – as a legal man – was drawn to one particular allegation in the summons: “The whole cause of action arose within the jurisdiction of the above Honourable Court”.

What, you may ask, is the significance of this? When you want to sue someone you are obliged to use a court having “jurisdiction” over the defendant. This can only be a court in the area where the defendant lives or works or, lastly, the court where “the cause of action arose”. The latter can be quite tricky to determine. In the case of a motor collision it is easy: the court in the area where the accident occurred has

jurisdiction. But in a case where someone defaults on the payments on their store card, summons would have to be issued from a court near their home or place of work as the plaintiff would not know in which court’s jurisdiction the defendant was in at the moment he or she breached the contract.

Ben phoned MBD from the UK to complain about being harassed over the debt, but he was not permitted to speak to one of the lawyers. The person to whom he spoke only wanted to know when payment would be made. After being stuffed around for almost nine months without success, he finally got through to someone at MBD who had loads of savvy, albeit minimal integrity. The MBD staff member acknowledged that the Johannesburg Magistrates’ Court did not have jurisdiction but explained it in the following way:

“The amount we are claiming from you is R321.58. We know that the Johannesburg Magistrates’ Court isn’t the right court to use but we are still prepared to sue you out of this court. Even if you win your case with full costs [What, in legal speak, is known as costs on the attorney and client scale. – Ed.] on the basis that you win on the technical point that the court lacks jurisdiction to hear the matter, you will still be more than R321.58 out of pocket.”

Ben, realising that attempted extortion was taking place, terminated the call.

“I wonder how MBD will respond to receiving fake court process? Worth a shot,” he told himself.

On 26 March 2001 he prepared and sent a “Draft Criminal Charge Sheet in respect of the crime of Attempted Extortion” by fax to MBD and their auditors, Louis Kruger & Co Inc, citing MBD and the signatory on the “Draft Summons”, MBD founder and senior partner Frans Lodewyk Munnik Basson. (Wisely, he seems to have dropped the FL from his name. – Ed.) The “accused” must have been flummoxed by this as they took two months to respond. On Monday 28 May Ben received a fax from Munnik Basson. This letter sought to educate him about the law-according-to-MBD. Here are a few choice quotes:

● The suggestion that MBD has committed a criminal offence by threatening the institution of civil proceedings, on behalf of a client of the firm, is to say the least, preposterous.

● It is commonplace for attorneys to

address letters of demand to debtors on behalf of their client.

● It is outrageous to suggest that a firm of attorneys, who advises a debtor, on behalf of a client, that should a debt which is lawfully due not be settled, lawful process will be pursued, has committed extortion;

(Mr FL Munnik Basson doesn’t seem to think that fake summonses and the expressed intention of misleading court officials in order to obtain a default judgment is unlawful – and an abuse of court process. – Ed.)

● “...take proper legal advice before pursuing any course of action”;

● “...the charges are, to put it at its lowest, ill conceived”;

● “...Our rights remain strictly reserved.”

Of course, the issue of the alleged debt was not addressed. Ben, who only ever wanted to get the matter resolved and have MBD off his back, replied a month later to Munnik’s missive. The response was comprehensive. Two aspects dealt with by Ben are worth sharing:

It is outrageous to suggest that a firm of attorneys ... has committed extortion

● “By threatening to have a summons issued out of the Johannesburg Magistrate’s Court and, further, by alleging that this court has jurisdiction, you have unlawfully and intentionally attempted to gain an advantage by subjecting me to pressure in an attempt to have me make payment to your client. For this reason I am naturally subjected to pressure by you to pay to your client the amount claimed, notwithstanding that fact that it may not be owed.

● “The unlawful aspect of your conduct

relates to the threat to issue summons out of the wrong court. In the light of your allegation that 'The whole cause of action arose within the jurisdiction of this Magistrate's Court' the Clerk would be legally entitled to grant a default judgment. When one looks at the way in which the threat has been couched and the results envisaged one comes to the inescapable conclusion that you and/or your firm would know beforehand that the conduct is unlawful.

"It was clearly intended that the 'Draft Summons' would operate as a threat and that you intended me to see it as a threat – not only as a summons for debt but as a threat that I would have to defend the matter in the Johannesburg Magistrate's Court. Obviously you (and the SABC) would gain an advantage as a result of the threat but, furthermore, you know issuing summonses out of the wrong court AND alleging, 'The whole cause of action arose within the jurisdiction of this Magistrate's Court' is unlawful.

"There is no doubt in my mind that you deliberately threaten debtors with Draft Summonses so as to extract payment out of them but, more particularly, threaten to sue debtors out of a court which is sometimes hundreds of kilometres away from where they live, in order to acquire a tactical advantage over them. I remind you that on 15 February 2000, in response to the one and only letter of demand received by me from your firm, I cautioned against this unlawful conduct by writing:

"It would seem to me that your Messrs Munnik Basson and Dagama are the sort

of crooked attorneys who would have no hesitation in issuing summons out of the wrong court for their own convenience."

Prescience?

Munnik Basson responded by fax shortly afterwards saying that MBD would have no further contact with Ben, except by way of court process. Ben has not heard from MBD again. *Bravo! And good riddance!* ■



Whom should I say is calling?

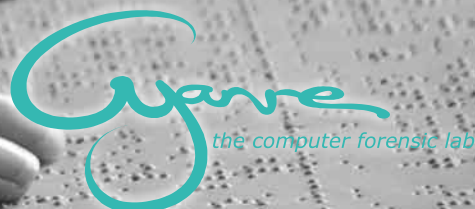
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SUNDAY TIMES STORY STILL STINKS



Mzilikazi Wa Afrika

THE *Sunday Times* investigations team have rushed to defend themselves after *Noseweek* last month revealed the shady criminal origins of their 11 December front-page story labelling the Hawks' Cato Manor organised crime unit a murderous "police death squad".

Why *Noseweek's* critical interest in another publication's story? For a start, by means of that December report – much of it based on shaky or even false evidence – the *Sunday Times* managed to secure the disbanding of the Hawks unit and had Minister of Police Nathi Mthethwa attempting to suspend its commanding officer Johan Booysen and several other senior police officers. (The police officers have succeeded in getting a court order preventing their suspension without there being any charges for them to answer.)

By the police minister's own admission, the only reason for his having ordered the disbanding of the Hawks unit was the *Sunday Times* report or, as he put it, "the stigma given to the unit by press reports".

The newspaper's December report

therefore raised the spectre of criminals now having sufficiently high-level media and political connections to be able to disable any police or prosecuting entity that poses a serious threat to their activities.

Noseweek pointed out that all the police officers targeted by name in the *Sunday Times* probe were involved in the probe of serious corruption charges brought against a few businessmen and politicians – and their corrupt collaborators in the police service.

Noseweek also pointed out that two of the accused in a major police corruption case – businessman Thoshan Panday and his friend Colonel Navin Madhoe – had, late last year, been offering a "package" to various newspapers of supposed evidence, including a CD with pictures allegedly taken at the scenes of shootings by members of the Hawks unit. As far as *Noseweek* had been able to establish, the *Sunday Times* was the only taker. The cases cited and pictures used in the newspaper's story are demonstrably derived almost entirely from the material on that CD.

The three *Sunday Times* journalists

under whose bylines the original story appeared, set out to refute *Noseweek's* accusations – and to launch a counter attack – in an editorial essay that appeared on the newspaper's leader page on 4 March.

In it, the three reporters bravely claimed that *Noseweek's* "rush to defend the Cato Manor hit squad is not based on facts". They went on to deny that their story was based on that notorious CD purveyed by Thoshan Panday and his associates as a means of discrediting the policemen leading the cases against them. It was, said the newspaper's journalists, based on their own independent research.

But *Noseweek* has good reason to believe that at least one, less scrupulous member of the *Sunday Times* team had to have known better. Confronted by *Noseweek*, Mzilikazi Wa Afrika has now admitted to having received the notorious CD and to having used material on it, but said he got the CD from senior officers in the Crime Intelligence Division at police headquarters in Pretoria, not from Panday. (If they were in fact the *Sunday Times's* source, their motives are likely to have been as suspect, for very similar reasons. (See secret report story on page 7.) Wa Afrika flatly denied ever having met, let alone spoken to, Panday. Which is where everything starts to unravel.

Panday, a wealthy Umhlanga man who drives a Ferrari – and claims to own an improbable number of other luxury sports cars – makes the bulk of his income doing business with the police, supplying everything from blankets for holding cells to hotel accommodation, to arms. Panday boasts that President Jacob Zuma's sons Edward and Khula are his close friends, but denies using their influence to make money or influence tenders.

Says Panday: "In a good month I make R100m. Why do I need anyone to help me get tenders from the police?"

It is alleged in court papers that

during the Soccer World Cup Panday and a Supply Chain Management cop, Navin Madhoe, contrived a scam in which Panday would submit massively inflated hotel accommodation bills – which his co-accused fraudster Madhoe would sign off on.

Johan Booysen, the provincial head of the Hawks in KwaZulu-Natal, investigated – and was almost immediately the subject of what he perceived to be a blackmail attempt aimed at halting the probe: Madhoe had asked to meet the top cop and showed him a series of gory photographs that Booysen recognised as crime scene photos. Some showed crime scenes his men had investigated, others showed suspects who had been shot dead by detectives in the unit. A few were of Booysen's detectives drinking and braaing.

After showing Booysen the pictures, Madhoe allegedly closed his laptop screen and asked whether Booysen could help him. Booysen interpreted this as an unspoken threat: if he, Booysen, did not help get Madhoe off his corruption charges, the pictures would be used in a smear campaign.

Subsequently, Madhoe was trapped in a sting operation while trying to bribe Booysen – with over R1m in cash allegedly supplied by Panday.

When, shortly before *Noseweek* went to press, Panday and Madhoe appeared in the Durban Magistrate's Court for remand on the latest bribery charges, five police officers were named in the charge sheet as witnesses to be called to testify on behalf of the State. All four just happen now to be under formal threat of suspension as a result of the *Sunday Times* article.

Despite his denial, we have a first-hand account of *Sunday Times* investigative reporter Mzilikazi Wa Afrika's meeting with Panday and Madhoe and four other men – one of whom is believed to be Wa Afrika's colleague Stephan Hofstatter at the Havana Lounge in Durban's Gateway Mall in mid-November. One of those present

at the meeting says that a computer memory stick was handed to the *Sunday Times* journalists.

Hofstatter admits to having been at the meeting but refuses to discuss the matter other than to insist the *Sunday Times* reporters used no information obtained from Panday in their story.

There have been more meetings with Panday since then.

Noseweek has it on good authority that "technical" evidence exists to prove that Wa Afrika spoke to Panday at around 5:30pm on 8 March, when they agreed to meet at Nando's near the Gateway Mall – convenient for Panday, whose offices are scarcely 100 metres away. Later the venue was changed to the McDonalds inside Gateway. In the initial minutes of the conversation Wa Afrika asked whether Panday had "the DVD" – and appeared disappointed when he replied that the DVD had already been "sold to *Carte Blanche* and *3rd Degree*". (*Carte Blanche* executive George Mazarakis assures *Noseweek* they have no such thing.)

The same mythical DVD has been promised to several members of the media in recent months. The *Sunday Tribune* says Panday promised them he would be able to supply a DVD that

showed scenes in which Booysen – a major-general and deputy provincial commissioner – is seen taking part in the brutal interrogation of suspects while drinking champagne. Some versions of the story have him smoking Cuban cigars at the same time.

The DVD is also allegedly said (by Panday) to show Booysen ordering the suspects be murdered – after that, Booysen's men purportedly execute their handcuffed prisoners before Booysen poses next to their bodies with his champagne glass.

(Clearly a parody of the original CD, it succeeds in holding out the threat of a horror movie to come, possibly to intimidate anyone who might be tempted to come to the defence of Booysen and his Hawks unit.)

● The *Sunday Times* identified Warrant Officer Paul Mostert as the man who killed Kwazi Ndlovu, saying Ndlovu was shot when police searched his home looking for an escaped prisoner. The inquest is complete but the court has yet to make a finding.

When *Noseweek* called Ndlovu's family, they said they told the *Sunday Times* that two policemen, Captain Paul Mostert and Warrant Officer Paddy Padayachee had shot their son.

It seems the *Sunday Times* chose to omit Padayachee's name. But then Mostert is a witness against corruption-accused Panday and Madhoe. Padayachee is not.

● Wa Afrika told *Noseweek*: "Before publishing the photographs that accompanied our articles, we used photo-verification software to ensure the dates and times matched the events depicted."

Maybe. But, whatever the software, it clearly could not verify who or what was pictured and to which unit the policemen involved might belong.

We have established that the *Sunday Times* team got it just a bit wrong a lot of the time – and very wrong on some occasions. Two examples:

● In January 2009, seven armed

The mythical DVD has been promised to several members of the media

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robbers and one member of the public were shot dead and several people seriously hurt in the course of an armed robbery at Chicago Meats, a Durban butchery that also functioned as a pension paypoint. CCTV footage shows the robbery taking place. Police Dog Unit and Flying Squad members responded within seconds. Twenty minutes after the robbery, eight men were dead in their bakkie – and are photographed by crime scene experts where they fell.

David Brandsma, the owner of Chicago Meats, said the robbers held up his security guard at gunpoint, then assaulted the manager on duty and demanded keys to the safe. CCTV footage shows that the robbers then jump into a waiting bakkie, five men piling into the back and two into the front. On the N3 freeway they engage in a gun battle with a Flying Squad car – which is disabled when its engine blows up after being hit by a bullet – as well as a police Dog Unit car which continues the chase.

ER24 paramedic Derrick Banks decided to follow the police in pursuit of the bakkie: “We saw a police dog unit vehicle stop just past the golf driving range on Rick Turner Road. A bullet had gone through the windscreen and had hit the male driver in his right upper chest. A bullet also grazed a female pedestrian on her arm. The driver had apparently had a mild heart attack and was rushed to St Augustine Hospital’s ICU.”

Pedro Rodrigues of the Durban Dog Unit was the driver who collected a bullet in the chest – he was saved by his bullet-proof vest. Rodrigues’s partner, Mbongiseni Maphumulo, survived this shooting unscathed, but was killed in another shootout with armed robbers only months later. During the second shooting in which Maphumulo was killed, one armed robber was shot dead and three were arrested.

Maphumulo’s family told *Noseweek* that he had been shot and seriously injured on four occasions before the fatal shooting. The year before his death, Maphumulo’s dog Pluto had been shot in the spine but survived. A dog he’d owned previously, Tolkie, was shot dead in an earlier gun battle with armed robbers.

Rodrigues of the dog unit would be shot again, months after his partner was killed, this time, in the throat.

Back to the chase on the N3: a tow-truck driver from Durban South Towing, Wayne Heylen, also saw the

police chasing the bakkie and decided to follow. He saw the bakkie crash in Maydon Road near the Durban Harbour and a protracted gun-battle ensued. It ended with all five robbers on the back of the bakkie, dead. The police officers involved in the final shootout were from the Dog Unit, the Flying Squad and Durban Metro Police.

Noseweek relates the above incident for two reasons: it gives a brief insight into the lives of policemen who have to deal with violent crime. And it shows that none of the policemen involved in this incident were from the Cato Manor organised crime unit.

But the picture of the dead robbers on the back of the bakkie was used by the *Sunday Times* to illustrate their story damning Johan Booysen as the commander of a police “death squad”.

Captain Anton Lockum, previously of the Cato Manor Organised Crime Unit said: “Those photographs were on our computers because we were investigating the crime. Nobody from our office was involved in the car chase or the shootout – we had the crime scene photographs as we were investigating who the gang was and whether they had any accomplices.”

● The *Sunday Times* also claimed that the Cato Manor Organised Crime Unit was being investigated for the murder of four men who were shot dead while asleep on a mattress in a hut outside Inanda. *Noseweek* checked it out – only to find that they had got that wrong, too.

The record of the inquest, held before a magistrate in the Verulam Inquest Court, reveals that the four men shot dead on a mattress in April 2009 were shot dead by police officers from the Inanda police station, after two of their colleagues, Inspector Albert Gumede and Constable Mntungani Xulu were murdered while carrying out a dagga shake-out in a shebeen. The dead policemen’s guns were taken by their killers. Meanwhile, another policeman who survived the shooting telephoned his colleagues for help... reinforcements then went to a house where the alleged murderers were holed up. A shootout ensued and the suspects died from multiple medium and heavy caliber gunshot wounds. Nobody has been charged with these killings.

A lot remains unclear about the incident, but one thing is clear: no policemen from Durban or Cato Manor were involved.

● The *Sunday Times* makes some play of the repeated allegation that

policemen involved in shootouts had “celebrated” after the event with drinks and a braai. Several photographs showing policemen celebrating were included on the original CD, presumably to demonstrate the unit’s callous attitude to the lot of their victims.

In one such photograph a member of the Cato Manor Unit is seen holding a single incriminating beer bottle – while sitting with a number of his colleagues who have neither glasses nor bottles to hand. The photograph is time-marked 7:22 am.

Bruce MacInnes, a former member of the Cato Manor unit, told *Noseweek* that drinking beer, or even brandy, at 7am or 8am after a night shift was not unusual. MacInnes broke the back of many ATM bombing gangs while a member of the unit. He was also the subject of a book by Johnny Steinberg called *Midlands* – a fictionalised account of the farm murders that MacInnes solved during his police career.

“People writing about gunfights should have had to survive a gunfight themselves. After working all night, and especially if there was something as traumatic as a gunfight involved, it was normal to have a beer in the morning before trying to get to sleep with the sun shining through the windows. Very often there would be braais after work. Sometimes we would go to a pub, sometimes to a shebeen after work. Drink allows you to sleep. Beer is cheaper and probably healthier than sleeping tablets. A few beers would help us de-stress.”

As for the closure of the unit not affecting crime prevention, police spokesman Colonel Jay Naicker was quoted by Durban’s *Daily News* as saying a recent spate of violent house robberies and cash heists was due to the closure of Cato Manor. The next day the *Daily News* carried an apology saying Naicker had accidentally been misquoted.

MacInnes had another view: “Of course this has affected crime prevention. Anyone who says otherwise is mad or misguided. When you tell the 12 cops in the province that they cannot investigate any new cases, you don’t just hamstring them, you also hamstring all their dozens – or hundreds – of informers. In the last four years we have not had a serious cash-in-transit robbery in Durban. Within weeks of Cato Manor being closed down we had two: one in which a guard was murdered. There’s an agenda here.” ■

Tiger Brands gets sticky over logo

THERE'S a carpenter on the loose in Cape Town who is blatantly passing himself off as a tin of jam. Sometimes he even simulates a tin of pasta. Hell, this guy's so brazen he's even been known to misrepresent himself as a bottle of ketchup.

The good news is that attorneys Spoor & Fisher, instructed by Tiger Brands, have decided to put a stop to this ridiculous nonsense: they've told carpenter Mike Rule in no uncertain terms that he'd better stop using any logo that looks anything like the All Gold labels – logos that Mike Rule has been using for his one-man carpentry business, All Wood Carpentry Solutions, for at least five years. Rule adopted the logos as a bit of fun – “culture jamming” as it's called – inspired, no doubt, by culture jammer extraordinaire, Justin Nurse.

“Whenever my customers saw it, they smiled,” he says. “And at one of my

different section that makes it unlawful to “take unfair advantage of, or be detrimental to the distinctive character or repute” of a registration. In simple terms, what you're doing will “erode and dilute” Tiger's trade mark rights.

But hang on a minute. Does Tiger really have trade mark registrations covering carpentry services and, if so, why aren't they mentioned? Surely, if the company's registrations are limited to foods, point one falls away?

And will anyone really be confused into thinking that All Wood Carpentry Solutions is connected to All Gold. If not, surely point two falls away? And didn't Justin Nurse go all the way to the Constitutional Court with his Black Labour parody of Black Label,



taking this action was to ensure the value of its intellectual property was not diluted.”

There was also a bit of “it's not fair” – always wonderful from giant corporations: “Tiger Brands' All Gold logos have been specially designed for Tiger Brands which has invested a considerable amount of money

in creating and promoting them over many decades. No third party should be allowed to take advantage of the goodwill created.”

There was an unconvincing attempt to differentiate: “As an aside, Tiger Brands specifically took a decision several years ago not to challenge Justin Nurse/Laugh It Off where copies were made of various Tiger Brands trade marks in circumstances that clearly amounted to no more than parody. This situation is, however, different. There is no parody involved.”

Really? Tiger might contend their products are “all gold” (which they are not); while Rule contends his are “all wood” (which they are).

Collins English Dictionary defines parody as “literary composition that mimics the style of another author in a humorous or satirical way”. OK, Spoor & Fisher didn't get the joke – or more likely, they weren't paid to get it.

Finally there was a hint that Tiger realises it's on shaky ground: “Over and above trade mark concerns, All Wood's use of the logo also infringes the copyright in the All Gold logo ... Tiger Brands has, without prejudice to its rights, indicated to me that it is prepared to engage constructively with All Wood to resolve this matter.”

A far cry from what was said in the letter to Rule – that if he didn't stop using the labels by 13 March 2012, he could “expect legal proceedings to be instituted without any further warning or notice”. *Noseweek* is delighted to note that Rule can now significantly modify his expectations. ■

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ALL WOOD

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www.allwood.org.za

Carpentry Solutions

wood suppliers, whenever I arrived, the staff would laugh and start singing the tomato sauce jingle.”

No smiles at Spoor & Fisher. By using the labels you are doing three bad, bad things they've told him:

1. You're infringing Tiger's trade mark registrations, in terms of a section of the Trade Marks Act that makes it an infringement to use, in relation to products covered by a registration, a mark that is so similar it will cause confusion.

2. You're using your label in a way “calculated to confuse the public into believing that you or your products are connected in the course of trade with our client”. In other words, you're guilty of passing off.

3. You're infringing Tiger's trade mark registrations in terms of a

and didn't that court find that his parody was lawful because SAB was unable to prove any likelihood of it's suffering economic loss. If so, doesn't that take care of point three, because there's no way that Tiger is going to suffer any economic loss here?

Noseweek asked Spoor & Fisher and Tiger if they'd like to comment. In reply we got one of those letters that says a lot while conveying little. Questions about points 1 and 2 were ignored, as was one about economic loss. Instead we got some general comment about dilution of trade marks.

“Significant value resides in heritage brands and that value is diluted if the brand is allowed to be used indiscriminately. This dilution takes place regardless of whether confusion is likely to arise... Tiger Brands' motivation in

Indian Ocean coast in Mozambique's Zambezia Province, where Pathfinder Minerals claims concessions

Riddle of the sands

Tug of war over control of valuable Mozambique mineral deposits

A FEW WEEKS ago Nick Trew, chief executive of London-listed Pathfinder Minerals Plc, and his ever-present PR sidekick Ben Simons, called to alert *Noseweek* to intrigue and skulduggery surrounding valuable titanium and zircon deposits in Mozambique.

They told how a Mozambique general – a decorated war hero and president of the South Africa-Mozambique Friendship Association – has set up a company with the same name as theirs and hijacked their mining licences, potentially worth many billions. He had, until recently, been Pathfinder's local business partner.

Trew and Simons, on a brief visit to South Africa, had wished to set up a meeting to brief *Noseweek*. In the event, it was only several days later – when they had returned to the UK – that our reporter managed to catch up with them by telephone for what he

thought would be a lengthy interview. It was certainly lengthy, but not quite an interview: "Can I assume that Nick is not being quoted?" asks Simons, who hails from M:Communications, the strategic consulting arm of global financial and stakeholder communications firm King Worldwide. "It was made clear to your editor that this was for background and was off the record and that we could discuss any specific quotes afterwards."

Noseweek is therefore unable to pass on any of their startling allegations about how shabbily they have been treated by the 74-year-old Major-General Jacinto Veloso and his partner, who they describe as a "supposed" Maputo lawyer named Diogo Cavaco. Veloso is Mozambique's former Minister of State Security, former chief of the country's intelligence

services and adviser to the President of the Mozambique Republic, Armando Guebuza. Cavaco has a master's degree in law, a post-graduate degree in stock exchange law and a post-graduate degree in electronic media in society, all from the Classic University of Lisbon.

In the end, the only "specific quote" to emanate from Trew was a reminder about Mozambique's "huge dependence on foreign direct investment" to build necessary infrastructure – and how vital it is that "the international mining and investment communities should have absolute confidence that their property and licence rights in Mozambique are secure".

It emerges that *Noseweek* was just one of several local media outlets targeted by Nick Trew and Ben Simons for a series of off-the-record



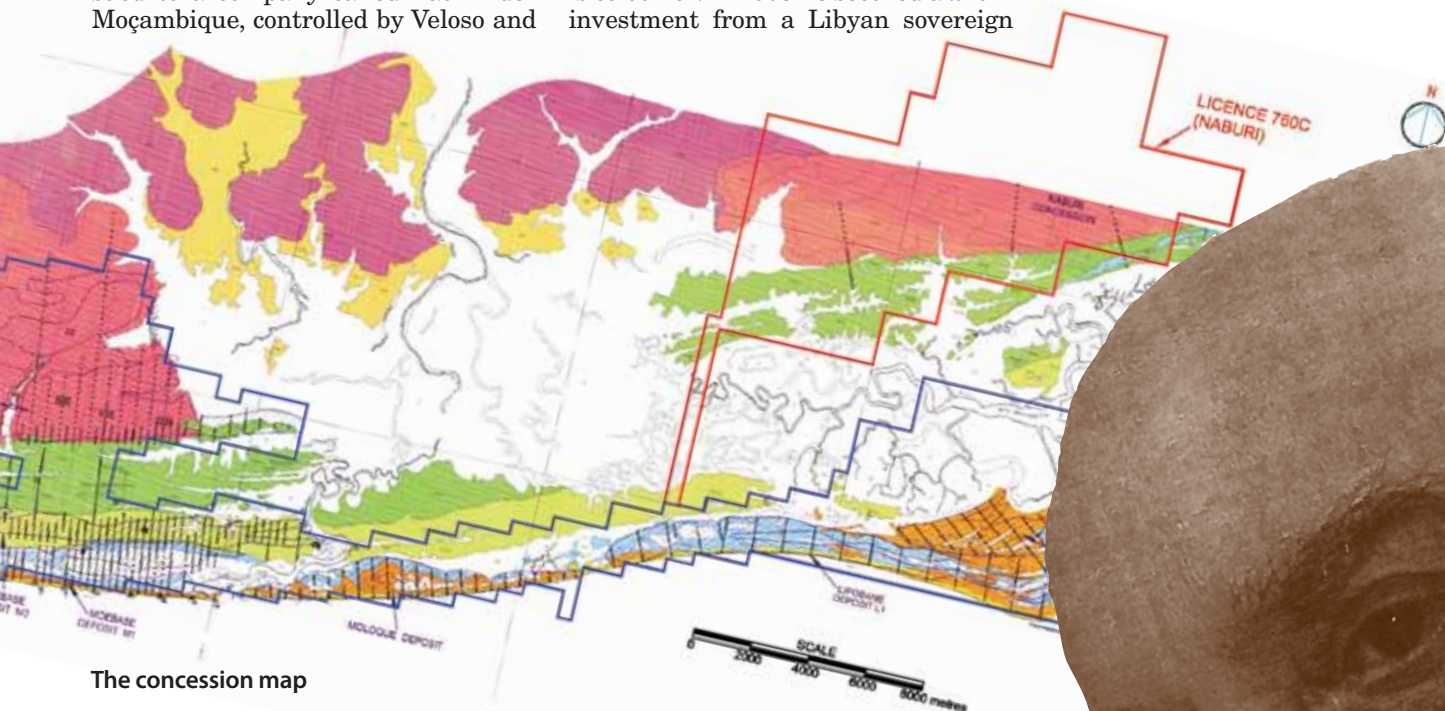
“background briefings” during their late-February trip to South Africa. The *Sunday Times* rolled up; ditto *Mineweb*. The latter duly reported Trew’s concern about companies invested in Mozambique losing confidence, and the deterrent effect on any future investment etc etc. As for the ownership row currently raging over the mining licences, the writer was content to rake up an old Pathfinder Plc announcement from November last year saying that its mining licences had apparently been reissued to a company called Pathfinder Moçambique, controlled by Veloso and

it has had a mixed reception in the City, London’s financial district, having harboured not a few dodgy companies along with its successes.

Chairman of Pathfinder Minerals Plc – with 14% of the stock – is John McKeon, a 53-year-old Irishman and exploration entrepreneur who was previously a senior executive and broker at Harvard Securities, a “boiler room” company closed down by the UK’s Financial Services Authority, (FSA) and whose chief executive was jailed for fraud. McKeon’s background is colourful: in 2003 he secured a £19m investment from a Libyan sovereign

market abuse, but his defence that no such telephone conversation had taken place was successful.

The drab Watford office block housing Pathfinder Plc is also home to a couple of Tim Baldwin’s less successful AIM-listed companies, Ram Active Media (70% share value slump in the past year) and TXO – formerly Texas Oil and Gas – share slump 37.5%). But maybe that’s all in the nature of the venture capital market: win some, lose a lot. Pathfinder’s chief executive Nick Trew, 56, co-founded a project manage-



The concession map

his associates.

Pathfinder Minerals Plc: the image that springs to mind is a traditional London mining house, with scores of employees and shareholders. In fact this plc occupies modest space in an office block in the suburban town of Watford, north-east of London. A shelf plc called Pathfinder Properties (until it changed its name to Pathfinder Minerals in December 2009), the reborn entity acquired Nick Trew’s IM Minerals Ltd in a reverse takeover as part of its admission to the London Stock Exchange’s Alternative Investment Market (AIM) on 30 December 2010.

The AIM, launched in 1995, is the London exchange’s market for smaller companies with little liquidity seeking access to growth capital. Much like similar markets established elsewhere,

wealth fund set up by Muammar Gaddafi. His failures include fibre-optic networks, a UK radio station, and newspapers in China. At one stage he spent several skid-row years sleeping in cardboard boxes in a north London warehouse.

Another shareholder – and a director at the time the company was readmitted to the AIM – is Tim Baldwin, 47, whose WRT Investments profited after he allegedly telephoned the chief executive of Irish mining exploration company Minmet Plc late in July 2003 and received information about the positive performance that month of Minmet’s principal asset, a gold mine in Sweden. When this positive information was notified to the market some days later, Minmet’s share price doubled. The FSA sought to impose a £25 000 penalty on Baldwin for

ment business called International Mercantile Group, which he ran for 13 years with Gordon Dickie, 64, until recently a fellow Pathfinder director.

Now, as massive legal battles brew in Mozambique and London, let’s try and work out who’s allegedly stolen what from whom.

In 2004 Veloso’s company JV

Major-General Jacinto Veloso

Consultores Inter-nacionais acquired a 25-year mining concession licence, number 760C, known as the Naburi licence. Situated on the Indian Ocean coast some 1 100km north of Maputo, its available reserves of heavy minerals are estimated to be worth billions of rands (see box).

To develop the project, Veloso and attorney Diogo Cavaco transferred the licence to a company called Companhia Mineira de Naburi (CMdN), whose 400 000 bearer (“no-name”) shares they owned jointly.

Looking for a business partner with the relevant expertise and access to capital, they turned to Nick Trew and Gordon Dickie’s International Mercantile Group (IMG), with whom they signed a memorandum of agreement to develop the project. On 10 February 2006 IMG signed an agreement to purchase 80% of the shares of CMdN, at \$100 000 for the option and a purchase tab of \$10m.

The agreement stipulated that CMdN’s option shares would be lodged in London with IMG’s City of London solicitors, Penningtons. If IMG wished to exercise the option, they would pay CMdN the \$10m.

Although this \$10m has never been paid, Nick Trew and co claim that the agreement represents a sale, and that ownership of the Naburi licence therefore resides in IMG. Trew has suggested in a witness statement that the lodging of bearer share certificates with Penningtons represents a transfer of shares. (In theory at least, mere possession of a “bearer” share establishes ownership.) Veloso and Cavaco maintain there was to be no transfer of ownership until the purchase consideration of \$10m had been paid.

It took two years for IMG to come up with the \$100 000 option money.

In his witness statement to London’s high court, Cavaco says that “despite my misplaced trust in the genuineness of Mr Trew and Mr Dickie and those connected with IMG, and my patience regarding the progress of the project, no major development happened over the years and there was no serious attempt by IMG to develop the mining project...Over six years later, IMG has failed to meet any of the terms of the MoU (Memorandum of Understanding).

“It became apparent to me that the reason for failure by IMG to exer-

certificates on the condition that those would be returned promptly.”

At the same time Cavaco and Veloso were urged to hold a general meeting of CMdN and draw up minutes recording declarations that they had sold 75% of the company’s shares to IMG. “I was led to believe that all this was done because of the need to satisfy investors that IMG had control over CMdN and the mining concessions,” writes Cavaco. “I understood from Mr Trew and Mr Dickie that it was simply required to facilitate the negotiations regarding fund-raising with potential investors for the project. They knew the declaration was not correct and was pure window-dressing.

“I was informed by lawyers in Mozambique that any decision purporting to transfer of shares held by myself and Major-General Veloso could not be made in a general meeting anyway, and was therefore not valid.”

From these statements it seems that both sides colluded in a plot to bamboozle potential investors.

At the beginning of 2009 the project expanded to cover a neighbouring site – the combined area covers 32 000 hectares and extends along 50km of

It seems both sides colluded to lure potential investors

Heavy metal

THE HISTORIC mineral resource of the Naburi site, with that of the neighbouring Moebase site acquired in 2009, was reported by consulting engineers URS Scott Wilson the following year to hold approximately 71.7 million tonnes of “contained” heavy minerals.

Based on an anticipated annual production of 1 245 000 tonnes of ilmenite and 24 000 tonnes of rutile (key minerals in the production of titanium metal), plus 65 000 tonnes of zircon, they valued the asset at \$529m (R3.9 billion). As demand for these rare minerals grows, the value could quickly escalate.

cise the option and move the project forward was that it had no money.”

In May 2008, when Cavaco was “under a lot of pressure to ensure that the project got under way,” Gordon Dickie asked him to authorise IMG to take possession of the bearer share certificates that had been lodged with Penningtons. Dickie explained that IM Minerals needed to demonstrate to potential investors that it already owned the shares.

“I found myself in a difficult position,” writes Cavaco. “It had been two years since we signed the share-option agreement and nothing much happened despite all the promises made. Although I was concerned about the inability of IMG to come up with the necessary finance up to that point, I still thought they were acting in good faith. I therefore reluctantly agreed to allow them to have access to the share

coastline – when CMdN acquired exploration licence 4623C, the “Moebase” licence, from BHP Billiton. The price tag was \$10m, of which \$500 000 was to be paid upfront and the balance, on milestones reached in construction and in production. The \$9.5m balance remains unpaid.

By mid-2009, dissatisfied with IMG over the continued lack of progress at Naburi, Veloso and Cavaco decided to reduce the CMdN shares on offer in the option agreement from 80% to 70%. “Again, at this time IMG had not exercised the option and in consequence did not own any shares,” says Cavaco. Later that year 75% of the CMdN shares (which Veloso and Cavaco maintain IMG did not truly own) were transferred to Tim Baldwin and John McKeon’s IM Minerals (IMM), shifting the personal liability to pay the reduced purchase price of



Pathfinder Minerals' Chairman, John McKeon (extreme left), chats with locals in Zambezia Province on a visit to the concessions

\$9.9m under the option from Gordon Dickie and Nick Trew to IMM.

By the end of 2010 there had been a reverse takeover of Pathfinder by IMM, dumping the \$9.9m debt on to the new plc's shareholders.

Before trading in Pathfinder's shares started in February 2011, Veloso and Cavaco admit they agreed to a further deception: the issue of a nominative share – a share certificate naming IMM as the owner of 99.9% of CMdN's share capital. In other words, further "evidence" that the plc owned the mining licences. However, Cavaco states they knew this nominative certificate was invalid, since only bearer shares were allowed to be issued under CMdN's articles. "We issued the share certificate knowing it was invalid because at the time we feared that IMM might not honour the terms of the option agreement, but nevertheless hoped that this issue would facilitate the raising of finance and might lead to payment for our bearer shares, supposedly still held by Penningtons.

"Another fact that influenced me," continues Cavaco, "was that Mr Trew and Mr Dickie assured me that they

would exercise the option and pay the amount and that the Pathfinder Minerals Plc prospectus would reflect that payment.

"On the 18 July 2011, no doubt thanks in no small part to the apparent ownership by IMM of 99.9% of the CMdN shares, Pathfinder announced that a number of institutional investors, including JP Morgan Asset Management and Genesis Asset Management, had agreed to buy shares worth £11m in Pathfinder, at 5p per share. These subscribers obtained 21.7% of the enlarged share capital of Pathfinder."

Veloso was appointed to the board of the new plc. However, he soon discovered that the new issue had diluted his Pathfinder shareholding from 15% to 12%. Veloso was not a happy chappie and resigned just three months later, on 21 October. When he finally confirmed his resignation on 11 November, Veloso informed them that his UK lawyers had advised that the directors of Pathfinder, IM Minerals and IMG may have committed civil and criminal acts including deceit, negligent misstatements, misrepresentations, breach of contract and

offences under the Bribery Act of 2011. Pathfinder requested the London Stock Exchange to suspend its shares the same day.

It now transpires that on 27 September, a month before his resignation, Veloso and Cavaco quietly established a new company in Maputo, confusingly called Pathfinder Moçambique. And shortly after Veloso announced that both the Naburi and Moebase licences had reverted to his JV Consultores and that a new amalgamated licence had been issued by the Mozambique minerals ministry to Pathfinder Moçambique.

A month before Veloso resigned, and flush with its newly-acquired £11m, Pathfinder Minerals Plc had appointed Joburg-based Jacobs Matasis, the empowered subsidiary of Jacobs Engineering Group, to produce a feasibility study of the mining site. (The study – now on hold – has been part-funded by South African taxpayers through a \$700 000 – R5.2m – grant from the DTI.)

In October, before Veloso's resignation was announced to the market, Nick Trew emailed Veloso hoping to persuade him to reconsider. Trew regretted the dilution of Veloso's Pathfinder shares and said that he, McKeon, Baldwin and Dickie proposed transferring some of their own shares to JV Consultores to put Veloso back to his original 15%. Trew added that plans were in place to raise full funding to develop the mining project, with forward sales of product to identified Chinese buyers. "At the point of raising these funds Pathfinder will pay JV Consultores \$6m in full as your part of the contractually agreed original \$10m (less the \$100 000 already paid) for the sale of 75% of CMdN," wrote Trew.

He also threatened Veloso: "If anything untoward happens to the CMdN licences, the institutional backers led by JP Morgan will sue the directors, including yourself. Diogo [Cavaco] will undoubtedly be prosecuted for insider trading."

In December Pathfinder Minerals Plc was granted an interim injunction in London ordering Major-General Veloso not to interfere in the shares of CMdN. And now, powerful London financier Tim Horlick is campaigning with Veloso and Cavaco to have the injunction set aside. Horlick, a chartered accountant who was formerly a partner with Salomon Brothers

Europe and chief operating officer of European Investment Banking, claims that Veloso and Cavaco (“who I believe to be decent and honourable businessmen”) are the innocent victims of a complex series of frauds committed by the directors and former directors of Pathfinder Minerals and IMM.

Horlick and his cousin invested £200 000 for IMM shares – later exchanged for Pathfinder stock. In his witness statement made in February Tim Horlick claims: “To this day Mr Trew and Mr Dickie have only paid \$20 000 between them for the 17.4% they own of Pathfinder shares, despite agreeing seven years ago to pay \$10m for 80% of the shares upon exercise of the option to purchase.”

It was only in April last year, when Horlick visited Mozambique on holiday, that Diogo Cavaco “dropped a bomb-shell” and told Horlick that he and Veloso were due to receive \$9.9m from IMM for their shares in CMDN.

The directors’ transfer of the obligations of IMG to IMM – and hence

Comments Horlick in his statement: “In my 17 years as an accountant and investment banker, during which time I have worked on the flotation of many companies on the London stock market, I have never seen such a misleading document. It was now becoming clear to me why this prospectus was not on the website of Pathfinder. It appeared that an entirely fraudulent prospectus had been issued to the public market.”

He describes the transfer to the shareholders of IMM – and in due course Pathfinder – of IMG’s obligation to pay \$9.9m to JV Consultores and Diogo Cavaco as a crude attempt to legitimise things, with the sinister overtone that the transfers got Nick Trew and Gordon Dickie off the hook for having to shell out \$9.9m that their IMG had contractually agreed to pay.

In September Horlick and his solicitors briefed leading London criminal counsel Peter Doyle QC to review all relevant documents. And Horlick now

Demonstrating clearly the position of the Mozambique government, the high commissioner in London, Carlos dos Santos, hosted a dinner at the private members’ club Boodles, attended by institutional investors who were now talking to Veloso’s breakaway Pathfinder Moçambique. They included heavyweights from Investec Bank, Schroders Plc, Kleinwort Benson and Salomon Brothers.

Attorney Diogo Cavaco is confident that he and Major-General Veloso can handle the future of the mining project themselves. “We have a lot of proposals with real and good investors,” he tells *Noseweek*.

“The principal London investors are working with us and they know very well what these guys [at Pathfinder Minerals] are trying. These guys are not investors, they are just trying to make money through our position.

“We’re planning to raise \$7m to \$10m to finalise the feasibility study by the end of the year. To get into

They had issued a misleading and fraudulent prospectus

to Pathfinder Minerals Plc – was, believes Horlick, illegal. They had also purported to transfer CMDN shares which they did not own and had never paid for, to IMM. They had issued a misleading and fraudulent prospectus.

Horlick recalls how, as he dug into the “dense document of 142 pages” of the Pathfinder Minerals prospectus, he was surprised to find no mention in the letter to shareholders of the potential \$10m liability to Veloso and Cavaco, or the obligation to pay BHP Billiton \$10m for Moebase.

These disclosures only appear in a note on page 107, with the statement: “Neither of these additional payments is provided for in these accounts because they are conditional on future events. The directors consider that these events are so uncertain and unpredictable that it would be inappropriate to account for them as liabilities of the Company at this stage.”

concludes that

- Pathfinder Minerals’ prospectus contained misstatements giving a wholly false impression to the market;
- The behaviour of the directors of Pathfinder amounted to a conspiracy to defraud investors;
- A criminal offence under the Bribery Act of 2010 had “almost certainly” been committed.

In November Horlick’s solicitors filed letters of complaint to the AIM Regulation Team of the London Stock Exchange and the City of London Police. The latter passed the matter to the Serious Fraud Office – who have since declined to investigate.

There has been diplomatic lobbying by both sides. Major-General Veloso’s London solicitors have complained to Foreign Secretary William Hague about the “partisan” interference by Britain’s High Commissioner in Mozambique, Shaun Cleary, who has taken the part of Pathfinder Minerals.

production we’ll need between \$600m and \$700m.”

From the other side of the arena: In a letter dated 2 March, Pathfinder Minerals’ chief executive Nick Trew told shareholders: “Major-General Veloso, while still a board member of Pathfinder, set up a company called Pathfinder Moçambique SA together with Diogo Cavaco on 27 September 2011.

“That company then applied for a licence over the same areas as those belonging to your company. We find it extraordinary that General Veloso should think this remotely compatible with his fiduciary duties as a director of a UK public company.

“All avenues, both in the UK and Mozambique, are being pursued to secure the company’s licences and resume project development. This includes continued efforts at the ministerial level to find a timely solution through political channels.” ■

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The unkindest cut

Divorce drama exposes husband's questionable past



AT BUDDY and Albert's Renew anti-ageing clinic in Umhlanga Rocks, people aren't always as pretty as they look – but then, what else does one expect at such an establishment?

For celebrities down on the coast, Renew Time Restoration Clinic is the place to go to turn back the clock – to rout flab and the wrinkles with a range of pricey treatments such as laser “resurfacing” of face and neck (R25 000), Ultrashape body contouring (up to R18 000), Botox and fillers (R8 500), lip enhancement (R4 000) and Sclerotherapy (for spider veins, from R2 000). All administered by a staff of eight under the soothing care of the bronzed and youthful Dr Albert Niemann, who's forged his youth-hungry clientele into a R1m-a-month income stream.

Niemann will be 61 in May. But with the assistance of Botox injections to wipe out those frown lines, fillers to banish deep naso-labial folds (grooves from nose to mouth), and a Betatan melanin activator nasal spray combined with Tan Can sunbed to deliver that he-man glow, he's South Africa's answer to Dr Kildare. (Did a naked Dr Kildare enjoy relaxing after-hours body massages behind locked doors from a 21-year-old staff member? We were never told.)

Among the well-heeled celebs to recline on Dr Niemann's re-vamp couch at Renew are Penny Rey, Miss World of 1958, now nudging 72; Sorisha Naidoo, 33-year-old *Scandal* actress and wife of businessman Vivian Reddy; Durban socialite and boutique owner Roseanne Narandas; and veteran *Generations* leading lady Connie Ferguson. Renew Slim, Buddy's slimming programme, is a standby line of business.

But down at Umhlanga Rocks the gossip around the lighthouse and on the terraces of the Oyster Box Hotel swirls around the abrupt departure from Renew of Niemann's third wife Buddy Reardon, a carefully-groomed beauty of 47 who is widely acknowledged to be the brains behind the clinic and the woman who morphed Albert Niemann into the smooth success that he is today.

Buddy got her marching orders from Renew exactly a year ago, with a letter out of the blue – from Albert's attorney Jeff Fobb – informing her that he had been consulted by Dr Albertus Niemann with instructions that their marriage had irretrievably broken down and he was preparing a divorce summons. Her husband was offering to pay R20 000 a month “rehabilitative maintenance” for 12 months, said Fobb. In addition, provided the divorce was resolved amicably on an unopposed basis, “Albertus” would pay his own costs.

Thrice-married Buddy grew up in Umhlanga Rocks where her father, Geoffrey Reardon, is a well-known property developer. At 13 she worked in her uncle's pharmacy in what was then a small village. She qualified

Albert Niemann

as a pharmacist in 1988, the year she married her first husband, by whom she has a now 21-year-old daughter.

Albertus Stephanus Niemann, also thrice wed, hails from bleak, industrial Vanderbijlpark, where for 16 years he was a staunch member of the local Afrikaans community, working as a GP in partnership with two other doctors. For a number of those years, between 1988 and 1994, he augmented his income by taking on the additional role of district surgeon, where he worked closely with local police.

Albertus – now Albert, as he's reinvented himself down on the coast – has three grown up children by his first wife, Hester-Louise. He arrived at Umhlanga Rocks around 1995, buying (for R1.4m on a 100% bond) the luxurious Chartwell Drive home in La Lucia in which Buddy had grown up. He brought with him a patient named Erna. Their marriage lasted some 18 months, with Erna moving out after learning about an incident that happened while she was away on a trip to Dubai.

Three months later Buddy and Albert had their first date. They had met when Buddy's young nephew fell down the stairs at the Beverley Hills Hotel and Dr Niemann was summoned. "He came without his white coat on and I

Vanderbijlpark, and never elaborated on his duties as district surgeon in the dying days of apartheid. This whole period has been excised from his website CV.

In the late 1990s anti-ageing was in its infancy, but Niemann had already been doing chemical peels and Botox. Buddy shared his enthusiasm and they flew to an international congress in Paris. Buddy took Albert in hand: trimming those shaggy eyebrows, growth hormones for musculature, IPL (Intense Pulse Light) treatment for skin rejuvenation. "And I sent him to the gym for weight training to get him into shape."

On 17 March 2006 they launched Renew – it's attached to the medical practice – with a function at the Oyster Box Hotel attended by 70 guests. By this time Buddy had given up on having a child. "I gave up when I turned 39. I tried for six years with him. I thought it was my fault, I consulted a fertility specialist. I had two cycles of ovulation stimulation treatment. Albert was still claiming he was OK. He put a sperm count from Bouwer & Partners, a pathology lab in Durban, in front of me and said 'there you go'. It wasn't perfect sperm, but it could have populated Africa. I think he took it from a patient. He wouldn't let me have IVF. He

Reardon made it clear she wanted more children

thought: 'you're actually quite nice'," recalls Buddy.

By then Buddy was working as locum pharmacist in Umhlanga and living with her mother. "Albert would phone scripts to me in the pharmacy and the relationship developed. He seemed not only charming; he seemed like the man of my dreams."

Albert had set himself up as a GP, with a practice in the Umhlanga Centre. From the start, Buddy made it clear that she wanted more children. "Before our second date we spoke a number of times on the phone. I'm a very forthright person. I asked Albert if he'd had a vasectomy, because I wouldn't have pursued the relationship if he wasn't interested in having any more children. He said 'No, why? Do you want more babies?' I said 'Yes I do'. He said 'well, you must have at least two, because you're such a wonderful mother'."

Buddy moved in with Albert the following year, and started working in his practice. "I realised very quickly that his finances were in disarray. He had four large overdrafts and was living beyond his means. He was registered as a dispensing doctor, so I built up the pharmacist side and doubled the turnover."

They married on 30 October 1999 in community of property.

Buddy says that Albert rarely spoke of his years in

Buddy Reardon



took me out to dinner and said ‘if you can’t have a baby naturally then it’s just not meant to be’. He was blaming me.”

In the divorce papers, Buddy claims that Albert had an affair with a staff member at Renew. “At the office the power shift was quite obvious,” she says now. “All the financial control was taken away from me and Albert would defer to Colleen. He started treating me badly.”

In March last year the couple agreed on a trial separation and Buddy moved out to stay with her sister. Days later came the email from

Albert’s attorney informing her that her marriage was over.

It’s only now, with their divorce still pending, that Buddy Reardon has made some unpleasant discoveries.

In a girls’ heart-to-heart with Niemann’s second wife, Buddy asked Erna what she used for contraception when she was married to Albert. Erna amazed her when she said: “But he had the snip before we got married, while we were dating. He had three children, I had three children and we didn’t want any more. It was a mutual decision.”

Buddy was staggered. She had

to *Noseweek*, declines to comment on this alleged incident.

And now Buddy Reardon says she’s deeply shocked to have discovered her husband’s role in two cases when he was district surgeon at Vanderbijlpark.

On 14 July 1992, just a month after 46 township residents were massacred by Inkatha Freedom Party members at nearby Boipatong – causing the ANC to walk out of the Codesa negotiations to end apartheid – 19-year-old Simon Mthimkulu set off on an errand for his father with two friends in Sebokeng township.

Reardon is shocked by her husband’s role in two cases



married Albert on his promise of babies, yet he’d had the snip years before they met – and denied it before they married.

“He could have had the vasectomy reversed.” (In the divorce papers Niemann comes clean and admits he told Buddy he had not had a vasectomy.)

The second nasty discovery was Niemann’s activities as district surgeon in Vanderbijlpark during the early Nineties. Her suspicions had already been raised at the start of their marriage, when a former associate of Albert paid them a visit.

“Albert wanted him to sign surety for a loan and he refused,” says Buddy. “Albert was very annoyed. He told me: ‘After all I’ve done for him! I covered up for him; he could have gone to jail’.” Niemann then told her that back in Vanderbijlpark, the associate had shot dead a black man on his property and he had advised the associate to drag the body into his house and claim he had acted in self-defence after a break-in.

The associate, whose name is known

HAPPY DAZE: Buddy and Albert Niemann at the launch of Renew Clinics at the Oyster Box Hotel in 2006

Police in a Casspir grabbed them and took them to Vanderbijlpark, where they were kicked and beaten. Sixteen-year-old Sikhalo “Lucky Boy” Maseko described how he and Simon were taken into a toilet by five policemen and told to do squats and sit-ups. Simon was asthmatic and unable to perform. A policeman hurled a large rock three times at his chest.

Simon’s battered body was found in the veld 12 hours after his arrest. Dr Niemann’s role is described in the book *No One to Blame?* by veteran advocate George Bizos, who represented the youth’s family at the inquest.

“It was clear that the young man had been brutally assaulted, not only from the photographs we had of Mthimkulu’s body, but also from Dr Jonathan Gluckman’s post-mortem report,” wrote Bizos.

However, the initial report, by Vanderbijlpark district surgeon AS Nieman (sic) noted “far fewer injuries”. Cross-examined by Bizos, Niemann stammered: “At the post mortem I broadly described the injuries and determined the cause of death. I never described every scar in detail.” He added that “in these recent times, where there is unrest and things... only brief autopsies will be done.”

In another 1993 case, Niemann was accused of helping to cover up police torture by making a false medical certificate. Michael Thithi was so badly beaten that he had to be helped into the magistrate's court. The magistrate ordered that the cause of his injuries be identified and Thithi was taken to district surgeon Niemann for examination. Thithi said later that Niemann did not examine him, but asked if he was a heavy smoker. Yes, said Thithi. That's the cause of your pain, said Niemann, whose certificate to court read: "My opinion is that this patient is completely normal."

The magistrate ordered Thithi to be examined by another district surgeon, Jennifer Kuhn. She found: "The patient had a perforation of his left eardrum as well as soft tissue on the left side of his chest over ribs four, five and six."

Niemann appeared before a South African Medical and Dental Council (SAMDC) disciplinary committee and was sentenced to six months' suspension. Two years later the Government Gazette of 22 September 1995 recorded that on appeal Dr Albertus Stephanus Niemann had been cautioned and reprimanded for issuing an inaccurate medical certificate and without examining the patient.

In its report *The Legacy of Apartheid*, the American Association for the Advancement of Science condemned the SAMDC for failing to address human rights abuses committed by health professionals under the apartheid regime, and the lenient sentences it imposed. It cited the case of Dr Niemann. "When discipline was imposed, it was far lighter than the infraction would warrant. Other physicians who were alleged to have committed violations appear never to have been investigated at all."

With the Renew clinic's equipment debts now paid off, Albert Niemann is today a wealthy man. In a statement of assets that he signed for RMB private bank in 2009, he declared total assets of R43.3 million. Of these, R20m was vested in Dr Albert Niemann Inc, his medical practice and the owner of the Renew Clinic. Dr Albert Niemann Inc, declared the doctor, was owned 50-50 with his wife Buddy.

This had always been Buddy's understanding too. When Renew was launched at the Oyster Box Hotel in 2006, Niemann presented his wife with a large bouquet of red roses and



announced that the clinic was all her idea, her concept. The following January, claims Buddy, Niemann signed 50% of the partnership's shares into her name.

"Albert led me to believe he had sent this document to his auditor. But I later discovered I didn't own any shares at all. When Albert was questioned recently he said he never signed any such document."

Buddy, now an opinion leader in the medical aesthetics community, has discovered that she can't claim shares in a medical practice. So she wants the high court to appoint chartered accountant Hilton Greenbaum to confirm the estimated R12m to R14m net value of the adjourning Renew Time Restoration Clinic and sell and redistribute its assets 50-50 between herself and Niemann. She also wants R3.5m following the R7m sale of another property in Chartwell Drive that she and Niemann owned jointly. Plus R250 000 general damages for pain and suffering.

As the legal process trundles on, Dr Niemann cuts a dashing figure as he spins around Umhlanga Rocks in his brand new R1.3m Porsche Carrera S and cruises the coastal skies in his R3.4m four-seater Cirrus SR 22 aircraft. He declines to talk to *Noseweek*.

His estranged wife Buddy, her R20 000-a-month rehabilitative maintenance at an end, is struggling as she sets up a new business as consultant for medical aesthetic clinics.

Setting off to do therapist assessments at a local game reserve, she says: "I've had to sell my engagement ring and cash in my small investments to make ends meet since I was evicted from Renew." ■



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Sequel to a suicide

Grieving wife wants answers

THE TRAGIC story of the decking contractor who was found hanging from a tree on a beach in Durban – evidently because his client had refused to pay him for the work he'd done – has already been reported. But the story has taken a further turn.

Gavin Marshall was a strapping former Western Province rugby player who had a decking company in Durban called Master Sundecks. When IFA Hotels & Resorts offered Marshall a R2-million contract to provide and instal all the decking for the R600m Fairmont Zimbali Hotel, Marshall was over the moon.

But his initial joy was short-lived because the man who Marshall and all the other contractors had to work with – IFA Hotel & Resorts (Africa & Indian Ocean) president Wessel Witthuhn – proved to be some piece of work. And despite the fact that all those involved in the project had to work around-the-clock to ensure the resort was ready for the 2010 World Cup, 35 contractors were not paid in full. Marshall was owed some R900 000. All the contractors were told money had been withheld because their workmanship was defective. Yet the hotel opened on time, boasts an excellent occupancy rate, and even won the Hospitality Investment Conference Africa Best New Hotel Investment (Africa) 2010 award.

Marshall fought hard to get the money due to him, and over time sent Witthuhn several emails.

- On 14 July 2010 he said: "I am busy losing my house. I am behind on my vehicle payments and my office phone has been cut, all due to non payment."

- On 25 November 2010 he said: "I trust that there is a payment scheduled for tomorrow as this money is now way overdue."

- On 6 May 2011 he said: "Wessel I can't believe that you do not even have the decency to reply to our email."

- And on 12 November 2011, less than two weeks before his death,



Wessel Witthuhn with Michael Mabuyakhulu, KZN minister of economic development and tourism

Marshall sent an email that spoke of the fact that Witthuhn had reneged on an agreement to pay the debt off at a rate of R50 000 per week: "I am also using money from other contracts to finance this installation. I really do not think that is fair on me. Please can you make arrangements for the approved payment as soon as possible."

The problem had weighed heavily on Marshall. As he told his wife Sharene: "Babe, if Wessel Witthuhn would just pay all of us, we could carry on as normal – everyone is taking enormous strain because our cash flow is tied up in that hotel."

On 23 November Marshall drove to a beach and hanged himself. The suicide note he left in his car was terse: "Fuck you Wessel Witthuhn." It was clear enough for Sharene, who says: "Gavin knew I would read loud-and-clear what he meant."

But exactly what happened before Marshall drove to the beach is in dispute. Sharene has no doubt her husband had a meeting with Witthuhn about the outstanding money. His diary for that day had just one entry:

"Zimbali office". Witthuhn, however, denies that such a meeting took place.

Shortly after her husband's suicide, Sharene was phoned by an employee of the main contractor, Stefcon, and told their attorneys had received a call from Witthuhn who "seemed quite anxious" to know where he could pay Masterdeck's money. An amount of R244 000 was then paid into Marshall's attorney's account. It seemed to me to be "hush money" says Sharene.

On 5 February the *Sunday Tribune* published an article saying Sharene believed that "Witthuhn made promises that he had no intention of keeping", that her husband had met Witthuhn on 23 November last year in "a desperate last plea for payment outstanding on work he had done at the hotel", and that Witthuhn had "blood on his hands". It went on to say that Sharene was convinced that her late husband "had been stripped of his dignity and reduced to grovelling for what was owed to him", that "he took his life because he could not bear the shame of defaulting on payments to his suppliers, and relying on me to

try to save our home”, and that “when Wessel Witthuhn heard of Gavin’s death he suddenly paid R244 000 to our lawyer, a fraction of the total debt”. The article said that Witthuhn had recently resigned from his post (although he was still consulting to the company), and it mentioned other contractors who had suffered badly, like Les Sydney of Isidingo Plumbers who was owed some R5m and Keith Mehner, a Cape Town interior design architect, who said of Witthuhn’s departure: “I would say good riddance.”

Witthuhn responded angrily to the article. On 13 February his attorney, S R Maharaj of La Lucia, sent a sharp letter to Sharene. It claimed certain statements in the article were “grossly defamatory of our client in his personal capacity and are inaccurate, untrue and unreasonable in many respects” and that “our client reserves his right to claim damages caused to his reputation, good name and dignity as a result of the allegations in the article”.

“At no stage was our client approached in order to respond to the allegations,” the letter complained.

appeared in the newspaper article? Which other people were responsible for deciding to withhold payment from Marshall? What exactly is Witthuhn’s position with the hotel now?

The response was standard attorney fare: “We do not intend to deal with the defamatory statements made about our client in the *Sunday Tribune* article through the media. Your request for further information is noted but with respect [*at last, some respect!*] you are not entitled to that information from our client. We reserve our client’s rights against you in the event that you elect to report on any matter regarding him.”

But Maharaj did go on to say Sharene was mistaken in her belief that Witthuhn was responsible for hiring and paying contractors, and that he therefore had blood on his hands. “Our client was a director of IPA Hotels & Resorts. He was not the person solely responsible for hiring and paying contractors... Mrs Marshall’s apportionment of blame to our client for her husband’s suicide is most unfortunate. The letter also denies that a 23

November meeting took place between Witthuhn and Marshall. It says it is “incorrect that our client, when hearing of Mr Marshall’s death ‘suddenly paid R244 000’ to Mrs Marshall’s lawyer”. Any payments made to creditors, it said, “were part of a process that had begun before the unfortunate death of Mr Marshall and certainly had nothing to do with his untimely death”.

Sharene scoffs at the claim that the payment of R244 000 was part of a process begun before Marshall’s death. “If so, why didn’t Witthuhn tell my husband about it? If he had, there’s no way Gavin would have taken his life. And why were no other contractors paid?”

Sharene has been left with very little, particularly since Marshall was forced to cancel his life policies shortly before his death – and is now consulting lawyers to see if she can bring a loss of support claim against Witthuhn or IFA. Sharene certainly hasn’t supplied Witthuhn with any undertaking to stop talking about the matter, and Witthuhn hasn’t proceeded with his threat to sue for defamation. ■

The contractor was deeply humiliated

It went on to say, “Our client is not personally responsible for the liabilities and actions of IFA Hotels & Resorts. At all times during his employment with that company he carried out instructions in his capacity as a representative of the company and not in his personal capacity. These instructions were as a result of internal decision making processes within that company in which there were a number of other individuals involved besides our client”. And, of course, it ended with a demand for an undertaking that Sharene would not say any more nasty things about Witthuhn.

Sharene was particularly appalled at the suggestion that Witthuhn’s dignity had suffered, when her husband had killed himself because he had been stripped of his dignity. She sent Maharaj’s letter to *Noseweek*, who asked the attorney: Exactly which statement in the article does Witthuhn object to? Has a similar letter been sent to the newspaper? What comments would Witthuhn like to add to what



Fairmont Zimbali Hotel in Ballito

BP's slick scheme

The oil giant has made a settlement that sells out victims and covers its tracks, says Greg Palast

SOME DEAL. BP gets the gold mine and its victims get the shaft. And a few lawyers will get holiday homes – though they won't be so stupid as to build them on the Gulf Coast.

Judge-picked lawyers for 120 000 victims of the Deepwater Horizon blowout cut a back-room deal with oil company BP PLC which will save the lawyers the hard work of a trial and save the oil giant billions of dollars. It will also save the company the threat of exposing the true and very ugly story of the Gulf of Mexico oil platform blowout.

I have been to the Gulf and seen the damage – and the oil that BP says is gone. Miles of it. As an economist who calculated damages for plaintiffs in the *Exxon Valdez* oil-spill case, I can tell you right now that there is no way that the \$7.8 billion which BP says it will spend on this settlement will cover that damage, the lost incomes, homes, businesses and boats, let alone the lost lives – from cancers, foetal deformities, miscarriages, and lung and skin diseases.

Two years ago President Barack Obama forced BP to set aside at least \$20bn for the oil spill's victims. The recent settlement will add exactly nothing to that fund. Indeed, BP is crowing that, adding in the sums already paid out, the company will still have spent less than the amount committed to the Obama fund.

There's so much corrosion, mendacity and evil here in this settlement deal that I hardly know where to begin. So,

let's start with punitive damages.

I was stunned that there is no provision, as expected, for a punishment fee to be paid by BP for its wilful negligence. In the *Exxon Valdez* trial, a jury awarded \$5bn in punitives. BP's action, and the damage caused in the Gulf, is far, far worse.

BP now has to pay no more than proven damages. It's like telling a bank robber, "Hey, just put back the money in the vault and all's forgiven."

This case screamed for punitive damages. Here's just a couple of facts that should have been presented to a jury: for example, the only reason 600 miles (965km) of Gulf coastline has been slimed by oil was that BP failed to have emergency oil-spill containment equipment ready to roll when the Deepwater Horizon blew out. BP had promised the equipment's readiness – in writing and under oath.

And here's the sick, sick part. This is exactly the same thing BP did in the *Exxon Valdez* case. It was BP, not Exxon, that was responsible for stopping the spread of oil in Alaska in 1989.

In Alaska, decades ago, BP told federal regulators it would have oil-spill "boom" (the rubber that corrals the spreading stuff) ready to roll out if a tanker hit. When the *Exxon Valdez* struck Bligh Reef, BP's promised equipment wasn't there: BP had lied.

And in 2010, BP did it again. Instead of getting the oil contained in five hours as promised as a condition of drilling, it took five days to get the equipment in place (and that was done by the US Navy on orders of the president).

This was more than negligence: it was fraud, and by a repeat offender. Now BP is laughing all the way to the bank. And there's more. BP mixed nitrogen into the cement which capped the well-head below the Deepwater Horizon. BP claimed to be shocked and horrified when the cement failed, releasing methane gas that blew apart the rig. BP accused the cement's seller,



Greenpeace's take on BP's corporate identity

Halliburton, of hiding the fact that this “quick-set” cement can blow out in deep water.

But, in an investigation that took me to Central Asia, I discovered that BP knew the quick-set cement could fail – because it had failed already in an earlier blowout which BP covered up with the help of an Asian dictatorship. The lack of promised equipment, the prior blowout – it all could have, should have, come out in trial.

Think about it: BP knew the cement could fail but continued to use it to save money. Over time, the savings to BP of its life-threatening methods added up to billions of dollars worldwide. BP will get to keep those savings – bought at the cost of eleven men’s lives.

Other investigators have uncovered more penny-pinching, life-threatening failures by BP and its drilling buck-buddies, Halliburton and TransOcean. These include bogus “blowout preventers” and a managerial system that could be called, “We-Don’t-Care Chaos”.

As BP had no choice but to pay proven damages – and conceded as much – what exactly are the lawyers getting paid for? (Don’t be surprised if the fee requests hit a billion dollars.)

How could these lawyers let BP walk away on the cheap? The judge picked the lawyers that would settle or try the case for the 120 000 plaintiffs. His Honour side-lined the legal “A-Team” – like Cajun trial lawyer Daniel Becnel – guys with the guts, experience and financial wherewithal to go eyeball-to-eyeball with BP and not blink. Welcome to Louisiana, oil colony.

So BP walks without the civil punishment that tort law (civil wrongs) and

justice demand, grinning and ready to do it again: drill on the cheap with the price paid by its workers and the public.

But stopping a trial denies the public more than the full payment due: it denies us the truth, the whole truth and nothing but the truth.

President Barack Obama has just opened up the Arctic waters of Alaska for drilling, has reopened the Gulf to deepwater platforms, and is fiddling

with the idea of allowing the XL Pipeline to slice America in half.

So we need to know: Can we trust this industry?

Without a trial in the Deepwater Horizon case, we may never get the answer, never get the the full story of the prior blowouts, the fakery in the spill-response system, and other profits-first kill-later trickery that bloats the bottom line of BP and the entire drill-baby-drill industry. ■

Following the Deepwater Horizon explosion, Greg Palast led a four-continent investigation of BP PLC for Britain’s Channel4 television series *Dispatches*. From 1989-91, Palast directed the investigation of fraud charges in the *Exxon Valdez* grounding for Alaska Native villages.

This article first appeared in *The Mudflats*, published in Anchorage, Alaska.

For more on Palast’s worldwide investigation of BP and the industry in Central Asia, the Gulf, Alaska and the Amazon, read Palast’s new book, *Vultures’ Picnic: In Pursuit of Petroleum Pigs, Power Pirates and High-Finance Carnivores* at www.VulturesPicnic.org.

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Quiet despair

IF JULIAN Barnes's Booker Prize-winner is biographical, then the contents constitute a fascinating contradiction. *The Sense of an Ending* mourns the loss of innocence, of adolescent zest, and youthful ecstasy – but the writing is a powerful demonstration of mature creative strength.

Barnes may have his regrets (and who does not?) but this encapsulation of suburban man's quiet despair, enlivened by the absurdities of everyday life, is amusingly accurate and emotionally honest.

Tony, the middle-aged protagonist, makes haste to disavow sentimentality about his schooldays, then contrarily proceeds to recall with ill-disguised pleasure those times of excitement and camaraderie. Clearly, adult life in modest circumstances has not lived up to the promise of youth.

Barnes does a significant service to those many who, perhaps only half-consciously, are in a similar case. His

Len Ashton
reviews

THE SENSE OF AN ENDING
(Jonathan Cape)
by **Julian Barnes**

memories are funny, disturbing, simultaneously individual and universal. Those who have expunged memories of the cringe-making embarrassments and humiliations of the spotty years would do well to revisit them in *Ending*.

Nevertheless, Barnes shows that adolescence is the high point of many a lifetime. The enforced intimacy of communal life, mutual curiosity and shared experience, tend to create formative relationships. School friendships may not survive much beyond the occasional Old Persons' booze-up, but vivid recollections of what they were in that time of giddy hope and fear provide telling insights into the grown specimen.

It helps the telling of the tale that, as in Alan Bennett's *The History Boys*, the central characters are clever. Three bright boys, plus a young genius and one enigmatic girl express themselves intelligently. Yes, they are often pretentious, in the awkwardness of those years, but all are endearing.

What have they become? There's the rub. And just when you anticipate disappointment, Barnes provides sharp reminders of the mysterious unpredictabilities of life.

Ending initially echoes the vitality of the play/film *The History Boys*. There is no attempt to edit the less edifying aspects and awkward hormonal plight of the group, and lots of opportunities to grin at remembered gaucherie.

Looming post-retirement glooms inspire Tony to play detective in a tense attempt at making sense of the past. The past turns out to be less complicated than the present. Perhaps it always is.

Tony recalls: "I remember a period




Julian Barnes


in late adolescence when my mind would make itself drunk with images of adventurousness. This is how it will be when I grow up, I shall go there, do this, discover that, love her, and then her, and her and her."

In his late twenties he realises: "I would never do those things adolescence had dreamt about. Instead, I mowed my lawn, I took holidays, I had a life."

Then the mature Tony's research becomes a teasing, dark adventure. ■




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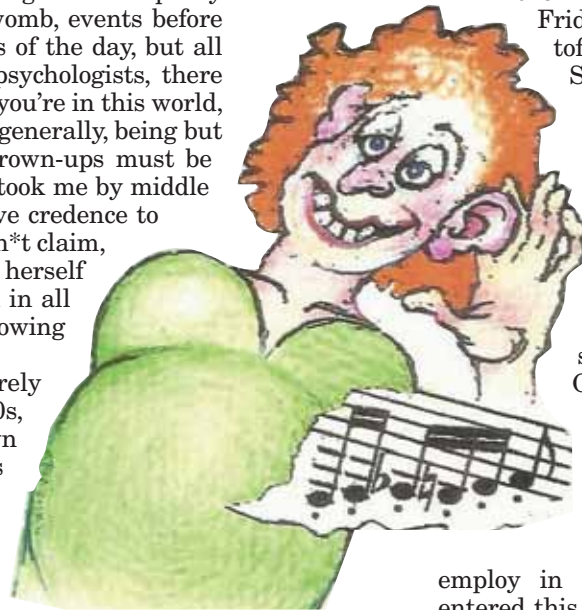
McGinty and me

ANYBODY out there not know Salvador Dali, painter, surrealist, exhibitionist, he of the pale face, staring eyes and spiky moustache, who said amongst other spooky stuff he could remember life in the womb, events before birth? Great painting, said the artists of the day, but all b*llsh*t of course! Pshaw! said the psychologists, there aren't any events to remember before you're in this world, and these opinions I went along with, generally, being but small and thinking things said by grown-ups must be true. But Life being what it is, it overtook me by middle age, and ere long I had perforce to give credence to the above Salvadorean pre-natal b*llsh*t claim, my pretty wee doe-eyed daughter herself having fallen into spooky ways. I had in all honesty to take her point. And the following is about how she came to be thus.

Me faether in Scotland became entirely enchanted by the idea of gold in the 1920s, you see. If there was such a lot of it down the bottom end of Africa that the Brits had had to go to war to get possession of it, thought he, why should he not go there and get possession of a bit for himself? A harrrd-workin' wee mon, he would hard work his way as metal turner from Cape Town to the romantic Reef of White Waters, town to town, dorp to dorp, and this he did, along the way in Klein Drakenstein becoming entirely enchanted by Maria du Clerq, pianist, music student. Of the famed Professor Dampier, no less. My ma to be, this, future tense. Seventeen, pure Huguenot French with Mandela high cheekbones and merry Khoi eyes and herself ready for a bit of gold on the romantic Reef. Hoots, mon! Marriage an' awa'!

But there was no gold in Joburg, only mine dumps, and even worse there was no piano. Never to worry, said Ou Tante Koba at the boarding house where our turtle doves had taken lodgings. Over at McGinty's Saloon they are desperately looking for a pianist who doesn't drink, said she; McGinty himself is a Scotchman and a Protestant too, decent, so you'll get along just fine. And that's where they went, my dad and mum, with me inside by this time. And what kind of music do you play then? said McGinty, wildly, excitably. Beethoven, said my ma. Sweet and holy mither of Christ! cried he, crossing himself. Silence. I need the piano, said my ma, I'm supposed to practise five hours a day for my exams. Missus, said McGinty, you're welcome to the pianner but bejasus bugged if Oi'll boiy the Beethoven. Done! said she, I'll work for tips.

Well it's in the nature of background music that nobody listens to it anyway. As long as there's somebody banging away at a piano so you have to yell hard to be heard, you're having a good time.



*There was
no gold in
Joburg,
only mine
dumps*

The din was appalling, for carousal McGinty's couldn't be beat, but you know, there's something sentimental and fatherly about putting money in the beer mug of a poor pregnant girl slaving away so near her time, so we did pretty well on the whole, my mum and I, inside and outside. We got lucky. But life was never a matter of luck for very long. McGinty was snatched away one Friday night and locked up in a police cell and on the Monday morning charged with public indecency in that he did, in the matter of a wager, at 11.30pm on Friday 13th of May at premises heretoforth to be known as McGinty's Saloon attempt to have carnal intercourse with an ostrich.

Of course he was found guilty, the circumstantial evidence was overwhelming, including the ostrich and a stepladder, but there had to be a plea in mitigation before sentencing, see, if the accused so desired, and McGinty addressed the court, saying: If it please Your Worship, Oi am prepared to marry the bird.

Well as tarm flars, so it flew. So did me faether, as far from the Golden City and McGinty as his meagre savings would take him, and that was Durban. Here he found honest Protestant employ in the railway workshops and I entered this world in Umbilo and got named after the doctor who supervised my entry. How sweet was normality! Ten years' worth of it! Until suddenly, breathlessly, because of the sea air, the doctor said, I was struck down with asthma. There I lay writhing and gasping for just one more breath, please God, until one evening I gasped to my ma Would you play the piano for me, please? Poor soul, she'd had no time at all these last years to play for herself, or indeed me, they were all of them taken up teaching other peoples' kids their scales and arpeggios. Here and now she set to, eagerly, with a few mistakes for sure, but who cared? A Beethoven sonata, she sang happily along and I sang along with her note for note, eagerly. Breathlessly, but who cared? Suddenly she stopped. Bejasus! she exclaimed, McGinty! Seems this was what my unborn ears had listened to endlessly within

six inches of McGinty's pianner, I knew the whole sonata off by heart. She tried other sonatas and I knew not a single note.

Well whether it was McGinty's sonata or lots of athletics later on that fixed the asthma is a moot point, but the melody lingers on. And many many years later here I see this daughter of mine, the spooky one, lying preggersfontein on her back reading a magazine and her great belly exposed with a pair of headphones stretched across. And over there on the CD player I see the cover for a Mozart symphony. A bit spooky, innit? say I to daughter. Hmm? she replies. It runs in the blood like a wooden leg, says she. The Salvadorean b*llsh*t has seeped in her soul. ■

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To my darling husband Jacques, I love Jacques, I love you always. Karin.



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