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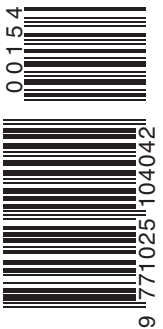
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noseweek

154 AUGUST 2012

PUPPET POLICE

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the cops?



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noseweek

AUGUST 2012

ISSUE 154



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What's wicked

I AM NOT wholly comfortable with your “enthusiastic support” for WikiLeaks and Julian Assange (*nose153*) but I am comforted that you “reaffirm that it does matter whether one does right or wrong”.

Aye, there's the rub!

The sort of activity which Assange calls “fun” is just a breath away from wickedness. If he sought only to expose corruption and unlawfulness, maladministration or misconduct wherever they may be found, it would be right.

But the disclosure of the lawful private affairs or the human weaknesses of people, or the revelation of their private thoughts or sayings (such as in the US or other diplomatic cables) is not just “fun”, it is downright nastiness, and is the exercise of a power that is itself no less corrupting than that exercised by governments and other authorities.

Woe betide us if Assange gets to have so much “fun” with the world order that he is corrupted absolutely.

Bryan Walters
Somerset West

Let's hope this is the beginning of a discussion that will draw in more and more of our readers, just as it is drawing in thoughtful young people the world over. The “fun” Assange speaks of, is what drove him – and other “hackers” like him – in their teen years. The establishment of WikiLeaks was, by all accounts, based on extremely serious, considered objectives.

To my knowledge, “the disclosure of private affairs or human weaknesses of people” have not featured in WikiLeaks. “Private thoughts or sayings” of diplomats in official cables surely fall into a

different category: they are government officials on government business. What diplomats say for public consumption is not always what they know and believe.

Governments and the likes of the Bank of America may as well accept that in the age of the internet it's much more risky to cheat and lie. Fact. That's what's new about this extraordinary revolution, for better or for worse. So far it's been for the better. – Ed.

■ ABSOLUTELY phenomenal article on WikiLeaks and Julian Assange. Wow! It's inspiring to know that there are people out there fighting for our freedom – freedom of speech and freedom from political and financial slavery.

Scott Cundill
Sandton

Hot press

I HAVE listened to the Bruce Whitfield interviews with Independent Newspapers' Cape Editor Chris Whitfield and *Noseweek* editor Martin Welz. Whitfield is unjustifiably indignant when he says, “*Noseweek* could

have sorted this out very quickly by phoning myself, Moegsien Williams, Tony Howard – the people whose integrity they've questioned. They clearly decided not to”.

Might *Noseweek's* “decision” not to do so have been due to the secrecy agreed to in Independent's Settlement Agreement with Auction Alliance? (See clauses 8,9 and 10.) Had all happened as they had agreed, no-one would ever have heard of Rael Levitt's claim that Independent had itself taken a “kick-back” from him.

Thanks to *Noseweek*, we've heard about it – and had their explanation published in all Independent's newspapers.

Tony
By email

For an update on this story see page 19. And to listen to the interviews by Bruce Whitfield, go to: <http://bit.ly/N2Vj2k> – Ed.

Taking a pique

YOU have just celebrated your 20th anniversary – a commendable milestone. Your many loyal

subscribers have believed all that has appeared in the pages of *Noseweek* for all that time and have had no reason not to; until now. The recent attacks by *Sunday Times* journalists regarding your take on the Cato Manor police fiasco, followed by the latest outrage expressed by Independent Newspapers' CEO and their alleged “secret deals” with Auction Alliance has, for the first time, cast some nagging doubt about the veracity of your information.

I won't cancel my subscription or do anything else a spurned teenager might be tempted to do in a fit of pique. Your credibility built up over the past 20 years suggests to me that there has to be “more” to both these allegations, but I urge you to spell it out to all of us.

Bob Broom
Stanford

Noseweek's story on Independent Newspapers and Auction Alliance invited their public rather than private response. The main point of our story was that they needed to explain the non-disclosure terms of their settlement agreement to their readers, not privately to us. Their outraged protestation of innocence is reassuring – but see page 19. As for the Sunday Times, our next instalment is on page 14. Even so, I suggest you reserve judgement while observing events as they unfold. I believe they will show we were more right than wrong. – Ed.

From right to wrong

THE introductory quote from the Appeal Court judgment in your article on dishonest lawyers (*Law of the jungle, nose153*) is what most of us were led to believe during our

GUS



formative years. But from my own experiences with a number of attorneys – particularly over the past four years – just the opposite is the reality.

I have lost over R50,000 through the inability of different attorneys to negotiate properly in my interests in various matters.

Lawyers, estate agents, auctioneers, liquidators – all these so-called professions – need to be properly investigated in an effort to stop their slide into corruption.

Your articles are an indication of what is actually going on out there, particularly in the financial and business sectors, but on a much wider scale than we could have ever imagined or believed possible.

Reader
Port Elizabeth

Cruel controls

IN NOSEWEEK'S pursuit of truth with regard to the extermination of predators (The Big Kill, *nose153*), why are the farmers never approached for their point of view? As an ex-small-stock farmer in the Western Cape, I found the co-operative approach that Cape Nature had with the stock farmer towards predator control extremely helpful.

I have twice attended meetings where Bool Smuts gave his presentation (exactly the same one twice). I find his approach sensationalist and not



One for the album: see "Transport of delight"

applicable to the main role-players. It is all very well having test cases on small stock farms where it is much easier to monitor and handle stock.

We also battled with predator control. However much the lethal traps etc are slated, what is not mentioned ever is how few wild animals actually get caught in these traps. We kraaled our stock at night, and the rooikat jumped into the kraal, and started hunting in the day when our stock were out.

The collars which are advocated are big steel structures which I am sure are cruel to the stock, besides which the wool grows through the gaps and they become difficult to remove. They do not deter the predator who then attacks from the rear.

Guard dogs can work, with proper supervision, but there are instances of the dogs attacking neighbours' stock and wild animals. To have a

shepherd watch over the stock is too expensive. Who will stand all day in all weather and without any means of chasing off the predators?

What is never brought into the equation is how easy it is for predators to catch stock compared to wild animals, and how more prolifically the predators breed, given a ready supply of food. All farmers have problems with predators – there are vast tracts of nature reserve that were previously farm land. There is the question of food security as well.

There is a lot of controversy surrounding Bool Smuts and if *Noseweek* is interested in truth, perhaps they should investigate his background?

Tessa Horan
Calitzdorp

When Noseweek called them, no-one at Agri Weskaap was willing to comment. They directed our reporter to the chairman of the Predator Management

Forum. His PA assured her he would call back, but he didn't. We are happy to publish your contribution to the debate. Noseweek is unaware of any "dirt" in Bool Smuts's background. Perhaps you could enlighten us? – Ed.

Wanderlust

COMPLIMENTS to Hans Muhlberg on his witty and delightfully written travel piece in the June issue. It certainly made me *lus* – as we say in Edenvale – to visit those places.

Unfortunately I doubt if my bank account shared the same feelings! Visions of Khulubuse Zuma squeezing into "possibly the smallest lift in the world" had me in stitches.

Thank you for a great publication.

Michael Cordes
Edenvale

Transport of delight

I SAW the car, pictured above, standing at the entrance of the Pavilion at Kelvin Grove, and I thought that if all our politicians could use this kind of conveyance, a lot of our tax money would be saved.

No "bluelight brigade", no cavalcade, just a driver. Cape Town's Mayor Patricia de Lille was having a working breakfast at the Pavilion. I thought it was worth recording.

Horst Eckhardt
Cape Town

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We are not alone

By MARTIN WELZ

IN THESE hard times, when the immediate demands and stresses of our society seem to be closing in on us, it gives some perspective to peer beyond the horizon at what's happening elsewhere in the world. It is consoling to realise there are people all over fighting the same sort of battles that we thought were uniquely, oppressively our own.

Which is why I periodically visit the website of Public Citizen, the Washington consumer-rights advocacy group established by Ralph Nader in 1971.

Current Public Citizen president Robert Weissman has written extensively on corporate accountability, access to medicines, corporate influence over the political process, the World Trade Organisation and regulation of the financial markets.

He has campaigned for lower pharmacy prices for Aids victims, health-care reform, financial regulation and political campaign finance reform. And for keeping jobs for the workers – all the things that are also top of the agenda in South Africa today.

Here follow extracts from some of Weissman's recent campaign emails:

3 July 2012

If you're looking forward to grilling up some hamburgers and hot dogs, think about this: where does the food you're eating come from?

That simple question is going to be a lot harder to answer after a ruling from the World Trade Organisation (WTO), which recently decreed that such basic consumer information as country-of-origin labels on meat are "unfair trade barriers" to multinational corporate profits.

If you don't eat meat, know that the WTO ruling could be extended to country-of-origin labels for potato salad and corn on the cob, too.

If you'll excuse a mixed metaphor, mystery meat (and lettuce) is not my cup of tea.

But it's standard operating practice for the WTO. It recently proclaimed that US "dolphin-safe" tuna labels and a US ban on clove-, candy- and cola-flavoured cigarettes both violate WTO trade rules.

Unlike other international institutions, the WTO packs a punch. The US will have to abandon some hard-won labelling rules or pay to maintain them in the form of fines or sanctions.

Two decades ago, Public Citizen warned that the day would come when giant

corporations would use the agreements to block important consumer, environmental and worker protections. Now it's reality.

If you think the US government is working to cure this problem, you're wrong. Today the US is negotiating a new "free trade" agreement with countries in Asia and the Americas – the so-called Trans-Pacific Partnership – with terms that are considerably worse than those in the WTO. – *Robert Weissman*

8 May 2012

Today, in Dallas, Texas, a throng of corporate lobbyists are gathered behind closed doors to begin what they've branded "trade" negotiations.

In reality, the Trans Pacific Partnership they're negotiating is a stunning backdoor corporate attack. The public, the US Congress and the press have been locked out. Yet over 600 official corporate "advisors" have access to draft texts of TPP – a deal that would create a system of corporate rule designed to crush our most basic rights. It's a deal that won't survive public scrutiny.

Leaked texts show how TPP would roll back Wall Street re-regulation and increase medicine prices. It would ban "Buy American" and green procurement preferences and undermine food safety protections. Worst of all, it would empower corporations to attack our health and environmental laws before foreign tribunals – with corporate lawyers as arbiters – and demand taxpayer compensation for alleged lost future profits.

Get the facts on the TPP. Then sign our petition to demand that the draft TPP texts be made public. – *Robert Weissman*

Wednesday prior to 2 June 2012

Dear Citizen

Recently, Public Citizen ran a campaign on the internet, pointing out that the bill before the US congress, titled "Keeping Politics Out of Federal Contracting Act" (KPOFCA) – won't do anything of the sort.

Backed by Sen. Susan Collins (R-Maine), whose top campaign contributor is General Dynamics (a military contractor that makes fighter jets) and Sen. Joe Lieberman (I-Conn.) whose top contributor is Northrop Grumman (another military contractor), KPOFCA would prevent the government from requiring companies that bid for government contracts to disclose

money they're spending to influence elections.

Proponents of the bill say that keeping political spending by government contractors secret, somehow protects the integrity of the contracting process. If this information is not public – so their logic goes – then politicians won't know if a corporation receiving government funds for contracts helped get them elected.

Of course, in the real world, if a government contractor's CEO pours millions into the election fund of a candidate the CEO thinks will reward his company with government contracts, then the CEO will make sure the candidate knows about it.

All KPOFCA does is keep the public, not politicians, in the dark. – Robert Weissman

first, political consultant and strategist for the Republican Party and associated right-wing causes, then senior advisor and deputy chief of staff to President George W Bush. He subsequently established American Crossroads, an "alternative" fundraiser for those Republican candidates and causes he favours. He has been described as "one of the shrewdest navigators of the political climate after the Supreme Court's 'Citizens United' decision which exempted political broadcasts funded by corporations and unions from campaign finance limits."

The mere mention of his name lends fuel to the fire of Public Citizen's campaign for laws requiring public disclosure of corporate funding of election campaigns.

14 July 2012

Dear Citizen,
Karl Rove: I know – you don't want to hear his name any more than I want to say it – but stick with me.

Karl Rove's front groups will spend \$300 million meddling in elections this year. And it's only the tip of a political spending iceberg. All told, we could see \$8 billion or more spent on elections come September. Far, far too much of that will be dark money from anonymous corporations and super-wealthy individuals concerned solely with their own, not the public's, interest.

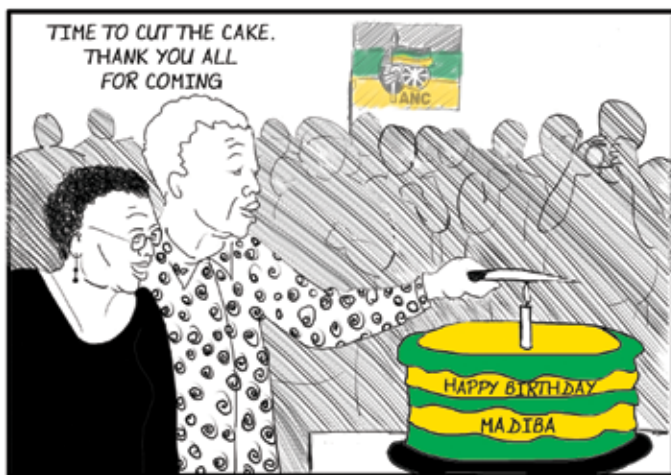
This is where you come in. We can fight back. – Robert Weissman

(Public Citizen was looking to raise \$500,000 from supporters to fund its shoe-string counter-campaign.)

■ Of course, we South Africans recognise the issues at once – thanks to the good citizens who have established organisations in South Africa such as Right2Know, Freedom Under Law, TAC, Section 27 and New ERA – and the seminars and debates on political party funding and disclosure run by the Open Society Foundation.

Not to forget, a vigorous free press. ■

Before reading the next email from Public Citizen, a bit about the villain of the piece, Karl Rove. He started out in the direct mailing business, became,





Beware! Lawyers at work

OVER THE years *Noseweek* has seen the most bizarre, if not downright disingenuous, correspondence emanating from the Cape Law Society (CLS). In 1997 (*nose18*) we asked the CLS about certain “ethical and professional” issues arising from the appointment of attorney Susan Aird as director of the society, when she had appeared before the society’s disciplinary committee only a short while beforehand.

Society president Theuns Steyn responded with a derisory missive which he ended by saying: “Your imputation of her integrity is objectionable – the more so because it is constructed with the flimsiest of information.”

Did the CLS’s own minutes, from which *Noseweek* took the story, constitute “flimsy information”? It prompted *Noseweek*’s observation: “Mr Steyn’s letter, in which he feigns innocence of the real issues raised in our report, is yet another demonstration that the organised legal profession’s interests should never be confused with the public interest.”

Two years later (in *nose26*) we reported on our “Anton Piller” raid, authorised by the Western Cape High Court, on law firm Hoosain Mohamed & Associates in Athlone, Cape Town.

Noseweek editor Martin Welz’s co-applicant in the case was a road accident victim, Freddie Yalezo – who, along with his then-eight-year-old daughter, Noxolo, sustained brain damage as a result of the accident – used Mohamed’s services to lodge a compensation claim with the Road Accident Fund.

Yalezo was convinced that Mohamed

had stolen from him and so had written to the CLS. They gave him the brush-off. He was told the society had investigated his claim “thoroughly” and they assured him that no monies had been stolen from him.

But documents in the possession of *Noseweek* prior to the raid and others obtained during the raid confirmed that several hundred thousand rand had been stolen from Yalezo – for which Mohamed was imprisoned.

So when the CLS says they investigated “thoroughly”, one wonders what exactly they mean.

In *Noseweek*’s recent story, “Pillage in the fine print” (*nose152*) we unpacked what appeared to have been scandalous conduct by liquidators and officers of the court in the liquidation of one of Hassen Adams’s companies, Asch Professional Services.

Since then, Gavin Cooper, one of the directors of Asch – the company that had been pillaged – complained to the CLS about the outrageous fees charged by ENS (Edward Nathan Sonnenbergs).

He, too, got the “file 13” fob-off – but with a twist. On 26 January this year, CLS legal officer Peter Pearson replied to Cooper, pointing out two concerns (as he called them):

“(a) We can only investigate a complaint against an identified practising attorney, and not against an entire firm of attorneys [*i.e. probably South Africa’s biggest law firm*]. You should, therefore, identify the [*specific*] attorney at ENS whose fee account is the subject matter of your complaint. [*Never mind that the bill is raised and the invoice issued in the name of the firm and not in the name*

of an individual in the firm.]

“(b) We are not sure whether you have the *locus standi* [*legal right*] to lodge this complaint. It is the liquidators who have the right to call upon ENS to tax their bill of costs if the liquidators are of the view that the bill is excessive. [*Never mind that, they are alleged co-conspirators in the rip-off.*] The Master [*of the High Court*] may also have a similar right. [*He may also be similarly compromised.*] We are not sure that creditors of the insolvent company have that right.”

And now, dear reader, his letter becomes even more contemptible:

“We have difficulty in understanding why the liquidators, having received a complaint from one of the creditors with regards to ENS’s account, have failed to furnish reasons for their decisions in that regard. We are surprised that the Master has not supported you in your effort to persuade the liquidators to require taxation.” [*As, no doubt, is Mr Cooper, but with a lot less authority.* – Ed.]

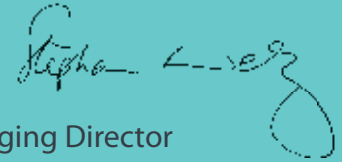
Could the law society, the liquidators and the Master have all missed the important issue? Creditors are the people that the whole institution of insolvency is all about: the South African insolvency system is typified as a “creditor driven” insolvency system. It is the creditors who appoint the final liquidators. In the case of Asch, the creditors are also members of the company who are vitally interested in the proceeds of the liquidation – or, should one say, the bare bones that are left once the predators have had their fill.

Clearly nothing much has changed at the CLS in 15 years. ☐

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Second chance for errant attorney

LAST MONTH *Noseweek* lamented the fact that the Law Society of the Northern Provinces was slow to disbar errant attorneys for their grave professional sins. They ought to be “laid by the heels” declared two Pretoria judges.

This month our tune is different: two High Court judges recently disagreed with a provincial law society, saying that justice ought to be tempered with mercy, and that they would not strike an attorney off the roll but rather give him a second chance.

Peter, as we will call him, was admitted to the honourable profession in 2005. From day one his practice was a shambles in almost every respect. He even did the unthinkable for a lawyer, he failed to render an account to his client for services rendered. His venal sin was the misappropriation of R70,000 from a client.

But, deep down, Peter is an honest attorney. In an affidavit handed in to court back in 2007, which was when his problems began, he told of his unhappiness with life and the stress of work and how he started taking drugs socially but became an addict.

He candidly told of his dependence on heroin and other dependence-forming drugs. But through his drug-induced haze he saw the light at the end of the tunnel: it was the Elim Clinic in Kempton Park. He admitted to himself that he could not walk the road to recovery alone. But, like so many addicts before him, he stumbled.

Last year, Peter, determined to rid himself of his drug demons, went back to Elim Clinic for eight months. This year, his local law society, unimpressed with his apparent lack of determination (and perhaps mindful of the high risk of further relapses), asked the High Court to strike him from the Roll of Attorneys.


Fortunately for Peter, he made a more positive impression on the judges: “On the day preceding the hearing he again subjected himself to a test which confirmed there were no traces of drugs in his body.”

Peter had written up his books of account and all the outstanding audit certificates had been submitted. The Law Society’s forensic accountant, Vincent Faris, told the court that there

was “currently no risk with regard to the trust funds presently in Peter’s trust account”. His lawyer made an “impassioned appeal” for the court to recognise his progress in both his life and his practice. The judges said it appeared that Peter had undergone “a total metamorphosis” – “no irregularity was reported on by his auditor [which] is a clear indication of the respondent’s integrity”.

Peter’s progress will be monitored to ensure he remains on the straight and narrow and continues his psychological treatment. He is to submit a urine sample once a month to a pathology lab and ensure that the reports reach the Law Society timeously. He has undertaken to repay immediately the R70,000 he misappropriated.

He has been suspended from practice for six months – a suspension which was itself suspended for five years.

• Many years ago, long before the birth of *Noseweek*, a friend of Mr Nose spent time at the Elim Clinic, emerged renewed, and continues to sing its praises. 

It ain’t heavy it’s a shopping bag

ATTORNEY Alec Michalowsky of the law firm Michalowsky, Geldenhuys & Humphries (MGH) – which botched Iman Dharsey’s personal injury claim after she was injured while a passenger in a bus (*noses131 & 151*) – has objected to *Noseweek*’s report on the matter. They insist that they paid Dharsey R90,000 more than they have accounted for. They allege that, in any event, she had been exposed as a malingerer.

The malingerer allegation comes from a video taken by a private investigator hired by the bus company’s insurer. The innocuous footage simply shows Dharsey walking into a Spar shop, then out again, carrying a

shopping bag – which the insurers assert was heavy, by the look of it.

In the light of the lawyers’ insistence that Dharsey was paid all she was owed by the firm, *Noseweek* has asked the Law Society to seek proof of payment of the “missing” R90,000. They have promised to investigate.

MGH begin their letter by stating: “Out of Dharsey’s **R295,000** settlement, she received the sum of **R223,325.44**.” Not the total of **R132,421.95** reflected in Dharsey’s bank records.

No need to put two and two together, readers can do the sums for themselves: two weeks after Dharsey accepted the MGH-negotiated settlement (under duress) on 12 May 2009, a cheque

made out to Dharsey for **R32,421.95**, drawn on MGH’s trust account, was dropped into an FNB deposit box by the lawyers. Dharsey was not advised of the deposit.

The first she knew of it was when her bank bounced the cheque – it was unsigned – and charged a penalty which wiped out her entire balance at the time – R678.00.

MGH object to *Noseweek*’s having described the unsigned cheque as “bad” – a cheque for which they apologised at the time it was rejected by the bank – and for which they promised to make amends. The firm did so via an internet banking transfer – but, curiously, this time the funds came from the personal



claimed **R223,325.44** from her settlement of R295,000.

In fact, on 29 May 2009, in response to Dharsey's request for a breakdown of her account, MGH's Nico Humphries himself provided the following statement of account which reflected the payments MGH made on her behalf:

R Thyse	R35,423.55
Adv Labuschagne	R46,284.00
Dr Leng	R 4,500.00
Dr SA Parker [A cardiologist who twice cancelled Dharsey's appointment for him to assess her medical condition and who ended up not seeing her at all. – Ed]:	R 5,130.00
Dr Kirsten	R11,660.00
MGH Attorneys	R 1,439.88
	and R45,600.00
Paid to I Dharsey:	R132,421.95
All adding up to	R282,459.38

account of partner Alec Geldenhuis instead of the firm's trust account from which the unsigned cheque would have been drawn. (Might this suggest that the cheque was unsigned because there were insufficient funds in the trust account to start with? – Ed)

Humphries also questions the veracity of Dharsey's claim that the bank gobbled up R678 in charges for the problematic cheque. Well... that's what happened, and that's the bank's explanation.

The only other payment Dharsey received from MGH, also deposited into her account, but this time over the counter – was for **R100,000**. Dharsey's bank statements reflect only the two payments she acknowledges. All that Dharsey ever received from Michalowsky, Geldenhuis & Humphries was **R132,421.95**. Not the

That left a balance in their trust account (presumably it was in the trust account) of **R12,540.62**.

Michalowsky gave this set of figures to the attorney subsequently engaged by Dharsey (Rehana Khan Parker) in a letter dated May 18, 2010, signed by Nico Humphries. However, this time the balance had gone: R1,140 to MVO Consultants and the remainder of R11,400 to MGH themselves.

The bottom line: Dharsey received only R132,000 of the R295,000 paid by the bus company – less than half. After the remittances accounted for above, MGH received payment of the costs awarded – another R96,802 – which the attorneys promptly pocketed.

No one at the law firm has been prepared to speak to *Noseweek* since they penned their letter of objection.

The question remains: if Dharsey was given **R223,325.44** as they now allege, where is the proof?

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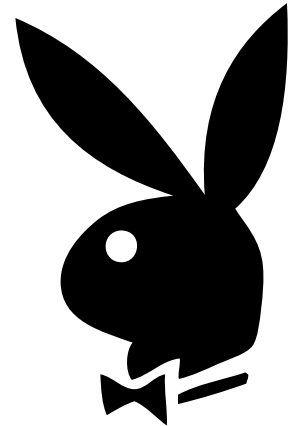
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Gone too far

ALLEN JONES, retired senior executive of the Bond Exchange of South Africa (Besa), lodged a complaint with the Press Ombudsman regarding various allegations made about him in a story headlined “High-flier takes low road” (*nose147*). The Press Ombudsman has now ruled that: *Noseweek* was wrong to have described Jones as “a sociopath who cannot resist an opportunity to defraud the state and the poor” in the story.

Noseweek reported that Jones had defrauded the Department of Labour by claiming UIF benefits that were not due to him, and that it was immoral for him to have done so.*

At the hearing before the Press Ombudsman in April, *Noseweek* editor Martin Welz conceded that the magazine had “gone too far” in using the term “sociopath”, and tendered his apology to Jones for having done so.

Welz also conceded that, in the absence of a criminal charge, prosecution, or court finding, *Noseweek* should have reported that Jones was “alleged” to have acted fraudulently, rather than reporting it as fact. However, he strongly defended *Noseweek’s* right to imply that it was morally inappropriate for Jones to draw UIF benefits.

The Press Ombudsman’s panel felt that *Noseweek*:

- was remiss in not acknowledging the potentially malicious motives of its source and/or in allowing the source to influence the hostile style of the article; and
- should at least have revealed that the allegation that Jones had dressed as a hobo when drawing his UIF funds came from a source that was involved in a dispute with Jones.

Noseweek also incorrectly reported that Jones owns a farm in Franschhoek.**

Noseweek apologises to Jones for unnecessarily harming his reputation.

Editor’s Footnotes:

* The UIF made payments to Jones totalling some R34,000 over a six-month period. He repaid the full amount immediately, when the UIF sought to recover the “overpayment”.

** Jones and his wife do effectively own three residential properties by way of their trust, the Tiffany Reef Trust; a fourth is registered in Mrs Jones’s name; Allen Jones also owns a house in France, inherited from his mother. ☐

POLICE MINISTER Missing link

THE Auditor-General confirmed (on 13/07/2012), following an investigation prompted by media reports (*noses150&151*), that the wall around Minister of Police Nathi Mthethwa’s private property was built using secret services funds from SAPS: Crime Intelligence.

But, said the AG, he found no evidence to suggest the minister was involved in giving the instruction to conduct a risk assessment of his private property, nor that the minister knew that the wall was being erected using secret services funds in contravention of policy and procedures related to the secret fund.

Furthermore, no documentation or information was provided (to the AG) to link the Mercedes-Benz SUV referred to in the media reports to the minister. The protectors of the minister had no recollection of driving the SUV to transport the minister.

Since the minister was not aware of the (irregular) activities of SAPS: Crime Intelligence, the AG recommended that monitoring and accountability practices between the department and the minister be strengthened so that timely action can be taken in instances of non-compliance should this occur again in future.

ZUNAID MOTI On the run

SAPA reported on 12 July that Johannesburg businessman Zunaid Moti, chairman of the Abalengani property group and owner of a luxury vehicle dealership, Future Exotics Lifestyle Emporium, is on the run from the law, following a police raid on his home on 7 July. The criminal charges he faces are said to include armed robbery and attempted murder.

Moti’s shady business practices and connections have long been known to *Noseweek* readers: (see *noses118,119,120,124,128,130,139&143*).

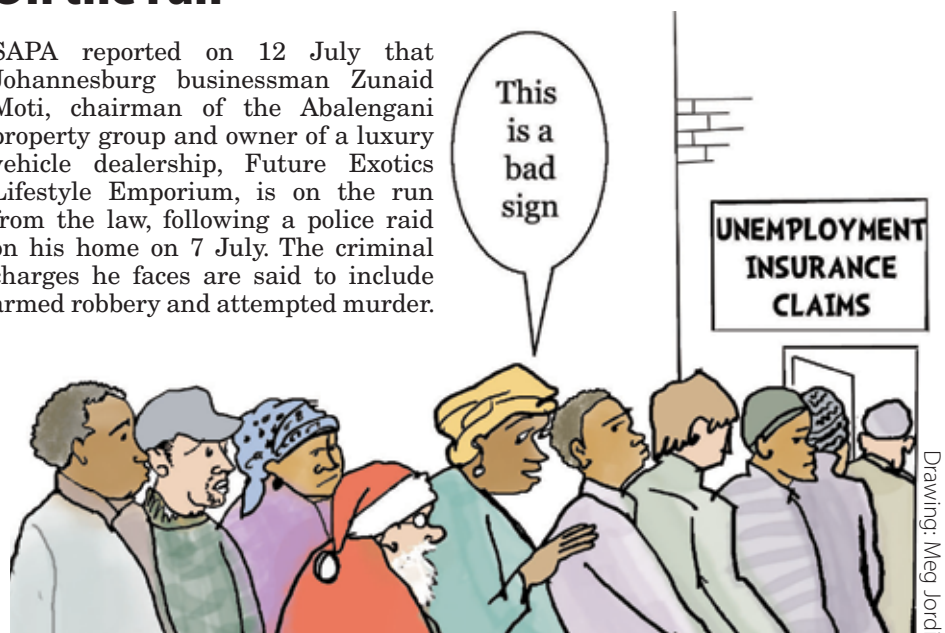
TIFFINDELL SKI RESORT Not-so-hot property

TIFFINDELL ski resort (*noses119&146*) was sold at auction by the liquidators on 12 July for a mere R5.5 million (having been bought by a company called Tiffski in 2007 for R22m). The new owner, Lew Campbell, hopes to have the resort running again by 2013.

NORTHERN CAPE Block at the head

THE Northern Cape MEC for Finance, Economic Development and Tourism was re-elected provincial chairman of the Northern Cape ANC on 8 June. John Block received 496 votes, while his opponent, Godfrey Oliphant, the deputy minister of mineral resources, received only 32 votes out of 553 voting delegates.

This was despite Block’s reputation for shady dealing and the fact that he is still facing charges of fraud, corruption and racketeering (*noses126,130,131,145,146&148*) – which goes to show that most ANC members either condone corruption or simply don’t read newspapers. ☐



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PUPPET POLICE

POLITICIANS PLAY COPS AND ROBBERS



INCREASINGLY OVER time, as shady businessmen and other criminal elements in pursuit of government contracts, favours and protection have corrupted South Africa's politicians and infiltrated its political structures, so the politicians in power and criminal elements have made common cause in undermining the country's law enforcement agencies. The poorly qualified but pliable – if not actually criminal – appointees to the top police jobs over the past decade and the dismantling of politically independent specialised law enforcement units such as the Scorpions, are telling signs of the times.

The rank and file of police and prosecution services have proved equally vulnerable to the onslaught. THEY have not been as politicised as they are today, since the Afrikaner rise to power more than 50 years ago.

The word is out: to survive in the police or prosecution services you must be either very brave – or bent.

But there is another element to the story: as faction feuds and power struggles occur in the political establishment or major areas of the economy dominated by criminals, such as the taxi industry, the same feuds and power struggles now invariably ripple through the law enforcement services, where each faction has its friends. It's policeman vs policeman, prosecutor vs prosecutor – a Punch & Judy show, where politicians and criminals have their hands in the gloves, or are pulling the strings.

Here are just a few recent examples to demonstrate the point. There have been many others in noseweek in recent years that will also quickly come to mind.

■ More than four months ago the Supreme Court of Appeal (SCA) gave the National Prosecuting Authority (NPA) just 14 days to provide the DA with transcripts of the 'spy tapes' that allegedly persuaded the then head of



COP VS COP: The Hawks boasted this was a "well-planned" operation, refused to allow their Cato Manor colleagues to hand themselves over, insisted instead on arresting them at their homes, before laid-on TV news cameras. Here Jeremy Maarten is arrested at his home. The policeman on the far right with the machine gun is Sgt. Dumisani Nzama, a Special Task Force member who was taken off rhino protection operations and flown to Durban to assist with the arrests. Only halfway through the operation, did the officers in command realise they had a warrant for his arrest too: he had shot and killed a suspect while previously based at Cato Manor.

the NPA not to proceed with the prosecution of Jacob Zuma on 783 corruption charges – many of them arms deal related. At the time this issue of Noseweek went to press, The NPA had still not complied.

"It needs to be borne in mind," said advocate Paul Hoffman of the Institute for Accountability, "that when the acting national director of the NPA announced the decision not to proceed with the prosecution of Zuma, he made it clear that the NPA remains convinced that it has a good case against Zuma on the merits of the charges."

The reasons proffered for the decision was that political interference in the case – as evidenced by the "spy" tape recordings of the conversations of

two NPA prosecutors – had so tainted the case that Zuma could not be guaranteed a fair trial. "Unfortunately," says Hoffman, "the evidence upon which this conclusion was based was far from convincing. Mpshe, who made the decision, was not aware of the content of the "spy" taped conversation at any material time, so how it could have interfered with his decision-making remains a mystery."

The evidence is overwhelming: political interference and pressure are what did the trick. The decision not to proceed with the prosecution of Zuma was made just in time to allow Zuma to be elected President of South Africa.

The SCA ordered the NPA to hand over to the DA the evidence the authority relied on when it decided to

drop corruption charges against Zuma in 2009 -- and which it has been withholding from the public ever since.

"The SCA judgement was very clear," Western Cape premier Helen Zille. "We are entitled to the entire record except the specific information which had been given confidentially by Jacob Zuma before he became President." Correspondence from the State Attorney to the DA, dated 2 May, confirmed that 'the tapes have been transcribed', and that Zuma's lawyers had already received copies on 25 April.

So when, last month, NPA spokesperson Mthunzi Mhaga was quoted explaining the delay: "The process includes transcribing of the records, verification and submitting to the President's legal team due to the representations being subject to confidentiality rule", that had to be a lie: two months earlier already the State Attorney claimed they had been transcribed and delivered to Zuma's attorneys.

What it might mean is that the President's office are holding back with his response, hoping it can delay matters until after Mangaung.

The DA has instructed lawyers to apply to the North Gauteng High Court to have the NPA declared in contempt of court -- which could precipitate a constitutional crisis, Zille warned.

So what have we got after all that? We have a seriously corrupt man installed in the Presidency who, together with other criminal elements, has succeeded in undermining the national prosecuting authority in order to avoid prosecution; as a result we have a NPA that is so in awe of a corrupt president that it is prepared to be shamelessly in contempt of the country's highest court in order to protect him.

And we are on the brink of a constitutional crisis as a consequence.

■ Also in July, Kwa-Zulu Natal's acting prosecutions head, Simphiwe Mlotshwa, was removed from his post - supposedly in line with government policy which does not allow for someone to hold a senior post in an "acting" position for more than 12-months.

However, it is widely accepted that Mlotshwa was sacked because of his determination to prosecute KwaZulu Natal Premier Zweli Mkhize for his role in the "Three Amigos" fraud case - the "Three Amigos" being two of Mkhize's

MEC's, Economic Development MEC Mike Mabuayakhulu, and former Health MEC Peggy Nkonyeni - who is now speaker in the KZN legislature - along with South American businessman Gaston Savoi.

Savoi is accused of bribing the duo, as well as other civil servants, to sell overpriced water filters and other high-end pieces of medical equipment to the province. The expectation now is the case will not proceed.

Bulelwa Makeke, a spokesperson for the NPA, denied that Mlotshwa had been removed from his post for political reasons, and quoted the 12 month rule. The NPA could not afford to give Mlotshwa a full-time job.

Mlotshwa has been replaced by a relatively unknown prosecutor, advocate Moipone Noko-Mashilo.

■ The *Mail & Guardian* has found evidence suggesting "interference" by adv. Lawrence Mrwebi, the head of the specialised commercial crimes unit, in politically sensitive cases.

Mrwebi is the NPA official who controversially ordered the withdrawal of fraud charges against former crime intelligence boss Richard Mdluli.

Internal memos that showed that Mrwebi has also intervened in the "Amigos case" and in the "Madhoo case", which touches on the investigation of politically connected businessperson Thoshan Panday and draws in provincial Hawks commander General Johan Booysen and the Cato Manor "hit squad" allegations.

In both instances, the M&G reported, the senior prosecutors, Simphiwe Mlotshwa, and advocate Bheki Manyathi - have experienced attempts to sideline them.

There has been a push by NPA head office, spearheaded by Mrwebi, to have charges withdrawn against "amigos" Mabuayakhulu and Nkonyeni.

Allegations of political partiality relate to provincial factions around Premier Zweli Mkhize and his perceived rivals, Mabuayakhulu and Nkonyeni.

Both are regarded as close to President Jacob Zuma.

■ While dismissing senior prosecutor Glynnis Breytenbach's application in the Johannesburg Labour Court for her suspension to be overturned - the court's finding was that it had no jurisdiction in the matter - Judge Hamilton Cele noted that

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"there was more to the suspension of Breytenbach than her bosses at the NPA would like to admit." She would be a 'vital official' in the investigation into why disciplinary action against former police Crime Intelligence boss Lieutenant-General Richard Mdluli was dropped.

If she was found guilty by the NPA and dismissed, the investigation of Mdluli - ordered by the North Gauteng High Court on an application by the NGO Freedom Under Law - would be compromised.

■ Some situations are simply farcical. None epitomises this better than the stupidly dishonest antics of Police Minister Nathi Mthethwa: The DA's shadow minister of police Dianne Kohler Barnard has his guts for breakfast at least twice a week.

"How is it possible that a wall could have been erected around Police Minister Nathi Mthethwa's private residence, without his authorising the project or knowing who paid for it?" she was demanding to know with gleeful sarcasm when last we looked. (She and the rest of the world know it was built with money filched out of police secret funds by the party's more recent friend in time of need, Richard Mdluli, now ex boss of Police Crime Intelligence.)

The Auditor General (AG) had announced that he could find no evidence that the Minister knew that the wall was being built using public money. [*Slow thinking is as much in fashion as slow cooking these days.* - Ed.]

Kohler Barnard has applied under the Promotion of Access to Information Act (PAIA) to obtain the full report compiled by the AG (to which the public is currently denied access). ■

SUNSCREEN SCANDAL!

Alarming test results hushed up to protect manufacturers

TESTS commissioned by the National Cancer Association of South Africa (Cansa) have indicated that most South African-manufactured sunscreen products are “not optimal” in providing protection from the UVA rays of the sun – once thought harmless but now known to cause melanoma, one of the most serious forms of skin cancer.

Many of these products bear the Cansa seal of recognition.

Cansa has had these disturbing test results since late last year, but has been unable to make the information public because the Pretoria laboratory that did the tests, Future Cosmetics, insists that the contents of its report be kept confidential.

The Western Cape is estimated to have the highest incidence of newly reported cases of melanoma in the world.

Noseweek put it to Heibrie le Roux, CEO of Future Cosmetics, that by withholding the information from the public, her company was potentially putting scores of lives at risk. She snapped: “I don’t have to talk to you!”

Noseweek pressed the point: “For the next summer, even two summers, people are going to be buying and using sunscreens on their children at the beach, at school sports events, confident they are providing the necessary protection. You know better, but won’t tell them?”

Her reply: “That’s how we do business with all our customers. It would not be ethical of me to give you any information about our research; you are not

International standards kept secret while questionable local products remain on shelves

our customer.” She then terminated the call.

While not making the information public, Cansa has discreetly informed those local manufacturers and distributors found wanting in the tests, that they have one more summer season to clear out their existing stocks: as of March next year, they will have to upgrade the quality of their products to meet the so-called Colipa standard – already prescribed by the EU, if they wish to retain Cansa’s endorsement.

There is no law that forces the manufacturers and marketers of sunscreens (also called sunblocks) to comply with any standard, old or new. Cansa’s endorsement of some sunscreen products has been the public’s only guide – and public disclosure and negative market reaction its only remedy for non-compliance.

When *Noseweek* asked Cansa about the tests they had commissioned, and why the results had been withheld from the public, the association responded

with the following statement:

“...As a non-profit company with no ulterior motives, Cansa has never been inclined to withhold information regarding health risk to the public. On the contrary, Cansa has always followed a policy of transparency and our research findings have always been published on our website and integrated into our health awareness promotional material.”

(Four years ago Cansa commissioned the CSIR to analyse 40 brands of margarine for fatty acids. The complete results, with brand names, were then placed on Cansa’s website as a public service. The action was widely acclaimed.)

The Cansa statement continued: “Unfortunately, due to contractual constraints, we have not been in a position to make any information regarding our cancer screen test results public.

“Cansa has, however, engaged with the relevant parties to ensure these supposed deficiencies are addressed as



a matter of urgency in line with the EU standards as well as the more recent international standard, ISO 24443, published on 1 June 2012.”

It concludes by noting that “Cansa has no power to force sunscreen manufacturers to increase the UVA absorbing capacity of their products. The major sunscreen protection risk that will persist into the future relates to the many sunscreen brands – both local and imported – that do not even comply with past (let alone the latest) sunscreen standards.

“In the absence of any effective policing and/or enforcement authority, retailers continue to offer these products for sale – regardless of the health consequences.” (See following page for Cansa CEO Sue Janse van Rensburg’s more detailed account of events.)

By a simple process of elimination, *Noseweek* has established that the sunscreen tests were carried out by Future Cosmetics in Pretoria – one of only two laboratories in South Africa that undertake these tests.

Future Cosmetics insisted that Cansa sign a confidentiality clause before it released the results, preventing Cansa from publicly identifying the deficient products. The apparent reason: the same manufacturers are also Future Cosmetics’ clients – clients the lab does not want to alienate.

While *Noseweek* has not had sight of the complete sunscreen test report provided to Cansa, we have been able to establish that – not surprisingly, as it is the biggest supplier of sun care products in South Africa – the sunscreens produced by Creighton Products at its factory in New Germany in KwaZulu-Natal, feature large on the confidential list of products found wanting in tests commissioned by Cansa.

In addition to manufacturing products under its own brand name, Island Tribe, the company supplies house-branded products specially packaged for various major chainstores including Spar, Clicks, DisChem, Pick n Pay and Mr Price. Creighton’s website boasts that each of these house brands achieved a 10% market share in their respective stores in the first year of trading.

“The close working relationship with these companies and the experience we have with our brand Island Tribe assists us to read the market and develop products suited for each retailer,” Creighton’s website blurb declares.

But, somehow, while Creighton was “reading the market”, they were clearly not keeping up with the latest scientific research on the causes of skin cancer

and the best means of prevention. The company’s marketing director, Mike Arthur, said the first they had known of the “Colipa standard” being promoted by Cansa, was in March this year when they were invited to a meeting where Cansa presented a paper on the subject.

“We have been made to look bad, but our current certificates, based on tests conducted by Medunsa’s laboratory – one of only two local laboratories that do these tests – rated our broad-spectrum ratios five-star. However, the Boots standard was used, not the Colipa standard now spoken of,” Arthur told *Noseweek*, adding “I would not know how reliable these tests are.”

Boots, the largest chain of pharmacies in the UK, developed a standard sunscreen testing method that has been adopted by most companies marketing these products in the UK: one-star products have the lowest ratio of UVA-to-UVB protection; five-star: the highest. The difference between the “old” Boots test and the latest Colipa test is the latter’s requirement that

Process in motion

From Cansa's letter to Noseweek:

SCIENCE is a process in motion. Our knowledge about skin cancer, its causes and best prevention practice, protection methods and protective product requirements is no exception. For many years science has fingered the sun's ultraviolet-B radiation (UVB) as the main cause of skin cancer i.e. basal and squamous cell carcinoma – whilst malignant melanoma remained an enigma. The historical bias in research resulted in most solar radiation protective measures, for years, being focused on UVB – and standards were developed and enforced accordingly, the most recent being the international SPF (Solar UVB-radiation Protective Factor) standard ISO 24444.

More recent research has identified UVA – for years considered harmless and used to this day by legally permitted South African tanning salons on tanning beds – as co-culprit, leading to more stringent and broader protective requirements for sunscreens: now sunscreens should provide both UVB and UVA protection. The European Union countries were the leaders in this regard: the EU's Colipa standard requires sunscreens to offer "Broad-spectrum (UVA & UVB) Protection". *[The UVA-protection of sunscreen has to be one-third of its claimed SPF (UVB) value, as determined by the Colipa test.]*

...More recent research on the probable dangers of UVA, particularly in terms of 'extreme' (longer) UVA rays, placed most sunscreen standards under the spotlight once more. The South African national sunscreen standard SANS 1557:2009 is now considered insufficient, in that its specified broad-spectrum ratio does not offer adequate protection in terms of the UVA spectrum. In addition, some of the (cheaper) sunscreen chemicals used to achieve existing protection standards (locally and internationally) have proved to be lacking in protection against 'extreme' UVA radiation – and in many cases become photo-unstable

[and ineffective] when exposed to these longer UVA radiation waves."

In response to the recent UVA concerns and in an effort to glean an idea of the local sunscreen status quo, Cansa commissioned a testing project, conducted by a recognised independent local testing facility during the latter quarter of 2011, employing the EU's Colipa standard. The sample of sunscreens tested included a mix of sunscreens comprised of local Seal-bearing and non Seal-bearing sunscreens and imported brands.

While only 35 products were tested (due to financial restraints as an NGO) it included individual samples from the sunscreen ranges produced by the three sunscreen category brand leaders and/or manufacturers, who collectively produced 87.2% of sunscreen sold locally during the 12 months up to March 2011 (Nielsen Consumer Research Statistics: July 2011)

The 35 products tested, however, offered only a glimpse of the overall picture, constituting less than 10% (i.e. 9.8%) of the 357 individual sunscreens sold locally by 58 manufacturers and/or distributors during the same period – hardly a representative percentage and inadequate a number to make sweeping public statements.

The aforementioned tested sample size plus the fact that sunscreen manufacturers and/or distributors were operating within the bounds of the law if their products conformed to the present legal standard i.e. SANS 1557:2009 (and not the Colipa standard against which they were tested); a contractual public disclosure restriction in the testing agreement compelled Cansa to refrain from any indiscriminate disclosure of the attained test results.

All negative test results were disclosed and discussed privately with the relevant Seal-bearing sunscreen manufacturers and/or distributors. Most have already been reformulating their respective brands. – *Sue Janse van Rensburg, CEO: Cansa*

samples must be irradiated for some time before testing to give a better indication not only of the level of UVA protection, but also of the stability of the product itself when exposed to sunlight for some time.

The latest cancer research findings and product test results will, inevitably, lead to a demand for new – and more costly – manufacturing standards to be met in the shortest possible time. Arthur admits his company, Creighton, has its work cut out, just to meet the March 2013 deadline set by Cansa (if it wishes to retain Cansa's endorsement of its products). Products must be reformulated with more expensive ingredients which are available only from major multinational suppliers, and then each must be re-tested – at a cost of R40,000 per test.

Even more pressing will be the immediate demand by informed consumers, once the word is out – and *Noseweek* readers are the first to know – for sunscreen products that provide the optimum protection from the melanoma-causing UVA rays of the sun.

Dr Dagmar Whitaker, Cape Town dermatologist and chairman of the Melanoma Society of SA, says the Western Cape has perhaps the highest incidence of malignant melanoma in the world (similar to that of Australia).

"To date we do not have accurate statistics, but the estimated figure for the Cape in 2009 was 69 new cases per year per population of 100,000 Caucasians. Australia has an incidence rate of 65 per 100,000. This translates to a prediction that 1 in 1,429 people will be diagnosed with malignant melanoma this year.

"Compare this with the figures for the years 1990-1995 and you find the incidence has trebled over the past 20 years. Clearly something needs to be done urgently to address the risk factors and reverse this trend."

Using an effective, broad-spectrum sunscreen is one essential precaution.

Knowing which products are effective is obviously crucial to the exercise. *Noseweek* trusts that Cansa, Future Cosmetics, and the various sunscreen manufacturers will waste no more time in publicly identifying as many sunscreen products as possible that provide optimum protection from cancer-causing irradiation across the spectrum. At least before summer.

In the absence of that information, *Noseweek* can at least recommend that Nivea sunscreen comes up trumps. ☑

Independent Newspapers and the Great Kickback Row

DID NOSEWEEK get it all wrong about Independent Newspapers' secret deal with Auction Alliance (AA)? How could *Noseweek* have dared to suggest that a R1 million kickback from the auctioneers might have ended up in the pockets of upright citizens such as Independent Newspapers' Cape editor-in-chief Chris Whitfield and group editor Moegsien Williams, we've been asked.

Noseweek did not suggest Whitfield and Williams shared in a kickback – in fact our impression was that the first they knew of it was when they read AA's court papers. We simply asked what had become of the R1m kickback that AA paid to Independent – and whether anyone had shared in it: legitimate questions, considering the allegations about AA's kickback practices contained in Independent's own story.

Should *Noseweek* rather have had a private collegial discussion with those involved – then joined their conspiracy of silence? Are Independent's senior executives and editors entirely innocent of having done anything questionable or improper? Has *Noseweek's* credibility been shot to shreds?

Noseweek has a copy of the court file relating to the urgent interdict application brought by AA against Independent in February. We have also done some of our own research.

In the court file is a draft of the story Independent proposed publishing, in which all would be revealed about the corrupt practices of South Africa's largest auctioneering firm. Its CEO, Rael Levitt hoped to stop the newspaper group from publishing.

AA's alleged improprieties are neatly listed point by point in the draft, providing the ideal context for evaluating whether Independent's senior editors and their lawyers as well as Auction Alliance's lawyers were justified in their protestations of innocence about *Noseweek's* "reckless" claims and criticism in its July issue.



By SIPHO MWANZA

Those points are numbered here for ease of reference.

"Independent Newspapers can reveal how:

"[1] Auction Alliance paid kickbacks to Liquidators, attorneys and bank staff to pull business their way...

"[2] The account of Levitt's Joburg business development manager was used to launder some of the payouts... [*Presumably to disguise their origin*]

"[3] Kickbacks are typically 50% of the commission AA makes...

"[4] Levitt forced staff to make the payments in cash cheques or EFT ...

"[5] AA paid one aggrieved Joburg seller a cash "settlement" to drop a legal claim against the company when a botched auction was exposed... [*It should have read: "when a rigged auction was botched by AA's staff."*]

"[6] An aggrieved seller in Cape Town exposed an enormous kickback paid by AA to a liquidator – that was channelled through a local attorney."

Independent's story did not name any of these parties but the court documents it filed to substantiate the story, did. Since *Noseweek* is not bound by the agreement that precludes Independent divulging what transpired in the case, we can reveal that the "local attorney" referred to in point 6 is Alan Smiedt, who happens also to be the attorney who represented Levitt in the interdict application against Independent.

And the kickback in question wasn't

merely "channelled" through him: it was an illegal kickback, paid by AA several years ago (to facilitate a still bigger fraud) that was laundered through Smiedt's trust account to disguise the true origin of the payment made to a corrupt liquidator.

It was clearly an unpleasant surprise to Smiedt when the old case file in which his name featured fairly prominently, appeared at court as part of Independent's defence. Even when *Noseweek* spoke to him months later, he was anxious his name should not be mentioned in that context.

His assurance that he was unaware of the illegal purpose of the AA cheque deposited in his trust account – to be credited to a client who was (but is no longer) a liquidator of ill repute – is perfectly plausible. As is his assertion that he derived no benefit from the transaction. *Noseweek* also acknowledges that FICA rules did not apply then. But it was still a case of illegal money laundering. Levitt refunded the victim when it was discovered years later.

The question remains: was it ever acceptable for an attorney to allow a client to use his attorney's trust account at will, without the attorney having any idea what the transactions were about? It's history. We leave it there.

In the draft story, it is noted: "AA trained its auctioneers how to rig auctions... and how to lean on bogus buyers paid to attend auctions to drive up bids." [*Otherwise known as "ghost" or "vendor" bidders.*] The sort of thing that angered wealthy businesswoman Wendy Appelbaum, who triggered the entire saga by challenging the auctioning of Quoin Rock wine estate.

To sum up the basic AA deal (in terms of Independent's research findings): AA paid kickbacks to attract business; the kickbacks were typically 50% of the commission it made; its staff were trained to pay the kickbacks in cash or by Electronic Funds Transfer; sometimes kickbacks were paid via a

third party's bank account, to disguise their true (possibly illegal or improper) origin. Finally, AA's auctioneers were trained to rig auctions using "ghost" or "vendor" bidders to drive up bids. That much Independent knew and believed – that was their story.

In his application to stop Independent publishing, Levitt declared, under oath: "[Independent] has, very recently, itself received from Auction Alliance an amount in excess of R1m as a rebate ("kickback") on commission earned by Auction Alliance in respect of the sale of two properties. The rebate was negotiated by me and [Independent] to the knowledge of the present Chief Executive Officer [Tony Howard]." He prefaced this statement by describing it as "a remarkable feature of the case".

Whether Levitt was implying that kickbacks were an innocent part of his business (as Independent had to know), or was suggesting Independent was as guilty as he, if there had been impropriety, the allegation was surprising – and definitely newsworthy, in the light of Independent's proposed story. Yet Independent reported not a word of it.

In his answering affidavit, Whitfield confirmed that Independent last year retained Auction Alliance's services to sell two of its Cape Town properties. He noted, correctly, that in such cases, the auctioneer's commission is paid by the purchaser. Whitfield further confirms that Levitt suggested that AA charge the purchaser 10%, and that he would then "repay" half the commission he earned to Independent "as part of the transaction". The alternative was that AA would charge the buyer only 5%, (and pay no kickback).

"We opted for the former", Whitfield declared (no surprise), while emphasising that Independent and AA were "the only two parties who conceivably had an interest in such an agreement." Which was, of course, not entirely correct. As an inducement to retain AA as auctioneer in a large transaction, Levitt was offering to kick back half the commission he would earn if he charged the buyer 10%.

Had Levitt offered the buyer a 50% discount on the auctioneer's commission, the buyer might just conceivably have bid a higher price. In any event, if the auctioneer is prepared to work for 5% why should the purchaser not benefit from that? The kickback entered Independent's books as income; the purchase price, as a capital gain.

While the kickback to Independent

does not bear comparison with some of the outrageous frauds referred to in their story, it does share an embarrassing number of features with those it listed: the 50% commission kickback offered as an inducement to prefer AA, the separate payment by EFT. (Independent's credit department issued a VAT invoice to AA on 22 December 2011 for R940,000 for "commission rebate". It was paid by AA a month later.) There was even a clause in the auction mandate in which Independent expressly authorised AA to make use of ghost or vendor bidders, which are now permitted in terms of recent regulations that were formulated with expert advice – from Levitt.

None of this was reported. Instead, Independent negotiated and signed a settlement agreement specifically precluding it from reporting this or any evidence led in the case. Clause 9 of the settlement agreement is unambiguous: "Independent... undertakes that the proposed article [*the Auction Alliance exposé*] – if it mentions the [court] proceedings and the settlement thereof – will merely state that the application has been settled and the application withdrawn." Simply put: Independent would not tell readers anything about the evidence presented in court; it would only report that the matter had been settled, full stop. Which is what it did.

Had Independent reported its agreement not to publish anything about the proceedings, inevitably that would have aroused the curiosity of the rest of the media, perhaps sufficiently to warrant their going to inspect the court file. But Independent didn't do that either, because another clause of their agreement with AA, clause 8, stipulated that "The terms of this agreement are confidential and none of the parties will be entitled to disclose to any third party the terms of this settlement, save for stating the matter is settled and withdrawn." For extra emphasis, the clause repeats: "The terms of this settlement will be confidential between the parties."

But this still didn't provide the ultimate level of secrecy that at least AA and its lawyers required: they proposed asking the judge to seal the court file – the sort of thing that happens in cases where extortion or child molestation is alleged. And Independent went along with it: AA could apply to the judge and Independent wouldn't oppose it.

That was the deal they struck; that was the deal they agreed to keep confidential. That's the deal that they had made an order of court.

And now they are angry and suggest it was improper of *Noseweek* not to have approached them for comment and an explanation? When they were precluded by a court order – that they had sought – from telling us anything about the case? Were they going talk to us and be in contempt of a court order? Or were they privately hoping to persuade a fellow journalist to go along with their secret deal and join the conspiracy of silence? Really?

Independent's final line of defence is the more tawdry for the element of truth it contains: AA didn't, after all, apply to the judge to seal the file – it's been open for you to see all along, they now gleefully declare.

"We didn't [*They carefully omit to say "couldn't" or "agreed not to"*] report on the proceedings, but nothing prevented you and the rest of the press from doing so! We might not have mentioned anything about attorney Smiedt in our story, but we didn't hide it – it was there, in an affidavit we filed in the case, where you could have found it."

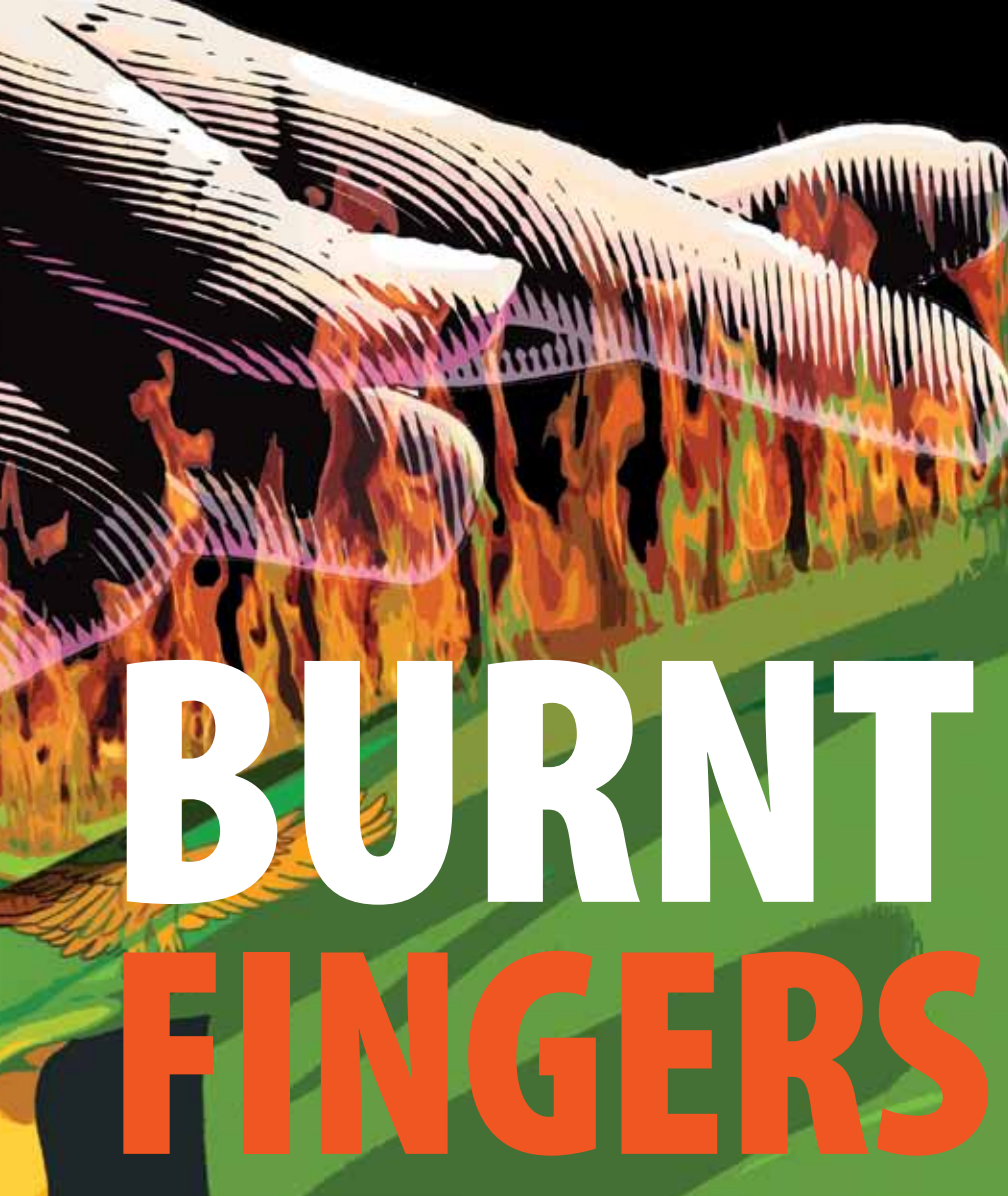
In theory, true. But consider this: everyone rushes to court in the late afternoon: Independent are fighting off an attempt to muzzle them by Auction Alliance! Not much happens and the case is postponed to later in the week. The judge takes the court file to his chambers. OK, no problem, we'll hear and see it all come Friday, we say.

The case is never again called in court. (The court file reveals why: on 17 February the settlement was made an order of court – in the judge's office, with no members of the public or court reporters present. But that we would only think to check months later.)

Next day, Independent splash their great story on the front pages of all their newspapers. In it they (merely) mention that the interdict matter was settled and withdrawn. Nobody notices anything strange – it's Independent's great story of the year and they will surely have milked every juicy morsel that came their way for all it was worth.

If they had picked on the juicy morsels, we would have seen headlines like "Court papers reveal Auction Alliance's own attorney laundered illegal kickbacks! I did nothing wrong, he says" or "Levitt claims Independent also took a kickback from him. Cape editor-in-chief Whitfield dismisses the accusation as "disingenuous".

But, as usual, it was up to *Noseweek* to tell you the news you weren't supposed to be told. ☐



BURNT FINGERS

THE Industrial Development Corporation of South Africa (IDC) has become the second South African institution to get its fingers burned by doing business with Rajan Mahtani, the controversial financial backer of Zambian president Michael Sata.

Mahtani has been in trouble with the law in Zambia several times. He has been accused of forging share transfer certificates in Zambezi Portland Cement and of using them to transfer shares from the company to an entity he controlled. He also has the dubious distinction of having once had his own private bank – which was confiscated by the Zambian Reserve Bank.

In South Africa, he once registered a low-cost airline, Zambian Express Airlines, which was liquidated after Mahtani failed to pay the lease instalments on the firm's only airplane.

He has been embroiled in several long-running court cases in Britain

*Meet the
owner of a
private bank
who awarded
loans to
himself*

and Zambia involving the sale – under questionable circumstances – of a luxury motor car (sans any import duties or taxes) to a Zambian politician based in the UK. He also served prison time after the so-called Carlington maize scandal in which international commodities traders and Zambian moneymen defrauded the Zambian taxpayer by massively inflating the price of maize purchases.

Within days of President Michael Sata's election (in September 2011), Mahtani's fortunes began to look up – to the detriment of the Zambian investment climate, of South Africa's First National Bank, and of the South African taxpayer.

Sata's election campaign was almost entirely based on anti-Chinese rhetoric, to the extent that he earned the nickname King Cobra, for his poisonous strikes against Chinese companies investing in Zambia.

As hostile as he was to everything Chinese, in equal measure was he full of praise for his neighbour President Robert Mugabe who, Sata claimed, has done no wrong: Zimbabwe's collapse was brought about not by Mugabe but by "Western imperialists".

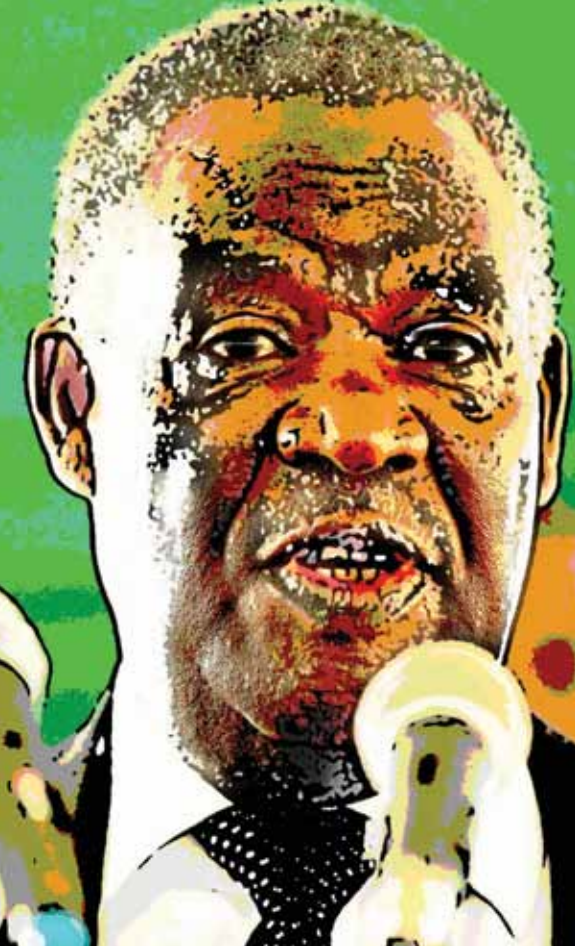
Since his election though, Sata has toned down his rhetoric considerably – and hosted a dinner for Chinese investors in which he buried the hatchet, insisting only that they improve conditions for local workers.

Sata has also begun a much-publicised crackdown on corruption, which his opponents claim is unfairly focused on supporters of his predecessor, ex-president Rupiah Banda.

But the banker who had dared to repossess Banda's home – Rajan Mahtani – has had reason to be glad that Sata now calls the shots.

Lending credence to his opponents' suspicions – after an investigation that appears to have lasted only three days and which began immediately upon his taking office – Sata ordered that Mahtani's Finance Bank of Zambia (FBZ) be returned to the businessman. Finance Bank had been seized by the Reserve Bank of Zambia (RBZ) following allegations that Mahtani had illegally acquired a controlling bloc of shares in the bank and had then engaged in a series of "insider lending" deals – to himself. (*He's obviously read the Italian mafia's handbook: the best way to rob a bank is to own it.* – Ed.)

After seizing Mahtani's Finance Bank in 2010, the Reserve Bank of



Zambian President Michael Sata

Sources in FNB told *Noseweek* the bank was in the unfortunate position of not wanting to sue the Bank of Zambia for damages, as the latter would have to approve any new banking licence the company might seek.

All this sadness, it now emerges, despite Mahtani's having had a nice little injection of cash from South Africa's Industrial Development Corporation in 2009. The deal was put together by Johannesburg businessman Steven Singleton, who persuaded the IDC to invest US\$7m in a joint venture to develop a private hospital in Lusaka. Oxford-educated Singleton, who moved to South Africa from Kenya in 2003, told *Noseweek* that he had hit on the idea of a private hospital for Lusaka after realising that the country was being paralysed by a lack of medical facilities, and expatriate workers and their companies were blowing a fortune on flights to South Africa for medical care.

"Without adequate health and education infrastructure, wealth is expatriated to more mature economies, which in this instance means

other administrative tasks needed to get the project going.

After receiving guarantees from Mahtani and his bankers, the IDC deposited the first tranche of cash into a bank account set up for the company.

However, Mahtani's bankers were none other than his own bank, the Finance Bank of Zambia.

Said Singleton: "As chairman of Finance Bank, Mahtani was famous for over-extending credit and then calling in the loan, seizing assets when the borrower could not afford to pay. It happened to the developer of the Lusaka Radisson Hotel which was then absorbed by Mahtani's empire. The same thing happened some years ago to a local politician who took out a mortgage, over-extended on the credit and lost his house."

That politician was the former Zambian president Rupiah Banda.

Singleton continues: "Construction on the hospital finally started in the third quarter of 2009 when the first tranche of money was drawn down. Disregarding the furious protests of the construction team, Mahtani

He could sell the hospital for a profit without having risked a cent of his own

Zambia placed it in the care of FNB, who seconded staff to it, installed new ATMs and teller equipment and generally upgraded infrastructure – all of this culminating in FNB's offering to buy the bank for US\$5.4 million. FNB's spokesperson was strangely coy when asked for comment on the RBZ's sudden cancellation of the deal, saying only that FNB had (fortunately) not yet handed over the US\$5.4m purchase price that the Bank of Zambia had agreed to. But it had invested a great deal in running Mahtani's former bank. FNB had been granted its own banking licence to operate in Zambia in 2009; its subsequent attempted takeover of FBZ was aimed at acquiring what was an existing footprint in the Zambian banking market. Now, if it wishes to remain in the Zambian market, FNB will have to instal infrastructure to rival that which it installed and paid for at FBZ.

South Africa," explained Singleton. "In the case of Zambia, large multinational companies house the families of their senior personnel in Johannesburg – typically in compounds such as Dainfern and Fourways Gardens – where they can be sure of access to good schools and medical facilities while, typically, dad commutes regularly to his place of work on the Copperbelt, at considerable additional expense due solely to non-existent local infrastructure.

"The hospital was to include five operating theatres, MRI facilities, 160 beds and an intensive care unit." Singleton got the IDC to buy into his scheme, then, after much work, he found a local Zambian investor, Rajan Mahtani. The shareholders in the hospital were to be Singleton, the IDC of South Africa, Rajan Mahtani and a Lusaka lawyer who was given one percent of the company in return for setting up company accounts and

continually paid late and short. Finally, when everything came to a head, he exercised his power to withhold payment altogether. By the time the IDC had declared default and Murray & Roberts had suspended work, 25% of the construction was complete, with foundations and pipe-work intact, and an impressive array of columns and gables.

"Virtually all of that investment had been sourced from the IDC's loan. To add insult to injury, the IDC tried twice to renegotiate a rescue arrangement with their Zambian equity partner and each time Mahtani proved unreliable. It then transpired that he'd been in negotiations with foreign hospital companies who had shown they were interested in investing in Africa, Mahtani was hoping to be able to sell off the project on a forward-pricing basis while it was still under construction – and make a killing on the back of the South African IDC's investment."

Singleton now believes Mahtani had no intention of contributing to the project: the longer he could hold off using his own money, the better he would do – he could sell the hospital at a profit, without having risked a cent of his own capital.

“After identifying the great opportunity that a private South African-style hospital would present, and after sinking in all the capital I could raise, I was introduced to Mahtani as a man who could open doors and cut through red tape. When I met him, he was charming and helpful to a fault. He was certainly well-connected and cut through red tape effortlessly. The problem came as soon as he was asked to put his money on the table. Only


then did he show his true colours,” said Singleton.

“People like Mahtani have made doing business in Africa impossible. They claim their past woes are all because of political victimisation. And because they’re such gifted tellers-of-stories, we believe them. They behave unethically just because they can.”

Derek Luyt, a spokesman for the Public Service Accountability Monitor at Rhodes University said: “The IDC does have a mandate to promote ‘partnerships across industries within and outside our borders, promoting regional economic growth,’ so I don’t see any problem on this score. It also has a

healthcare mandate, which includes building hospitals. But it seems hard to understand how some cursory due diligence would not have revealed more about the prospective Zambian partner.”

Emails sent to Mahtani at his various companies were not answered.

IDC spokesman Mandla Mpangase was not available at the time of going to press. However other sources within the IDC told *Noseweek* that there had been “massive frustration” with the project but the IDC was determined to get it off the ground – although the only way to do so might be to liquidate the company in order to rid themselves of the “giant albatross around our necks called Rajan Matani”. 

Fingered: Rajan Mahtani



BLOOD

& Bribery

By **TERRY CRAWFORD-BROWNE**

with additional material from
Noseweek's archives

EVEN IN the late 1970s, the chief of the state-owned car company British Leyland feigned bewilderment that his firm “should be criticised for the perfectly respectable fact it was bribing wogs”. Margaret Thatcher called it “batting for Britain”. Thatcher’s legacy continues to expose how corruption in Britain, especially relating to arms exports, oil and banking, extends to the highest in the land. British anti-corruption laws have long been archaic, essentially dating back to the 1880s. They have assumed that foreigners are almost all corrupt, and that bribing them is a necessary cost of doing business. Thatcher’s successor John Major’s years were marked by one arms deal corruption scandal after another.

Knowing some of that history, I wrote to his successor, Labour Prime Minister Tony Blair when he visited Cape Town in 1996, pleading for South Africa to be excluded from British arms exports. Poverty eradication was the priority... and, given the militarist obsessions of the past, South Africa was already hugely over-armed. The dismissive response I received from Blair’s assistant was that arms exports were a perfectly legitimate activity, and were a source of job creation in England.

[In July 2006 Noseweek reported: “In the apartheid arms embargo years, British Aerospace (BAE) still had their man in Joburg: Richard Charter, who traded very lucratively, for the duration, as Osprey Aviation. Come 1994, he was back in uniform as BAE Systems SA. From then on BAE was actively vying for a slice of South Africa’s defence pie: not only to sell us fighter planes, but (less well-known) also for a chunk of the navy splurge. Then suddenly in January 1999, BAE’s navy bid was off. Charter would later explain to a trusted Noseweek source: ‘We were told late in December 1998 that if we didn’t withdraw from the naval bid, we stood a good chance of losing the promised aircraft deal as well.’ How come BAE was so sure of getting the fighter deal?

“Charter’s reply: That was settled in a smokey room deal between John Major and Thabo Mbeki already in 1995’.

“How smokey was the deal? British investigators estimate that Charter was involved in laundering an estimated R1.8 billion in ‘commission’ from BAE to the ANC and/or its senior members, within weeks of the deals being signed in 1999.” – Ed.]

Just before they were disbanded, the Scorpions got a warrant in November 2008 to raid BAE’s premises around the country. The 160 pages of affidavits presented to the court in Pretoria detail how BAE used a front company, Red Diamond Trading, to launder bribes of £115 million to South African bagmen.

The amount of the bribes tallied with what was estimated back in 2002 when I obtained a copy of the BAE loan agreements signed by [then] Finance Minister Trevor Manuel. I subsequently learned that BAE had actually budgeted for £200m, but the figures were scaled down after objections by the British government’s Export Credit Guarantee Department (ECGD). Most of the bribes were distributed after Manuel signed the loan agreements.

The late Charter was a major beneficiary

of the bribes. He died mysteriously in February 2004 in what was described as a heart attack while canoeing on the Orange River. Other reports indicate he was hit over the head with a paddle, and then held under water until he “drowned”.

[Noseweek reported in November 2007: “Richard Charter, SA agent for British arms suppliers, who received commissions totalling hundreds of millions shortly after the SA government signed its notorious arms deals in 1999/2000, was one of Ansbacher/FirstRand’s biggest clients. (When he drowned, he had a R20m unsecured overdraft with Ansbacher, a private bank wholly-owned by FirstRand.)

“We’ve noted that British and German investigators of bribes paid in relation to the South African arms deals have revealed that the “slush” funds flowed via Ansbacher offshore accounts. Besides Charter, another local Ansbacher client of long standing, former FNB boss Basil Hersov, is named as also having distributed arms-deal ‘commissions’ to unidentified persons. But the names Charter and Hersov feature nowhere on the lists of Ansbacher clients officially ‘discovered’ by the bank in a subsequent civil case filed in the High Court, Pretoria.” – Ed.]

Charter’s payments were laundered through Airborne Trust, which had been established by Basil Hersov, chairman of First National Bank and the Anglo-Vaal Group, of which [ANC Minister of Defence, Joe] Modise was a patron. As the *Mail & Guardian* noted (in March 2008), the Trust was funded “...by Alan Curtis, one of the grey eminences of the British arms trade ...the so-called Savoy Mafia ...a group of arms brokers, intelligence officers and bankers who gathered regularly at the Savoy Hotel in London during the Thatcher era.

“They were the key architects of British arms sales to Saudi Arabia, as well as to Iraq during the Iran-Iraq war. Curtis was a close friend of Thatcher’s husband Denis and, says security writer RT Taylor, one of the Savoy Mafia’s recruits was her son Mark, said to have made £12m out of the infamous BAE-Saudi al-Yamamah army deal.

“The *M&G* understands the SFO [UK Special Fraud Office] is investigating whether Curtis may have also received commission payouts on the SA deal.”

Over £40m was paid to another company in the British Virgin Islands

called Kayswell Services Ltd, which was 60% owned by John Bredenkamp, BAE’s main agent for southern Africa.

A third major beneficiary of the bribes was Fana Hlongwane to whom BAE, between September 2003 and January 2007, paid more than £10m through Hlongwane Consulting. Hlongwane received more than R51m from Sanip, a SA-registered company owned by Saab, the Swedish maker of the BAE/Saab Gripen fighter aircraft. Another R30m was due for payment during 2011.

The [Scorpions] affidavits revealed that, through various other vehicles, the payments to Hlongwane amounted to over R280m. Hlongwane was Modise’s advisor during the arms deal negotiations. Amongst numerous allegations requiring investigation is whether the arms deal was the payback to Modise from Mbeki for removing Chris Hani as a candidate to succeed Nelson Mandela as president. It also provided huge enrichment opportunities.

I was informed six weeks before he died in November 2001 – ostensibly after a short battle against cancer – that Modise was, in fact, being poisoned. The ghosts from Camp Quattro had finally taken revenge. There was nothing at the time that I could do about it.

During 2008 I had been cooperating with senior investigative journalists at the *Sunday Times* newspaper. They had asked for my assistance in ridding the country of Mbeki by exposing bribes he accepted from German paymasters. I appreciated the risks involved, but I had no hesitation in agreeing to help.

For three weeks in succession, the newspaper published details about the arms deal. The first were revelations that Mbeki had received R30m from MAN Ferrostaal, of which he paid R28m to the African National Congress and gave R2m to Jacob Zuma. The newspaper also focussed on economic warnings given to Mbeki and cabinet ministers by the arms deal affordability study which, irrationally, they ignored.

The *Sunday Times* provided me with the final version of the affordability study. The Western Cape High Court, back in March 2003, had ordered Manuel within 10 days to provide discovery to me of the financial working


papers pertaining to the arms deal.

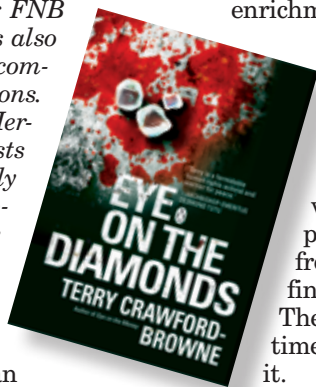
He refused to comply, despite having unsuccessfully argued in court papers that it was not in the national interest to disclose how the government conducts its financial business. It took two applications against Manuel for contempt of court before in November 2003 I received what eventually proved to be just a draft copy of the affordability study.

At that time, I had emailed my lawyers: “The documents received yesterday are very uneven and incomplete. Of 224 pages, 51 relate to three steel projects, the opening paragraph says South Africa doesn’t need another steel mill. After comparison with chapters eight and nine of the JIT [Joint Investigation Team] report, it is evident that we’ve only got part of the IONT Team [International Offers and Negotiating Team] and financial working group documents. The Cabinet most certainly did not approve of the arms deal on the basis of the documents we’ve got, given the repeated and unambiguous warnings they contain about the risks involved. If they did, they certainly did “not apply their minds”. Having ignored these warnings and signed the loan agreements, Manuel should be facing criminal charges.

The version of the affordability study provided by the *Sunday Times* was even more scathing about the arms deal risks than the draft I had obtained five years earlier. With the more complete version, I calculated that Manuel had provided me with less than 3% of the documentation the court had ordered him to hand over. Accordingly, he had committed perjury when certifying in November 2003 that he had complied with the court order.

Whether Manuel was himself a recipient of bribes is irrelevant. As finance minister, he had a constitutional obligation to ensure that the arms deal was not tainted by bribes. As Andrew Feinstein commented, the weapons procurement “was pushed through in spite of massive risks to the fiscus, a most-likely negative impact on all aspects of the macroeconomy and a clearly negative impact on the major social services”.

True enough, the revelations led to Mbeki’s dismissal as president just one month later. The *Sunday Times* had achieved its objective. Manuel resigned with him, but then retracted his resignation. – From *Eye on the Diamonds*, by Terry Crawford-Browne (Penguin). 



Tzaneen museum curator Jurgen Witt and his assistant Florence Tshibeyahope holding a Songe statue (an ancient power figure from the Congo)

Beating the royal drum

IF YOU'RE ever in the area of Tzaneen and interested in African art and history, then you should take some time to visit the Tzaneen Museum in Agatha Street. It is undoubtedly one of the top provincial museums in the country. But you had better hurry – it could be closing down soon.

In August 1995 the Tzaneen Museum was officially opened in the grounds of the Tzaneen Library. Its unassuming appearance is deceptive as there is an enormous amount of history crammed into four small rooms. The displays are from a private trove of ethnological artefacts collected by Tzaneen resident Jurgen Witt since 1963 – an impressive and absorbing selection of pottery, carvings, drums and beadwork from the regional Tsonga and Venda peoples.

The staff lead visitors around the displays, enthusiastically explaining certain items and providing a fascinating overview of this priceless muddle of a collection. As there is no entrance fee, people are asked to donate generously to help with running costs of the museum.

The museum is highly regarded and recommended by international travel authorities: Footprint Handbooks

It's fascinating, it's world class, it's valuable – but Tzaneen is neglecting its heritage

(Passport Books in the US) says, "Do not be deceived by its size or the building, this is one of the best museums in South Africa, and as such deserves far greater recognition and resources... There is so much to learn about here. In our opinion you will not come across a finer collection in South Africa. Give generously to help towards the upkeep of the building."

And an extract from the *Frommer's South Africa* (Macmillan) says: "Outside the museum, you will meet mythical creatures from Tsonga tales. These carvings were commissioned by Mr Witt in order to keep the oral traditions alive and to offer a focal point for children who visit the museum, many of whom are brought by parents wanting to encourage an interest in their culture.

"Ethnological artefacts include weapons, pottery (covering a period of nearly 2,000 years), basketry, beadwork, initiation figures, pole-carvings (the world's largest collection), as well as old books and documents relating to the area. One of the most exotic exhibits is the royal drum used in the service of the great grandmother of the present Rain Queen Modjadji, which dates back to 1880.

"Like the excellent Vukani Museum



in KwaZulu-Natal, funding is an ongoing problem and exhibits are neither labelled nor professionally displayed. However, this is more than compensated for by the enthusiastic staff, who happily guide visitors through the rooms and visits of up to three hours are not uncommon.”

But *Noseweek* recently received a letter from Jurgen Witt, saying it was impossible for him to renew his subscription as he had run out of funds. Until four years ago he received a monthly grant of R2,777.16 from his local municipality. This was to cover the museum’s expenses: salaries; cleaning materials; insecticide; stationery; postage; security; soap; toilet paper; repairs, UIF deductions; and other day-to-day expenses required in the running of the museum.

Not surprisingly, Witt had regularly found it necessary to dip into his own pocket in order to keep the museum afloat. Then, four years ago, the payments from the municipality simply stopped coming. Witt solved the cash deficit by selling off his own collection of books, one by one, but that source of income has dried up too.

Witt tells *Noseweek* that the museums within the political boundaries of Limpopo Province (or the former Northern Transvaal) were established by the previous government and that the town council back then was run by a group of “*verligtes*” who were in favour of protecting the African heritage.

Instead of these establishments increasing in number under the new government, many have closed since 1994 – their artefacts snapped up by other institutions, dealers and collectors. They cannot be replaced. It’s sad that there’s an uproar when an Irma Stern painting is leaving the country, but the loss of a precious Tsonga or a Venda artefact is scarcely noticed.

All the talk about heritage and ethnic roots makes one think back to a time not so long ago when there was a Department for Arts and Culture. This department was renamed Sports, Arts and Culture by the new government and when that happened, sports captured most of the funding.

The tables turned for Witt when he opposed the building of the soccer stadiums for the World Cup, asking rather for some money to be spent on museums to preserve a fast-disappearing culture.

That suggestion got short shrift and Witt’s funding was stopped.

Witt told *Noseweek* he was recently informed that the municipality had decided to resume a monthly contribution, but he had received nothing by June. July brought better news: Witt has received his first monthly payment into his bank account.

Witt is passionate about the museum and although he is in his eighties, he devotes his time to telling people about all the beautiful,

intriguing artefacts. Visitors with specialised interests are encouraged to contact him for a personalised tour. The Stone Age implements are not usually on display but if you call Witt, you can arrange to have a private viewing.

Noseweek has renewed Mr Witt’s magazine subscription and we encourage readers to visit the Tzaneen Museum and support the protection of our heritage by donating generously. 

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THIS IS ART

DOGS SHOULD get the vote and meteorites have opinions on travelling. Soil gets cast as ingots of currency, sheep graze in stately parks and grass grows. Scrap metal rusts, piled up in the rain. Wind blows through an empty display hall. This is art. This is the Documenta art festival in Kassel, home of the brothers Grimm, where we're told that confusion is good. I watch a man staring at a light switch, trying to figure out if it's art. He's in the room after the wind display, and his mind is unmoored from cultural overload. He's not alone.

Flyers along the main street temptingly advertise a *Lachseminar* (laughter seminar) for relief. But some of the artists themselves provide all the laughter you need – one asks on a poster: “You blow your nose. I blow mine. Who is right? You or me?”

Anyway, if you think this art stuff is so much poncy rubbish, which the locals seem to, then Kassel itself is worth a wander, and since it's strawberry season, there are stalls everywhere offering *erdbeere* to snack on (and asparagus too). The Allies bombed

On a visit to Kassel, in Germany, **Yves Vanderhaeghen** took in the world-renowned Documenta art festival where South African artist William Kentridge's show blew his mind

the town flat and the architecture is post-war box-houses. But even so, to our eyes it's wonderfully geometrical and ordered, the trams run on time and there's a public bicycle-sharing system, all of which made us green with envy.

Two “firsts” tempt the tourist (apart from the Grimm Museum): the “*treppenstrasse*”, or street of steps, which was the first pedestrian mall in Europe, and the Fridericianum, the first public museum in Europe, restored after the war. But it's the vast, Renaissance garden right in the heart of the town, that everyone uses and on the outskirts, Wilhelmshöhe Park, supposedly Europe's largest hill park, whose *pièce de résistance* is a Baroque cascade of fake ruins and the 9.2metre copper statue of Hercules surveying the whole of Kassel. And everywhere are woods where the menace of Little Red Riding Hood's wolf is easy to imagine. Oh, and if you're a bike nut and use those elite Rohloff gear hubs, Kassel is where their factory is.

Back at the Documenta, amid the apparently random, the discordant, the gimmicky and the pretentious, there are pieces and performances

of immense power. We were lucky to stumble early on to what, in our opinion, turned out to be by far the best on show: William Kentridge's *The Refusal of Time*.

The venue is a hall at the old railway yards, near Platform 13, from where Jews were sent on to their final destinations of Auschwitz, Dachau, Birkenau.

Projected simultaneously across five screens is the story of destruction and massacre, from Angola to South Africa to the Nazi concentration camps. Frenetic African cadences pump into the enclosed space, metronomes march frantically out of step with each other. In the middle of the hall a wooden breathing machine – the lungs of an elephant perhaps – heaves rhythmically, meditatively. The surrealistic multi-media performance plays with the notion that all that has happened in history is contained in present time and transmitted across the ages through light. Information – and so the traces of atrocity – does not ever vanish into a black hole. Bottom line is that, short of destroying time, there's no clean slate for a species whose trademark is destruction, and the film closes with a brass band hurrying the procession of the damned to its fate.

Kentridge's demented metronomes chime with a display across town in the Fridericianum Museum that includes a drawing of Man Ray's metronome, titled *Object of Destruction*, which in turn faces a display of pictures by his former lover, the war photographer Lee Miller, including the morally disquieting ones of her in Hitler's bathtub, taken on the day he killed himself.

She wrote at the time in *Vogue* that "Germany is a beautiful landscape... inhabited by schizophrenics" whose inability to comprehend what had been wrought in their name was profound.

That history is never far away. From this art festival where humanity's



Hercules atop his tower in Kassel's Wilhelmshöhe Park, strewn with Baroque cascades of fake ruins

relationship with its past is a common theme, we drive out into the country to visit a friend who lives in a village about an hour from Kassel. He farms organically and observes how global warming has extended the habitat of bugs from across the Alps to his doorstep. We visit the old school which is now a museum filled with domestic and agricultural artefacts from a nostalgic time. Amid the careful displays, at the head of the stairs, are portraits of a dozen young men, each in Nazi uniform: the village's war dead. Fondly remembered. It shouldn't have been a surprise, but it was. Bury it, dig it up, show it off, ignore it, the past is always around the corner.

Just outside Kassel is Breitenau monastery. This is where filmmaker Carel von Wedemeyer locates his exploration of how to live with and engage the past, in a multi-screen telling of

the story of some of the monastery's various incarnations. In 1945 it was a concentration camp. In 1970 it was a girls' reformatory (and Von Wedemeyer bases this part of his story on a script by Ulrike Meinhof of the Baader-Meinhof gang). By 1994 it had become an asylum for the insane. Each story bleeds through into the others in a never-ending telling and retelling of events that can never fully be grasped, never be seen simultaneously, never be finalised and from which the viewer can never be exonerated.

Turn away from these events and there's a reworking of Javier Téllez's film *Artaud's Cave*, set in a Mexican psychiatric ward and acted out and rescripted by inmates. Turn the other way, and there's an exhibit of bits of the gigantic Bimayan Buddhas of Afghanistan blown apart by the Taliban, shrapnel from the Iraq war, burnt books that survived the 70 bombs dropped by the Allies on the very building where they are being displayed and where a library of 400,000 volumes was destroyed.

It is in this context of layers upon layers of often-gratuitous destruction that festival curator Carolyn Christov-Bakargiev's controversial statement that dogs should get the vote starts to make sense. Shifting the axis of meaning away from one in which people are central, she talks of a vision that recognises "the shapes and practices of all the animate and inanimate makers of the world, including people".

She asks, after activists blocked a 37-tonne meteorite named El Chaco from leaving Argentina to be displayed in Kassel for 100 days: "Does it have any rights? What shift in its inner life would its being emplaced temporarily in Kassel have brought?"

The obvious answer would have something to do with colonialism and the theft of traditional artefacts. But the underlying answer to why one group of people gets to claim as theirs in perpetuity a lump that happened to fall from the sky in their backyard, and not in Kassel, for example, and why feuds erupt as a result, is one that the festival as a whole grapples with.

The measure of the success of this chaotic, sprawling confrontation between art and society lies in how well one negotiates confusion. Documenta, says Christov-Bakargiev, "is a state of mind".

It's enough to make one schizophrenic. ■

FOOD FOR THOUGHT

documenta is massive, stretching over 100 days to August, with displays and performances by 150 artists and others, and taking place simultaneously in Kassel, Kabul, Alexandria/Cairo and Banff.

Each location represents a different condition: of being on stage; under siege; in a state of hope; or in retreat, respectively.

It was started in 1955 in Kassel by an art lecturer as a display of art deemed decadent by the Nazis. The theme of human

destruction permeates the entire mood of the event.

Documenta is staged every five years – this being its 13th – and is regarded as a key international exhibition of contemporary art (even Brad Pitt showed up. Who knew?) and "a moment of reflection on the relationship between art and society".

This year it "speaks about the uniqueness of our relationship with objects", and many of the displays are living exhibits, some edible.

Hit and run lawyer

At last – injured woman awarded damages

WHEN Port Elizabeth domestic worker Nosicelo Tshakumani lost the use of her right leg in a bus accident eight years ago, the attorney who had offered to take up her case – Stafford Geduld of Port Elizabeth – failed to sue either the Road Accident Fund or the bus company in time, then tried to fob her off with a payment of just over R7,000.

Tshakumani was left disfigured, barely able to walk, incapable of working and in constant pain. The R7,000 payout was hardly compensation, so she found another lawyer and sued Geduld for damages.

Geduld's lawyers filed an expert witness report stating that as she was poor and would ordinarily not be able to access private medical treatment, she should not be allowed to sue for the cost of First World healthcare.

And while other attorneys were winning settlements worth millions for clients who had sustained injuries that impaired their mobility, Tshakumani had to wait and hope. At last, in June this year, she secured the recompense she deserved.

Tshakumani's life changed suddenly on 10 January 2004: she had set off early from her home in Motherwell to spend the day looking for a job as a domestic worker. At roughly 6.45am, at the traffic intersection of Cape Road and Langenhoven Drive, she tried to alight from an Algoa Bus. But before she had steadied, the driver closed the doors and pulled away. Tshakumani fell and the bus ran over her leg.

She was rushed to Greenacres Hospital and stabilised before being transferred to Livingstone Hospital where she underwent months of treatment for a fractured leg. Her wounds became septic and she had to have several operations as her broken bones did not heal well. A screw had to be inserted in Tshakumani's leg to hold the bones together, causing her constant pain.

By ESTELLE ELLIS

In April, when she was discharged from hospital, she went to see Geduld, signed a power of attorney and waited. At that stage she had a claim against both the Algoa Bus Company and the Road Accident Fund.

Geduld, however, failed to file the claims in time, scuppering Tshakumani's chances of being awarded any damages.

With the bus company off the hook,

settled the matter out of court – with Tshakumani due to receive 80% of her damages and legal costs claims.

Geduld now practises as Stafford Geduld Attorneys. The parties have not yet agreed on a final figure for the damages due to Tshakumani. (She had sued Geduld for more than R200,000 for future medical expenses; R500,000 for pain and suffering; and R762,000 for future loss of income.)

Expert witness Dr James Forgue said in court papers that Tshakumani would likely need a knee replacement and would benefit from an amputation and a prosthetic leg: "The cosmetic effect (of the accident and treatment) is ghastly to say the least," Forgue said.

Tshakumani's estimated future medical expenses were calculated on private hospital and medical aid tariffs.

Geduld's medical expert, Dr Charles Edelstein, said in his report that the court should take into account that Tshakumani was opposed to the idea of an amputation, could hide her disfigured leg under clothes and that having a prosthetic leg was not ideal for people like her who live in informal settlements as it was better to hobble to the toilet at night without having to scramble around for a prosthetic leg.

He said the court should also take into account that Tshakumani should fall in the category of indigent people who would not normally be able to access healthcare other than that offered by a state medical facility. He said that the treatment Tshakumani had received at the state hospital was "justified and reasonable".

In his report he argued that Tshakumani's damages should be reduced by about 5%, as she was one of the "indigent and very poor people who are disproportionately burdened in accessing appropriate medical treatment" and can at best hope to access "acute and emergency medical treatment only".

Attorney failed to file the claims in time

Geduld eventually managed to settle her claim against the Road Accident Fund – for R7,508.

With the help of Port Elizabeth attorney Morné Struwig, Tshakumani sued Geduld's law firm, Geduld Raubenheimer, for the outstanding damages of some R1.5 million – which she had not been awarded simply because of the negligent way her claims were handled.

Geduld initially denied negligence but eventually, in June this year, he backed down and the two sides

Self-love and sincerity



TUT TUT. Prejudice is such an ugly word. Particularly in our mincingly PC world. But there it is: one look at the cover picture of *Sweet Revenge – The Intimate Life of Simon Cowell* and the bile wells up.

There he is, smug of smile, lord of showbiz creation, Simon Cowell, producer of *X Factor* and *American Idol* fame. It's not for want of trying that he has succeeded in spotlighting his name internationally. Those two words are uttered with awe by his fans and fury by his detractors. The latter use a lot of rude words, actually, but Cowell should care. After the long years of humiliation in the ravenously competitive world of popular music, he has ended up a shamelessly self-indulgent billionaire.

Well, actually he has always been passionate about himself, if *Sweet Revenge* is anything to go by. And it is a thoroughly detailed record of the strivings of an obsessive fame-hound.

Author Tom Bower, whose previous offerings include biographies of the Nazi villain Klaus Barbie, Robert Maxwell, Gordon Brown and Richard Branson, has clearly been admitted to the Presence for purposes of this tale. It should be noted that, despite certain reservations, Cowell did not demand pre-publication censorship rights. In fact, Bower reports that he remained unfailingly courteous and unfazed by sensitive personal questions.

Bower: "Even under scrutiny, Cowell is good company. He likes to be entertained and is himself entertaining. Our relationship was harmonious."

Furthermore, the great producer did not steer the writer in helping to understand his quest for revenge on those professional rivals and former colleagues who often succeeded in crushing the youthful ambitions of Cowell. Bower drew his own conclusions.

A measure of that vengeful success is supplied in the introduction to the book. While cruising last year on the £2 million-per-month yacht *Slipstream* – after arriving at the Côte d'Azur on a private jet, Cowell spent six hours daily on the telephone, but found time to reminisce and go clubbing. En route,

Len Ashton
reviews
SWEET REVENGE
(Faber and Faber)
by Tom Bower

he had picked up a group of old friends, including trophy women of the kind to which he is attracted – striking, but a wee bit "trashy". And that is by Cowell's own confession.

His charms are maintained with the contents of two suitcases crammed with vitamin pills, moisturisers and other potions conducive to preservation.

Speaking of preservation, Cowell toyed for some time with the notion of paying £100,000 to a German cryogenics outfit to store his body while science developed resuscitation methods. The deal fell through when he heard that one customer's head had been severed and stored apart from the body.

As for Botox, that is applied twice annually. It is viewed as a professional health item, rather than a vanity.

The focus on physical health has come about, in part, because Cowell believes these precautions are essential to counter the effects of smoking (Kool, an American brand) and drinking (lots of wine). A yacht crew member leans forward solicitously to light a Kool for Simon.

All this glitz for an initially directionless lad from London suburbia, spawn of a hard-working couple who spoiled him rotten. There were early signs of a need to be noticed (thirsts for fame and revenge are still the powerful motivations). One music biz character records the young Cowell arriving at their offices sporting hotpants and roller blades. There were suggestions that young Cowell might be leaning a tiny bit in the gay direction, but his social life featured a range of dramatic women.


It is fascinating to learn that the man who came to be a dominant popular culture icon was, essentially, a Sinatra fan who much preferred the theatrics of production. He learned the hard way to exploit musicians through


TV, and was treated with suspicion by sulky rock stars who saw themselves as social rebels.

Cleverly, Simon realised that the tastes of Middle America (middle everywhere, for that matter) could be satisfied profitably through alliance with TV. The arty parties were outraged by this perceived betrayal.

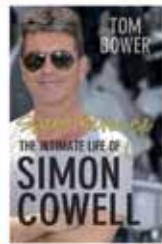
Anger at the scorn of his contemporaries in the viciously competitive period popular music game, where Cowell played an eccentric dogsbody role for years, has been channelled to realise his ambitions.

Bower is astonishingly diligent in his research. The index is overwhelming, and the detail extraordinary. The tale is worth following for its own Cinderella-style triumphs, but only music fanatics and producers will want to plough through the mass of minutiae.

It's the luxurious self-love which fascinates. As Woody Allen once remarked: "Don't mock self-love – at least it's sincere". Simon baby is nothing if not sincere. 





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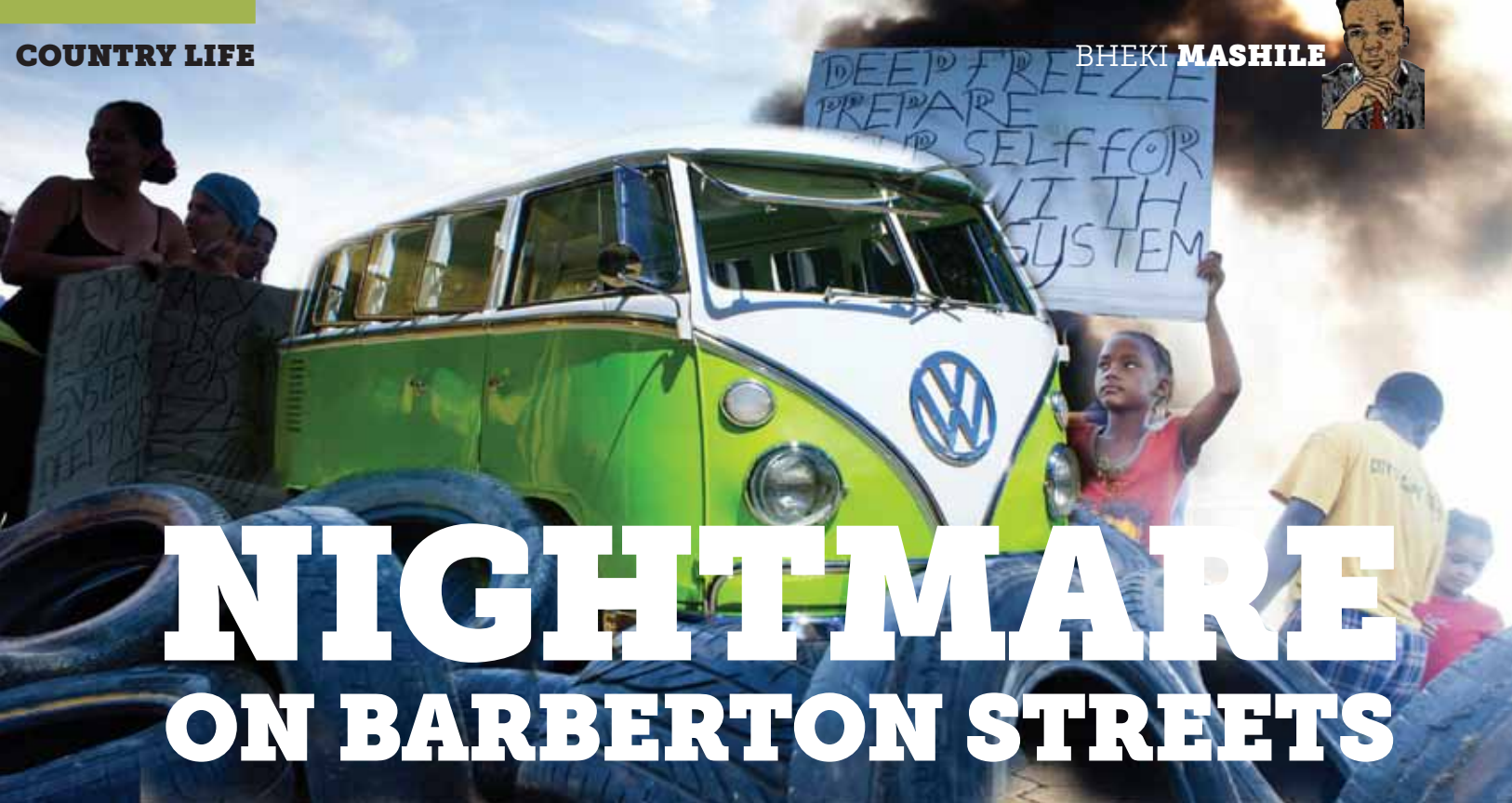
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NIGHTMARE ON BARBERTON STREETS

WALKING around my Barberton is not the same any more: that stupid protest has changed the way I see my town.

I have covered many demonstrations in my time and Barberton is one of the worst I have seen: robots smashed – along with everything else the protestors could get their hands on. For goodness sakes, they even broke the windows of the SPCA!

But then again, what difference did it make to my fellow black “brothers and sisters”. After all, the SPCA is for animals. Sad to say, but that is the mindset.

When these idiots destroyed my town – my spot – I was angry. In fact, there are a lot of disappointed souls wandering about this small mining town; yes, the mines’ lacklustre corporate social investment was also a serious issue for the protestors. No surprise. We have six mines and I am hoping to publish several stories that remind them of their Social and Labour Plan obligations (SLPs) as set out in legislation around 2002. They must provide proof of adherence by 2014. This will be taken into consideration when it comes to the renewal of operating licences or approval of new ones.

And then there’s the university-to-be. Citizens in different pockets of the province, from Barberton to White River, have been rooting for it to be built in their town and now we hear

that Nelspruit is to have the pleasure. President Jacob Zuma announced on 5 July that it had been decided (without any public consultation) to locate the main campus at Nelspruit’s Lowveld Agricultural College.

In retrospect I have to concede this looks like a logical decision. It would have been nice to have the university in my little home town but it seems sensible to locate it where there is an already-established institution that can easily be expanded to include other disciplines. Clearly it will be far more cost effective than building a university from scratch and having some “sudden” landowners go off laughing all the way to a Swiss bank.

Not too long ago I had the opportunity to attend a workshop sponsored by the agricultural department at the agricultural college and I must say I was impressed with the campus: I’ve been fortunate enough to have visited many a varsity in the United States for one reason or another. So, I know a nice campus when I see one. Of course I have also been to Wits, where the building layout is too bloody complicated. It’s like a maze.

One of my favourite reasons to visit universities in the US, was when I and a couple of mates did a college circuit tour with our band. One of the perks was that we were usually offered “accommodation” by local students at the end of the show. We needed it. We

were five guys travelling in a van – a Kombi, of course.


Funny memory: we had a Pee-wee Herman doll hanging from the rear-view mirror. We got pulled over in Up State New York by a State Trooper who did not take kindly to Pee-wee hanging there. He said, “You know that’s one of my kid’s favourite dolls, now ya’ll wanna take that off”. We quickly complied.

Then he looked at me and said: Boy, what kind hair you got on your head? as if he had never seen dreadlocks before. Go figure.

To return to Barberton’s university pain: one of the so-called services the protestors claimed to be insisting on was the location of the university in Barberton.

This was despite the fact that the idiots who incited these kids to protest knew that the decision-making process was still in motion and no town had been guaranteed the campus – not even Premier DD Mabuza and his push for White River. (He did not get it either, yes, amandla!)

But the kid protestors caused a lot of damage, a lot of pain, in their “call” for the university to be located in Barberton. And after Zuma’s announcement, a few of them approached me and said, write something about Zuma’s decision and mention that Barberton was robbed.

That’s why you caused all that chaos and stuffed up our town? Who would believe it? 



Rascalbugger

ONE OF THE skills I remember from my days of obsessive surf angling is knowing there are likely to be kabeljou down there if the water has a certain ginger ale colour, from sand being churned up in the surf. If the waves are a certain shape, you see.

This kabeljou is not a cod, of course, which it is in Holland, nor is it in any way a Cape Salmon, as described in South Africa. I mean it doesn't look a bit like a salmon. Nor does it look in the least like a cod, for that matter. But old Natal protein anglers have called it a simon as long as I can remember. Simonfish. And part of this skill is in knowing such simonfish don't hunt by sight, they do it by smell, they do it by moonlight; bad visibility from the churned-up sand is no problem, they can taste other species in the water, they taste with their nostrils, as it were. Also you should know other predators seem to hate getting this churned-up sand in their gills and steer clear of the ginger ale, so with a bit of saichel (sachel, saykhel: Yiddish for common sense) you can set out to hunt just this one species if you have the right technique.

But here's the catch: you can tempt this KZN fish with a bit of sardine flesh from the Atlantic coast okay, or a chunk of any other edible thing if it's hungry. I mean you can just stand around and see what happens if it's a nice day, but if they are around as the ginger ale would suggest, then what you need is live bait and catching the live bait takes longer than catching the simonfish.

This is what you might call active angling, however evil the weather, bru, you've got to be there, that's the sport. But Sonny wasn't after the sport, he was after the protein. Subsistence fishing. For some years we'd watch out for each other at the Rocket Hut beach in early December, Sonny and I, when the shad season opened. The shad were nice and small then, a strange thing for a fisherman to say, but we wanted just about the minimum permissible size, 400mm, for live bait. For a 10kg simon.

We worked well together, we two, we had system. At first light we would have our tackle ready on the beach: one



Catching the live bait takes longer than catching the simonfish

heavy surf rod rigged up with a 5/0 hook and a metre of steel trace, while we set to work with the light shad sticks, and as soon as we got a suitable live bait one would fix the 5/0 on to it and the other continue working the shad which could very quickly disappear as shad shoals do. Number one would take this shad and thread the hook through just the skin a little in front of the tail on the right and take the trace over the dorsal fin to the left and there thread it through the skin again so no muscle was damaged and the barbed point of the hook stood well clear of the body. Now he would walk with rod and live bait into the water about thigh deep and gently launch the shad to swim out to the ginger ale where with a bit of systemic luck there might be another

shoal, of simonfish. Thus we would fish both shoals before they could move off.

The deal of course was that if one bloke got a simon he would give half of it to the other shareholder in this company. But the problem of course was which way to share it, head end or tail end. Sonny and I would bury the fish in the nice cool wet sand of the beach with only its tail sticking out, to keep it fresh while we were working the shad, see, and debate this division between us.

Let none of you philistines out there say a fish's head should be chucked away with the spine and the fins; possession of it was part of the debate, there are all sorts of crunchy al dente nyoff-nyoff bits in there, esp the eyes when curried. And thus debating was what Sonny and I were doing last time I saw him on the beach. I told him of a specially dainty girlfriend I once had who was quite enchanted at the idea of eating real Indian food in a real Indian restaurant and how we'd pulled in at Prem's Perfect Pie Palace and ordered battered fish and when it arrived and she peeled off some of the batter there was an eye staring her straight in the face and she dropped the fish on the floor with a small scream and never went out with me again. Such a waste, said Sonny. Waste of good fish eyes. Waste of good girlfriend.

A cheerful companion, an appealing personality. But he just disappeared. Just didn't show up for the next shad/simon season. Then suddenly one day at the local PnP I came across his ex-missus at the till queue. Unsmiling as ever. Aaah!, but how is the family these days? said I with some forced cheer. How's Sonny? No-oo said she, died away that fellow. What, Sonny? said I in some alarm. Dead? That's awful! No-oo said she, deceased away one time, no pains. What from? said I. Shattered nuffs, said she. Oh dreadful! said I. No-oo, said she, very terrible rascalbugger that fellow. Hintercoursing one European Lady, that fellow.

Poor lonely bloody fool, thought I. It was still Those Days. An Indian charra hintercoursing a European Lady stood a good chance of getting murdered, but Sonny was lucky, he got away with one year tronkstraf. The European Lady got six months. And when he got out he just deceased away of the shattered nuffs. Dismay, a broken heart. Such a waste. Of fish eyes, girlfriends, European ladies, happy days at the Rocket Hut. Everything. ☐

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PERSONAL

Kym, Looking forward to you passing your bike license. Love Eric.

We're looking forward to taking you to the airport for your trip to Portugal, Dave and Renée.

I Care, non-profit organisation is holding their annual Golf Day on 5th September at Bryanston Country Club. Enter your 4 ball or sponsor a hole. Call 0861 470 047 or email info@icare.co.za

Susan, Toni and Louise Thank you for being there at our sad time. Ron.

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