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Ostrich capital is a nest of political intrigue... *page 16*

FEATURES

COLUMNS

Sidney Frankel: victims find their voice

I read the article on Sidney Frankel in *nose*180 and wish like hell I hadn't. I too was abused by this man when I was eight or nine, for a few years. The story brought all those memories back that I had successfully (or so I thought) buried and dealt with. I have thought of nothing else since I read the article and have been incredibly emotional.

I wish to remain anonymous. My husband and mom know about it, my children and father don't. I would hate nothing more than for them to find out.

I guess I am writing this perhaps to ease some of the anger that I am feeling at the moment and to let you know that there is one more person to add to his abuse tally. Also, I wanted to get hold of Jio Rosenberg, as perhaps by writing an email to him it might help to ease these feelings. I sent him a friend request on Facebook but he would not know who I am. He should know that there is someone else out there thinking of him.

I have been happily married for 22 years and have my two kids. We still live in Joburg. For the most part I am completely normal and happy – but fall off the rails sometimes (as most people do). Seeing this article has opened up such wounds now and I wonder how on earth I will have the energy to heal them.

Name withheld
Johannesburg

I have just read your article on Sidney Frankel. I too was one of those children. Exactly my story. This went on for a couple of years. Thirty-three years of therapy and wondering why?

I would like to come forward with my story, hopefully to help other victims. I would like to be in contact with other victims. I am interested to know how many there are of us, children molested by this man.

Daniela McNally
Chicago, USA

Please link me to the group dealing with the Sidney Frankel matter.

And thank you for having the courage to expose this issue. It has helped me to find my voice after almost 40 years.

Lisa
Cape Town

I head an organisation that supports male survivors of sexual abuse. First, thank you for publishing the Frankel story. I see there were also stories about Jonti Sandler, another notorious rapist of men. It is a topic most try to avoid, and I applaud *Noseweek* for having the courage and for their excellent investigative journalism. It is high time that more of the press write about these "thieves of innocence". It is a difficult thing for men to come out and talk about their rapes as children, but more stories like these will encourage others to talk about their pain.

Kindly forward our group's details to victims so we can support them and encourage them to lay charges.

By the way, there is no statute of limitations in South Africa for sexual abuse cases, so all of Frankel's victims are well within their rights to lay charges. If we can get three or four together, MatrixMen will be happy to assist and support the victims.

Martin Belders
martin@matrixmen.org

In the Van Zijl case, the Supreme Court of Appeal (as mentioned in a comment to the online article) redefined the three-year prescriptive period for civil claims with regard to sexual offences. If helpful and appropriate, I would be happy to point you or anyone else on behalf of Frankel's victims in the right direction on prescription and refer to the international research literature relied on in the Van Zijl and other cases.

John Whitehead
Kenilworth, Cape Town

Sidney Frankel a paedophile: Odd that this sensational revelation hasn't made the mainstream media. Any conclusions we should draw?

David Bullard
Via twitter

True, with one notable exception: Bruce Whitfield's The Money Show *on 702 and Cape Talk. The only certain conclusion to be drawn from the media silence is that* Noseweek *remains essential reading. For the rest, we can only speculate about what the mainstream media's reasons for ignoring the story might be:*

Frankel is very successful and that's all that matters; this type of story is bad for business and/or the image of the Rand Club; paedophilia is a "private" matter; or, probably closer to the truth, they eagerly write about sex but only the kind that sells aftershave, underwear and fast cars. – Ed.

After waiting for about 43 years, the truth about this monster is out! Over the years I told many of Sidney

"Well, I'd rather be a lapsed Catholic than a lapsed atheist"

Rose-tinted specs... Debunking the Dalai Lama?

Frankel's friends about his molesting young kids, but they chose not to believe me.

I used to go riding with father Lesley (who, for the record, also tried sexual advances on me – I kicked him hard and that stopped him quick) and son Sidney who, I was to discover, was a different sort of sex predator.

After an outride with this charming pair, we were all sitting around a table, with my daughter aged 10 sitting next to me, when Sidney announced that he was taking some orphans up to his trout farm for a weekend and asked me if my daughter would like to go along.

My daughter started screaming, No, No! Sidney, as cool as a con man, turns to my daughter and says, "Don't worry, you don't have to sleep with the orphans, you can sleep in my bedroom." This was said in front of all of us. He was that cool an operator. My daughter went hysterical, screaming, so I took her out of the room.

In the car on the way home she told me how Sidney took her into the stables and tried to finger her and molest her. You can imagine how shocked I was.

I was told by my father, Frank [*Waring*], not to mention it to Sidney's father – Sidney being an only son… and Lesley giving huge donations to the Nationalist Party! [*Frank Waring had become the token English member of the National Party cabinet*. – Ed.]

When, a few weeks later, Lesley phoned me to ask why I wasn't riding with them anymore, I told him to ask his son – and that's the last time I ever spoke to this family.

But I told everybody I could about him and was told by many Jewish kids that he used to babysit them, molest them, and that's how it all started. But, like mine, the parents of these kids, told them not to say anything!

Eventually his best mates became the ANC, especially Cyril Ramaphosa, and Frankel donations started flowing to the ANC. I kept on with my crusade to tell everybody and anybody who knew him, what a serious slime ball predator Sidney was.

So when my daughter called me from the airport in Durban to tell me about your article on Sidney, she and I were like Wow! at last, this dreadful person will finally get his just dues – unless of course, like so many ANC donors and leaders, he's allowed to get off scott free.

Thanks *Noseweek*, I will be forever grateful.

Frances Waring
Cape Town

Post you're not supposed to get

Thank you for delivering my October edition to my front door. I appreciate the effort that you made to get your magazine to me, despite the postal strike.

DC Bridger
Johannesburg

I paid a visit to my postbox (in the faint hope of it actually containing some mail) and behold! – there on top of a very small pile of trivial items, such as bills, was an envelope bearing that wonderful title – *Noseweek*! So, thank you for getting this through to me via whatever means it took.

Bob Broom
Hermanus

Thank you Mr Nose for ensuring that, with the Post Office Awol, I still got my monthly fix, with *nose*180 being hand delivered. Wish all suppliers had the same interest in servicing their customers.

Oscar Norris
Pinelands

See editorial – Ed.

KPMG: it all adds up

I just read about JCI and Randgold. Is it just coincidence that KPMG were also the auditing firm for GT247 (*noses*166,177) – an audit (that proved nothing) last year?

William Joshua
Johannesburg

You're on the ball. Now see page 12. – Ed.

SABC man's direct line

A big thank you for the Motsoeneng sleuthing in Donwald Pressly's weekly blog on *NoseweekOnline*. The ancestral hotline could just explain everything about Hlaudi's survival and the ongoing, insane Zumafication of the SABC.

Ed Herbst
Cape Town

Rhodes Village revival

I would like to respond in a positive way to your articles on the Rhodes hotel (*nose*163;165;171;180). The three parties are equally to blame for the demise of not only the hotel but the shop and off sales as well. This has ripped the guts out of the town. In fact it has hit rock bottom.

But Rhodes still has much to offer and there are thousands of friends of Rhodes who keep coming back, no matter what. Thanks to the efforts of four passionate and committed "Rhodes-ites", the village is pulling itself up by the bootstraps and is well on the way to recovery and a new era – with or without the hotel.

The cornerstone of the revival is the establishment of The Rhodes Information Association and the opening of a permanently staffed Information Centre in the Village.

A new website is up and running although there's still work to be done on it. Visit *www.rhodesinfo.co.za*

Two newsletters have already been distributed and the support and interest has been overwhelming. All this in the short space of three months. We should have called it Rhodes-Project Phoenix! For more info contact Jess Walters at *contact@rhodesinfo.co.za*

Dave Kirkby
Rhodes

Nedbank sim-swop fraud

Your reader Jan Venter (Letters, *nose*180) tells how his Nedbank accounts were cleaned out by a fraudster who, with the collusion of someone at Vodacom, managed to do a sim swop on his cellphone number.

I have suffered exactly the same fraud, and Nedbank said that I must have logged on to a phishing site – which does not explain the sim swop.

Would Jan Venter please contact me, so that we can try together to get some compensation from the bank and the mobile phone company.

Barbara Fisher
Melrose

Debunking the Dalai Lama?

I am surprised at the naivety of *Noseweek* in its attitude to the Dalai Lama: is he truly "a man of the highest moral standing" as your online blogger from Parliament so glowingly suggests (*NoseweekOnline*180)? Or might he have a darker side?

A Google search will turn up numerous descriptions of the holy man's less attractive attributes: religious intolerance; intimidation of political opponents; sexual abuse by his followers; the desire to return Tibet into a medieval feudal society – with himself as the lord and master.

The media appear unwilling to take a warts-and-all look at the man – one who basks in the attention of starlets and other important people.

Bruce MacDonald
Rondebosch

You've made a brave attempt. – Ed.

Using smears to avoid payouts

Your article "Murder mystery delays R17m insurance payout" (*nose*178) sounded so familiar. My sympathies to Alexander Klencovljevic.

My wife, as beneficiary of a life policy of her business partner who passed away in January 2009, has been fighting 1Life Insurance ever since then for a payout.

One of 1Life's tactics was intimidation, *inter alia* falsely laying criminal charges of fraud and murder against me and my wife respectively.

In the witness box, I was asked under cross-examination why we continued with civil litigation against 1Life whilst we knew they had requested a delay pending the criminal investigation. My response was: how long must we wait? Five years? Twenty years?

During the trial we won on several issues: 1Life said the deceased had no income, the court ruled she did; 1Life said they had no agreement with the deceased, in court they changed their minds. 1Life said the deceased was not the person who made the phone call taking out the insurance, in court they admitted that she was.

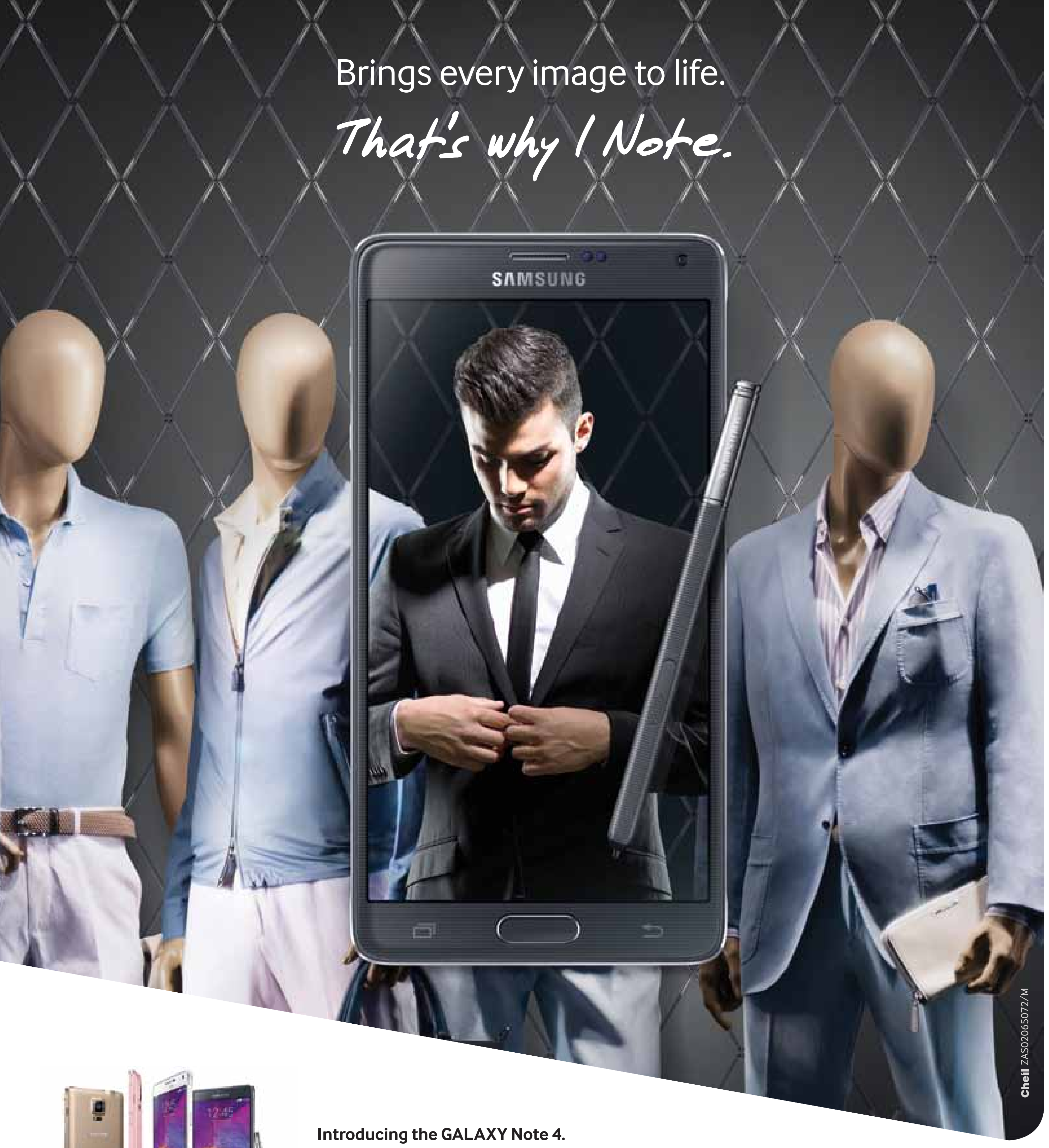
Unfortunately the court ruled against us on 1Life's contention that the insured had misrepresented her state of health and, six years on in the case, we have taken the matter on appeal, which is still to be heard.

Whatever the outcome, by now it is obvious that, like Vetten's inference in the Discovery Life case, 1Life never had any evidence of wrongdoing by me or my wife, because as we said all along, there is none.

It was simply a malicious tactic to intimidate us into abandoning the claim.

C Visser
Pinelands

"Says here he leaves behind a wife, two children and 47 Twitter followers"



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Goodbye Mr Postman

Over the past year we have been receiving an increasing number of complaints from *Noseweek* postal subscribers – most of them in the Northern provinces – that they have been receiving their copies up to a month late, or not at all. That was our first indication that something was not right at the Post Office.

But there was no mention of it anywhere in the news media or in parliament.

We soon enough established from contacts in the Post Office that the major sorting centres were experiencing constant labour unrest, with sporadic wildcat strikes, walkouts and go-slows at the biggest sorting hub outside Johannesburg, called Witspos, and erratically at other sorting centres. Questions about what the problem might be were more generally met with a shrug. Infuriating!

Eventually we got at least one explanation that made sense: the Post Office's accountants had noted years back that, with the growth of the internet and cellphones, correspondence by post was in dramatic decline. Pointing to the government's experience with the railways where, as a result of falling passenger numbers and goods volumes of competition from the rapid-trucking industry and air travel, they were faced with plummeting incomes, while a growing number of retired employees were demanding pensions and medical aid that the government would have to cough up for.

Far smarter, said the bean counters, if you employ only temporary workers who are not entitled to pensions and medical aid, they can be fired at relatively short notice without having to be paid expensive retrenchment packages.

It made such good sense that the Post Office adopted this as policy without a second thought and, apparently, without proper regard to labour laws. Within no time, 75% of the employees at Witspos were "temporary" staff not entitled to the benefits that accrue to permanent employees. The only problem was that, after years in the job – and contrary to labour law – they were still rated as temporary. Trade unionists and would-be trade unionists naturally saw a gap in the market. They demanded the permanent employment and benefits to which they are entitled. Management, apparently dumbfounded by their cheek, routinely said they would consult higher management and report back… but would everyone please go back to work in the meantime?

But the Post Office is desperately wanting to cling to that genius scheme to reduce commitments in a declining market, so they don't report back. Each month, now each week, everyone's back on strike. With no change in strategy, except that the disruptions are bigger, and come with ever more extravagant wage demands.

President Jacob Zuma and his cabinet have apparently not noticed or don't care; their next bonus is coming from Moscow, so what's to care about the post office? In any event it's just another Western colonialist thing. And what about the Post Office's customers: the thousands of small businesses that market on the internet but deliver by post? And their employees? "They vote EFF anyway." And what about every magazine publisher in the country? "They're just troublemakers."

The Postal Workers Union doesn't have a clue either. It has failed to comprehend, or explain to members that the Post Office is, sadly, a dying business. They could, just extend its life (and their jobs) for a few years yet, by providing an efficient service for those who still need it, while demanding only a modest (but fair) wage. But that's not their attitude. Judging by recent events it's "Fuck the post office customers who entrusted their business to us" – the government must pay us more, regardless of the Post Office's losses.

Considering Nkandla, there is a certain perverse logic to their argument.

But *Noseweek* (and many like us) are rushing for the exit. Last month *Noseweek* hand-delivered where we could, and drove hundreds of kilometres taking bundles to suburban post offices for direct sorting to their PO boxes. Because we care about our customers.

But from now on we will no longer be chancing it with the Post Office. This month is the last they'll see of us.

Goodbye Mr Postman. We will remember the good days when you were known for providing an honourable, regular service. Once a lifeline you are now a threat to our survival. *Noseweek* has to move on.

Dear Reader, if you still haven't provided us with a street or PostNet address, please do so right away. That way you'll be back to getting your *Noseweek* like clockwork.

The Editor

Corruption-busting cop offered millions to 'go away'

Cato Manor inquiry discredits police and reporters. By Paul Kirk

Having failed to railroad KZN Hawks boss Major General Johan Booysen into resigning by theatrically staging his arrest and arraignment on trumped up murder and racketeering charges – two years later a high court judge found the state had no credible evidence to support the charges – and having then failed to get him sacked at a protracted disciplinary hearing where, instead the Commissioner of Police was seriously reprimanded for having a political agenda, the SAPS is now offering the corruption-busting cop millions to "quietly go away".

The murder and racketeering, or so-called "police death squad" charges were first mooted in a *Sunday Times* report which has proved to be of dubious origin (see *noses* 149,150,165,167,173,174&175), but for which the newspaper's investigations team has nevertheless since proceeded to accept numerous national and international awards.

Advocate Nazir Cassim SC, who was appointed by the SAPS to preside over Booysen's disciplinary hearing, delivered his findings on 16 September. Cassim said that the hearing was "marred by delays occasioned by the employer's witnesses being unavailable, or instructions not [*being*] forthcoming…"

Cassim, a veteran Senior Counsel who has represented President Jacob Zuma in a matter, made a point of recording that in the Booysen inquiry he would "consciously scrutinise material facts, uninfluenced by political considerations and motive". His reason: "I do this deliberately as these entire proceedings appear to have been permeated by a political agenda."

First off, Cassim dismissed the charge that Booysen sought to undermine the Independent Police Investigative Directorate, saying "there is simply no evidence"; had Booysen done such a thing, it would have been recorded by Ipid investigators or police management who met regularly.

The inquiry then rubbished another charge against Booysen: that he failed to act against members of his Cato Manor Serious and Violent Crimes Unit in relation to the so-called scoop in the *Sunday Times* on 11 December 2011. The newspaper alleged that under Booysen the Cato Manor unit had acted as "a police murder squad for hire". The report linked numerous alleged murders to Booysen and his men, ignoring – or being unaware of – court findings and documentary evidence to the contrary. However, at Booysen's disciplinary hearing, the prosecution chose to ignore the serious charges made by the *Sunday Times*, and argued that Booysen should be fired for allegedly failing to take action against members of his unit who were to be seen in photographs illustrating the report, ostensibly celebrating after having allegedly murdered suspects.

Noseweek has established that the pictures showed Cato Manor officers and civilian friends celebrating a member's bachelor and farewell party (see *nose*150). Cassim found that Booysen had already disciplined the only serving officer among them.

On the main charge of the alleged murder by Cato Manor cops of taxi boss Bongani Mkhize, Cassim ruled that: "…the SAPS contends that Mkhize was killed unjustifiably… I point out that the estate of Mkhize has sued the Minister of Police for damages arising from the killing… The minister has pleaded that officers acted lawfully and reasonably in shooting Mkhize in self-defence." [*Embarrassed when confronted with the contradictions in it's own cases, the State Attorney withdrew this defence and the SAPS tendered damages in a settlement deal.*]

Shortly before he was shot and killed in a showdown with police, Mkhize had obtained an extraordinary court interdict restraining the police from unlawfully arresting or killing him – a fact the *Sunday Times* made much of in their exposé.

Cassim ruled that though it was "not my place to be critical of court orders," he had "grave reservations" as to whether the court had interrogated the propriety of Mkhize's application and the usefulness of any order it made… Likewise, the opposition to the application had shown no understanding of the purpose of Mkhize's application, which was "a tactical manoeuvre to put the police off guard". He said the main suspect wrongdoer, Mkhize, had manipulated the legal system to appear to be the victim."

Cassim said Mkhize was a notorious gangster and a suspect in the murder of Inkosi Zondi. It also appeared that he had been under investigation for "a number of serious crimes" in KZN. pear somehow to have escaped the prize-winning *Sunday Times* team's notice. Which raises the question: did they, in fact, independently investigate the matter, or did they rely on a source with a political or corrupt agenda?

Cassim said he found it strange that the SAPS had ignored its own forensic science evidence that there was gunpowder and primer residue on Mkhize's hands, proving that he had fired a weapon shortly before his death. They had also ignored the evidence of another policemen who found that Mkhize's pistol had been discharged.

Instead the SAPS had argued in its case against Booysen that the fact that Mkhize's car windows were closed was evidence he had not fired any shots from inside the car at the police. Cassim noted that Mkhize's car had electric windows and that he could have closed by pressing one button – after firing shots at his pursuers. The *Sunday Times* had claimed there was testimony from an alleged eye witness to the murder, but none was produced.

This, as well as other evidence, led Cassim to say he suspected an ulterior motive in the decision to prosecute Booysen and his men for the alleged murder of Mkhize.

In his recently published book, *Nothing Left to Steal*, the head of *Sunday Times* investigations team, Mzilikazi wa Afrika, bemoans the DA's response to his team's Cato Manor exposé. He old taxi driver was attacked.

"Kohler Barnard has never visited any of the victims of the Cato Manor police unit in her own province, or laid a wreath where taxi boss Bongani Mkhize was killed in broad daylight along Umgeni Road by these rogue Cato Manor cops."

Kohler Barnard responded: "The reason for that is simple. There is ample evidence that Richard Mdluli looted [*secret*] state funds and was able to evade justice. There is lots of evidence that Booysen was being smeared. As for Bongani Mkhize, one cannot compare the brutal murder of an innocent such as Macia – whose death at the hands of police was filmed – with the shooting, seemingly in self-defence, of a person who the courts have heard again and again was a murderous, violent, thoroughly evil taxi boss."

At the time of going to press Booysen confirmed that he had been placed on special leave, but said he could not comment further on his position.

However sources close to the office of the national commissioner informed *Noseweek* that Booysen had been offered a sum of money – believed to be several million rand – to resign. He would also be allowed to draw his pension as though he had retired at his normal, pensionable age.

The payout would be carried by the taxpayer and would allow a number of corrupt senior policemen to sleep eas-

Witnesses due to testify against Mkhize tended to be murdered or to flee

"It is sad to learn that Mkhize shot at the officer involved in investigating the crimes he stood accused of. Mkhize missed and shot the investigator's young daughter. Subsequent thereto, the father of the young girl, the investigator and the only witness to the shooting of his daughter, was murdered."

Noseweek has found plenty of evidence to suggest that this was Mkhize's modus operandi: there is evidence to be found in any number of police and court records of state witnesses being murdered or fleeing before they could testify against Mkhize. All ap-

writes: "When [*Richard*] Mdluli, a senior black police officer [*once head of the SAPS's crime intelligence unit*], was accused of one count of murder and several of fraud, [*the DA Shadow Minister of Police Dianne*] Kohler Barnard put out a handful of press releases calling for his expulsion from the SAPS, something she failed to do with the Cato Manor police officers…"

"I watched with disbelief when Kohler Barnard and her colleagues… visited Daveyton after the assault and death of Mido Macia and even laid a wreath at the spot where the 27-year-

ily at night. Provincial Commissioner of Police in KZN, Mmamonnye Ngobeni for one, would be relieved to know that investigations by Booysen's men into her allegedly corrupt relationship with Durban businessman Thoshan Panday would likely be shelved. Various other senior cops who had been charged with corruption and racketeering along with Panday would also sleep peacefully.

In his findings, Cassim describes the various outlandish steps that Ngobeni took to derail the investigation into Mdluli – including (illegally) ordering Booysen to ignore Panday's corruption and fraud. Cassim ruled that: "…The objective facts demonstrate an agenda to get rid of Booysen because he was perceived (rightly so, I may add) as a determined, professional, competent and tenacious policeman who would arduously strive to bring wrongdoers to book. I would have expected Provincial Commissioner Ngobeni to come and give evidence before me to deal with these damning and serious allegations concerning her, which not only discredit the South African Police Service, but suggest corruption at the highest level."

Ngobeni never bothered to pitch; instead her boss, Police commissioner Rhia Phiyega took the stand. She, too got a lambasting from Cassim who finds: "[*Phiyega's*] evidence was evasive and unsatisfactory in material respects." Cassim found that her "wholly unsatisfactory" evidence "supports, not augments, the contention that the charges against Booysen were contrived to get rid of him."

Richard Mdluli, the former police spy boss accused of looting millions from the secret police slush fund, would also probably escape justice should Booysen go. Mdluli – whose corruption was being investigated by Booysen and his men – is also linked to Panday.

At Booysen's disciplinary hearing Cassim heard and accepted testimony that Mdluli had flown to Durban to help undermine the investigation of Panday. He records how evidence was led by a police officer that he had been approached by Mdluli to be persuaded that his life was under threat.

The policeman – a former Colonel in the Commercial Crimes Unit – told how he was persuaded to abandon his probe of Mdluli, resign from the police and relocate to Gauteng. There, ever sinc,e he has been paid a salary as a police spy out of the secret funds that Mdluli allegedly looted, even though he has not done any work and sits at home all day watching television. The cop testified that the boredom and frustration had led him to consider suicide on several occasions.

Apart from Mdluli, several journalists may also breathe a sigh of relief. If Booysen goes, journalists who have been illegally bribed by Mdluli to smear those investigating Crime Intelligence may well also be off the hook.

The Witness newspaper in Durban recently revealed that shortly before Cassim delivered his findings exonerating Booysen, Phiyega had ordered senior officers to seize all recordings made by police of intercepted phone conversations of Panday. His phone was tapped during a corruption investigation into his involvement in the R60m police accommodation tender scam, and the recordings had gathered dust after the charges were surprisingly withdrawn.

According to *The Witness's* police sources, Phiyega's move – a break in the chain of evidence of the recordings – may scupper any chance of reinstating corruption charges against Panday.

Booysen had on several occasions indicated he intended bringing a court application to force the SAPS to hand over intercepted telephone calls between Panday, Crime Intelligence officers and certain journalists, notably the *Sunday Times* investigations team.

● For a full account of the shocking criminal history of Bongani Mkhize visit *www.noseweek.co.za* ■

Stent

How Investec scammed US-listed company

Shyster investors took American firm for billions. By Barry Sergeant

AMONG THE GROWING NUMBER OF people dissecting the Kebble era, there are some who can – and still do – manage to unearth aspects of that breath-taking period of skulduggery that have remained concealed or overlooked.

A set of brilliant observations arose recently in discussions between a group of high-level professionals with world-class skills, and intimate knowledge of the biggest unprosecuted fraud in South African history.

What emerges from this fresh analysis is that Investec was directly involved in scamming a New York-listed company, Gold Fields, by exposing it to undisclosed claims of billions of rand. While the workings of the Investec brains trust are very much in evidence, at the individual level, the story revolves principally around David Nurek, Investec's "Global Head of Legal Risk", a seasoned lawyer who knew exactly what he was doing and a director of numerous other JSE-listed companies.

By July 2006, at the latest, as chairman of both JCI (Kebble's thieving JSE-listed company) and Randgold & Exploration (the victim), Nurek had to have had the detailed knowledge of Randgold's monumental claims against Western Areas, that company having been one of the major beneficiaries of Brett Kebble's massive thefts from Randgold.

As previously reported in *Noseweek*, forensic reports commissioned by Randgold showed that, among other horrors, R522m of the cash Kebble raised by selling shares he had stolen from Randgold was transferred over time to Western Areas – which, in turn, was using the money to fund the development of the South Deep gold mine.

Keeping the lid on all of that was Chris Lamprecht, Nurek's new finance director at both JCI (the thief) and Randgold (the victim). Closing the circle, Lamprecht had also been a consultant to Western Areas since 1999 and its finance director since May 2003. (He only resigned the latter position in March 2006.)

A real problem for Investec was that it was part of a consortium of hedge banks that was exposed to the tune of billions of rand (in the form of unrealised gains) to the Western Areas hedge book. As such, Western Areas (and JCI, Western Areas' biggest shareholder and funder) had to be kept afloat at all costs.

Investec and two partner banks, AIG, and Bayerische Hypo- und Vereinsbank AG, had acquired the Western Areas "hedge book" from Western Areas at the instigation of Kebble. They and the parties to whom they had sold some of the options in the hedge book had already made millions from it, and stood to make much more – provided the dangerously cash-strapped and operationally challenged Western Areas stayed afloat for long enough for them to exercise all their options.

Western Areas became increasingly precarious as the years ticked by

The state of Western Areas became increasingly precarious as the months and years ticked by.

First, a quick recap on what a hedge book is, and how the Western Areas hedge book worked: it was really a simple scheme for selling bets on the price of gold either going up or coming down. It started as a quick scheme for Western Areas to raise a quick cash lump sum which at that stage no-one was prepared to lend the company, but which was desperately needed to get South Deep operational.

To achieve that Western Areas sold the entire book of betting tickets to the three banks for cash of US$104m. Each ticket was a voucher which entitled the holder to buy a certain amount of gold from Western Areas over the following ten years for fixed prices averaging US$300 per ounce.

Western Areas and Kebble were in desperate need of cash and were thus willing to enter into what proved to be a highly disadvantageous cash extraction scheme packaged/disguised as a hedging transaction.

The buyer banks, however, were betting on the gold price rising over that ten-year period, so that whatever amount of gold they were entitled to buy from Western Areas at just US$300 per ounce, they could immediately resell at the higher and – as it would eventually become – much, much higher price than Western Areas received.

When Western Areas signed over its hedge book in December 2001, the gold bullion price had been in a bear (declining) market for nearly two decades and, if anything, was expected soon to start rising. It did, pretty much the next day. And it went on rising, relentlessly, for the next ten years – from around US$250 an ounce to a high in 2011 of nearly US$2,000 an ounce.

Surprise, surprise, the bet taken by the hedge banks paid off. For the next several years struggling Western Areas got the minimum price for its gold, while the banks and the parties to whom they had sold some of the options made untold fortunes.

Many in the industry describe it as the "most toxic" hedge book ever. No doubt there were lots of nerves on the other side of the hedge book; the banks arguably wanted out because confidence was lost in Western Areas' ability to deliver the gold, not because of movements in the gold price (which could, in turn, have been hedged against).

As for Western Areas' cash flow: South Deep, long punted to become the world's richest gold mine, was forced to dig deeper at ever-greater cost, while producing far less than had been projected.

The hedge banks wished desperately, therefore, to keep Western Areas (and JCI, its biggest shareholder) afloat at all costs and looking like a viable, going concern – at least until a cash-rich buyer could be found for South Deep, Western Areas and its dreadful hedge book.

Going into 2007, just the right buyer was found for both, in the form of Gold Fields, a cash-rich mining company listed on the New York Stock Exchange. Goldfields was happy to pay handsomely for the shares – plus US$528m (R4 billion) to terminate the hedge book.

For the hedge banks and the parties to whom the hedge banks had sold options forming part of the hedge book this was additional to profits estimated at US$85m that the hedge banks had made so far by exercising call options on some 700,000 ounces of gold at a strike price of around US$300 per ounce.

Investec ensured that Gold Fields never got to hear of the potential claims of Randgold for the proceeds of crime transferred to Western Areas. Investec's gatekeepers ensured those companies said or did nothing that might alert Gold Fields to the ugly, threatening truth.

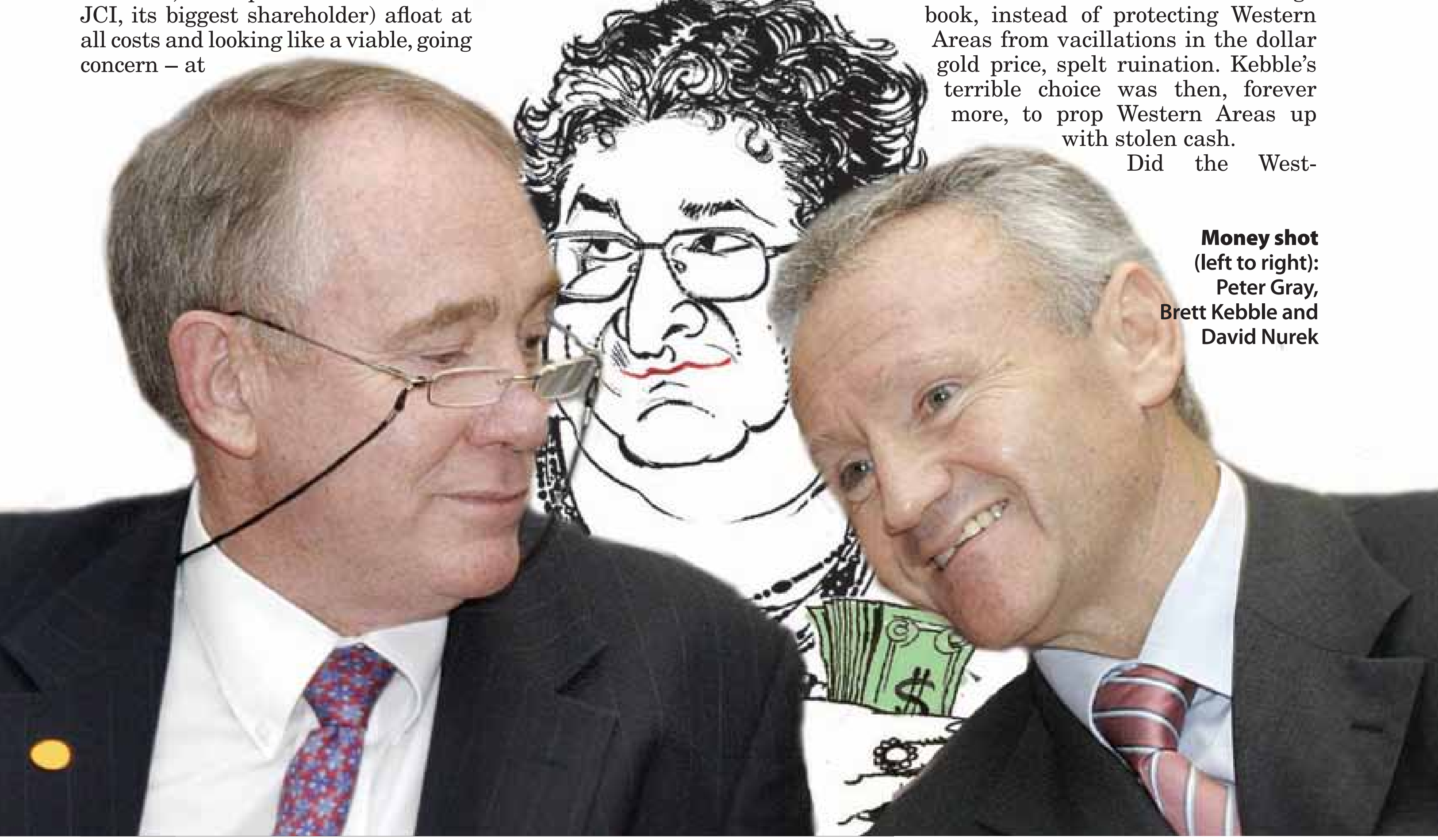
Gold Fields was uninterested in gambling and, immediately after buying Western Areas, "killed" the hedge book. Which was wise, since the gold price proceeded to treble again over the following three years. Bossau "Bossie" Boshoff was asked by Lamprecht to assess the Western Areas hedge book in January 2003, soon after he had joined Tlotlisa Securities ("T-Sec"), the stockbroking firm secretly acquired by Kebble.

Boshoff says that in his analysis, the hedge book structure was designed for a bear market in the dollar gold price. The currency leg, says Boshoff, "was totally uncovered" – known in the trade as "naked". If the gold price rose, it was a disaster.

Boshoff discussed his analysis with Lamprecht, and expressed his concerns to Peter Gray [*CEO of both Randgold and JCI – see nose*180], who explained that "the structure was a very complex cash-raising operation".

The hedge book had always been nothing less than a cash-raising deal done on extortionate terms. The hedge book, instead of protecting Western Areas from vacillations in the dollar gold price, spelt ruination. Kebble's terrible choice was then, forever more, to prop Western Areas up with stolen cash.

Did the West-



Money shot (left to right): Peter Gray, Brett Kebble and David Nurek

ern Areas hedge book kill Kebble? During August 2005, as Investec was stepping into Kebble's shoes, the hedge book, on a mark-to-market basis, was underwater (to Western Areas) by over R2.5bn.

There were and are some – Kebble included – who believed that the South Deep gold deposit ranks as one of the best remaining in the world. It is, however, terribly deep, and with a troubled geological setting.

Investec had its work cut out to tart up Western Areas, which owned 50% of South Deep. As noted, the plan worked. To look at some of the detail: over the four months to 31 January 2007, Gold Fields acquired 100% of South Deep, for a total cost of R23bn:

- R3.9bn was paid in cash to terminate the Western Areas hedge book;
- R8.1bn was paid by issuing 53.9m new Gold Fields shares in exchange for 100% of the issued share capital of Western Areas (of which JCI had held 25%); and
- R11bn flowed to Barrick Gold (the owner of the other 50% of South Deep not owned by Western Areas).

Gold Fields did not pay a cent to compensate Randgold for its claims against Western Areas. On the contrary, as events would show, Randgold's true claims against Western Areas were concealed from Gold Fields and they did not know about the claims.

On 30 October 2006, Gold Fields published a thick circular detailing its acquisition of Western Areas. There was not a word about Randgold's claims against Western Areas. There was not a word explaining how Western Areas had received R522m from the proceeds of crime (the theft of shares from Randgold).

On 10 November 2006, by which date the ubiquitous Nurek had been a director of Western Areas for almost a year, Western Areas released its own circular; again, there was not a word about Randgold's claims, or the true criminal nature of part of Western Areas' (unrecorded) liabilities.

On 7 December 2007, when Gold Fields filed statutory documents with the Washington-based Securities Exchange Commission (SEC), Gold Fields simply disclaimed its responsibilities regarding the acquisition of Western Areas' stake in South Deep: "Prior to acquiring South Deep… Gold Fields was able to conduct only limited due diligence on… Western Areas… There can be no assurance that Gold Fields identified all the liabilities of… Western Areas prior to acquiring (it). "

Surely a curious cautionary note.

In South African law, if the controlling mind of a recipient (here, Western Areas) of the proceeds of a theft is the same as the controlling mind of the thief (JCI), the victim (Randgold) may recover its damages from the recipient. Our common law determines that the value placed on the stolen asset is the highest price at which such asset has traded since the date of the theft.

Seen that way, the R522m stolen cash that Western Areas had received courtesy of Randgold, converted into Randgold damages claims to the tune of R5.5bn against Western Areas, by 30 September 2006. Had Gold Fields been made aware of these claims, it would presumably have paid Randgold R5.5bn to settle the claims; this would then have justified the payment of only R2.6bn (or 32% of the R8.1bn it actually paid) for 100% of the equity of Western Areas. Such a sharp reduction in the proceeds it received from the sale of its major asset, its Western Areas shares, would have rendered JCI insolvent; a dreaded section 417 inquiry into the affairs of JCI would have followed.

Investec was not alone in concealing inconvenient facts and figures.

KPMG, which advertises itself as a professional services firm, was both internal and external auditor to Western Areas from the time Kebble seized

Investec was Kebble's alter ego

In many ways, Investec and Brett Kebble were and are interchangeable. By August 2005, when Kebble was sacked as CEO of JCI, Western Areas and Randgold & Exploration (Randgold), both Investec and Kebble knew that it was time for him to go. He was dead a month later, but that is another story.

As Kebble's alter ego, Investec took control, without any legal basis whatsoever, of JCI (the thief) and Randgold (the victim), and shoved a night-watchman into Western Areas (a beneficiary of the thefts on Randgold). The JSE, of which Investec CEO Stephen Koseff was a director, sat by, paralysed.

After the Kebble era ended, during the third quarter of 2005, JCI (the thief) and Randgold (the victim) had four common directors:

- Investec's David Nurek, chairman of both;
- Peter Gray, former CEO of T-Sec, Kebble's money-laundering stockbroker, the common CEO;
- Chris Lamprecht, Kebble's finance man, the common financial director; and
- Chris Nissen, a non-executive director of both entities.

Randgold had one more director, Brenda Madumise. With the exception of Nurek, all Randgold's initial post-Kebble directors were tainted by having in the past participated in frauds on Randgold. JCI had two further directors, both also directors of Investec: Peter Thomas and Donn Jowell.

Crucially, a few months later, on 17 November 2005, Investec's Nurek joined the board of Western Areas.

Randgold's forensic investigators filed six interim reports and a final report over the period October 2005 to March 2006. On 31 July 2006 the forensic investigators handed the formulated claims of Randgold against JCI to Peter Gray, the CEO of both Randgold (the victim) and JCI (the thief), and to Randgold's legal team, comprising Gerald Farber SC and attorney Andrew Legg. Instead of taking immediate action, they sat on the claims for another two years.

Randgold's forensic findings – which have never been challenged – show that Randgold's share portfolio was purloined and sold in the markets, raising cash in total of R1.9bn. The proceeds from the thefts were paid to JCI (R896m), Western Areas (R522m), the Kebbles (R378m) and Investec (R106m).

SA has neither the will nor capacity for such criminal investigation

control of it in 1997 until its sale to Gold Fields a decade later.

KPMG were also appointed auditors to both JCI and Randgold after the end of the Kebble era in August 2005. KPMG were also auditors to T-Sec, Kebble's stockbroker-laundromat, and to SocGen Johannesburg, which participated in numerous Kebble stock and money-laundering operations.

Carel Smit, the KPMG partner in charge of the Western Areas audit, was also in charge of the audits at both JCI and Randgold. As such he would have been aware of Randgold's claims arising from the theft of its shares, including its claims against Western Areas. KPMG were also appointed as JCI's forensic investigators. This KPMG team was headed up by an innumerate lawyer, Déan Friedman.

Smit went on to become partner in charge of the Gold Fields audit.

It seemed that everything and anything went completely past KPMG, which, if it bears mention, has been and remains one of Investec's auditors.

Whilst the Randgold forensics had been completed by July 2006, it took the combination of Marais Steyn, Randgold's financial director as of 13 December 2006 and its CEO from July 2008, and KPMG, another three years – until 27 November 2009 – to publish Randgold's annual financial statements for 2004, 2005 and 2006. Even then, these documents were clearly labelled as "unaudited, disclaimed". Anything to avoid facing the fraud.

In July 2008 Randgold eventually filed its claims against Western Areas (by then renamed Gold Fields Operations, a wholly-owned subsidiary of Gold Fields) in an amount of R13.3 billion. It is logical to expect that Gold Fields Operations would counterclaim the full amount claimed from it from JCI. But in January 2010 Randgold issued an indemnity to JCI which effectively nullified Randgold's claims against Western Areas.

In a 650-page affidavit filed in 2011 by Marais Steyn, as latter-day CEO of Randgold, it is made clear that this indemnity was strong-armed out of Randgold by Investec.

In recent years, Randgold has shown little appetite in its case against Gold Fields Operations. Randgold's indemnification of JCI leaves Randgold out of pocket for the theft of cash of R522m, excluding interest and damages. Its claims against Gold Fields Operations have effectively been nullified by the indemnity it granted to JCI against any claims that Gold Fields Operations may bring against JCI.

The indemnity issued by Randgold to JCI also serves as proof that JCI knew that it was selling Gold Fields a "total lemon". It is unclear if the indemnity squeezed out of Randgold will fall away now that Investec is shovelling the last clods on to JCI's coffin [see *nose*180]. If Randgold is successful in its claims against Gold Fields Operations, there will be no JCI for Nick Holland and company to sue in turn (and no JCI to exercise its indemnification against Randgold in respect of Gold Fields Operations's claim).

It is open to speculation whether or not Gold Fields will then look to Investec to make it whole, given that it is now understood that Randgold's claims were hidden from it when it purchased South Deep.

On the fields of professional services, it is also notable that Werksmans are attorneys to both Investec and Gold Fields. This may be clever, all right, but it is not right.

Gold Fields's incredibly stinky 2010 BEE deal, regarding South Deep, is already being investigated by the SEC. There seems little question that the circumstances concerning Gold Fields' acquisition of South Deep also deserves a thorough criminal investigation. South Africa has shown that it has neither the will nor the capacity for such an investigation, but the SEC may save the day. ■

Ostrich capital is a nest of political intrigue

Modernity threatens the bucolic peace of the Klein Karoo. By Koos Koekemoer

OUDTSHOORN, A SLEEPY LITTLE TOWN of 100,000 souls in the Klein Karoo, is best known for its ostriches, the nearby Cango Caves and the Klein Karoo Nasionale Kunstefees, an arts festival that shatters the peace and quiet for a few days every year. But the locals fear their tranquility will be destroyed permanently by a proposed mall.

To be called the Kango Mall, it will cover 13,000m², will have 500 parking bays, two anchor tenants and all-important fast-food outlets. It is to be built in the sought-after suburb of Wesbank, which has both primary and high schools. Locals describe Wesbank as an idyllic place to live, with little traffic, little crime, and where children still walk to school. Like the old days.

On 14 December 2011 (when a good many residents were away) a notice appeared in a local paper, *Die Herrie*, advising the burghers about plans for a mall beside the primary school, and that objections could be filed at the municipal offices.

Reynhardt Brittnell, an engineer and guest-house owner, put in an objection on 2 February 2012. It was acknowledged on 7 February by the municipal head of planning and development, Jaco Eastes, who assured Brittnell that his objection would be put before the decision-makers and would appear in the Town Planner's report to the provincial authorities.

Brittnell's objection covered a lot of ground: the mall will kill the CBD; Wesbank property prices will plummet; the mall will destroy the tranquility of the suburb and adversely affect those who live there – what with Sunday trading; 24-hour fast-food outlets; an influx of people (not all of them desirable); a rise in crime; trucks making late-night deliveries; drivers sleeping in their trucks and a taxi rank with no provision for public toilets.

It's small-town stuff, with sub-texts – as Brittnell said in one document about the taxi rank without toilets: "We are all fully aware of the likely problems with a facility like that." And, as he said in a letter to a local paper: restaurant patrons who drink will use the back roads to avoid the law... the traffic ought to relax a bit on Sundays but there is no guarantee that church services will ever be the same (*Noseweek's* translation).

So far, so good: an application for a development was made, it was advertised for public comment and at least one objection was lodged. But what happened after that is the subject of some debate. One account is that the (then ANC-run) Oudtshoorn council turned the proposal down, saying further investigation was required, especially since there was a second application for a different mall in the pipeline. Another version is that the council simply didn't consider the proposal at all. Either way, at some stage the planning and development chappie, Jaco Eastes, sent the application to the provincial authorities, the Western Cape Department of Environmental Affairs and Development Planning (DEADP).

But on what basis did he send it? Was it as an appeal against a rejection by the Oudtshoorn council? Or did he (as he claimed in a newspaper interview) send it on because the council had failed to make a decision within the prescribed term? That would have been very odd because, in his submission to the province, Eastes did say the council supported the application.

It is not easy to establish exactly what went on because Oudtshoorn is one of those dysfunctional municipalities: although run by the ANC at the time, it is now run by a coalition of the ANC, Icosa (Independent Civic Organisation of SA) and the National People's Party, yet the DA contends it should have control as a result of a by-election win.

On 14 September this year, it was reported that the DA was threatening to ask the Western Cape Government to put the municipality under administration.Confusion reigns.

On 14 March last year DEADP minister Anton Bredell approved the application, which must have upset Brittnell, who told Bredell the mall would kill the town; that it was absurd for such a decision to be made when the Spatial Development document for the region had not yet been completed. Brittnell also pointed out that Eastes had falsely represented that the council had approved the application, and had falsely stated that no legitimate objection had been lodged.

Bredell gave Brittnell short shrift. Although Bredell conceded that the reasons for Eastes's referral were unclear, he said it didn't really matter because a municipal council did not have the authority to decide an application for rezoning to business outside the CBD. So, said Bredell, the application had to come to him anyway. And don't think you can go over my head on this: "Due to the fact that I am also the appeal authority, there is no right of appeal in this matter." Bredell did, however, go on to say he was concerned about the allegations of misrepresentations made by Eastes, and promised to investigate.

Brittnell then went to Auntie Helen. On 13 September last year he wrote to Western Cape Premier Helen Zille to say he was unhappy with Bredell's decision, it was the "*doodskoot*" (death knell) for Oudtshoorn. He also did what people invariably do when they approach Zille, he argued that the residents of Oudtshoorn were unhappy and would "undoubtedly let this be known in the next national and municipal elections".

Zille eventually responded on 1 April this year, basically telling Brittnell if she, Zille, has to do her shopping in soulless places like Cavendish Square and Canal Walk, there's no reason why the people of Oudtshoorn can't do malls too. Actually a legal advisor, Fiona Stewart, answered on Zille's behalf – in a very lawyerly fashion.

Stewart repeated Bredell's claims that this was a provincial, not a municipal, decision and that Eastes was seemingly ignorant of the law.

She conceded Bredell had believed the council supported the application, but that it didn't matter because "that alleged support was in no way relied upon" for his decision. and that it wasn't the end of the road, as the council still had to approve a detailed site development plan.

"In the event of the council not having supported this proposed development as you assert, it would be legitimately entitled to deal with that aspect at that stage."

But Stewart conceded that Eastes's actions were troubling; his claim about no decision within the seven-month time frame was both "implausible and in any event patently legally incorrect"; and that there seemed to be "a degree of ambiguity" as to the validity of Eastes's "assertion that the development was lawfully fully supported at the time Bredell took his decision". She suggested he had been uncooperative in his communications with officials.

Noseweek asked Eastes – who was reportedly suspended by the council for some time, but is now back in the saddle – for comment on the various matters raised in this article, as well as a claim that he was consultant for the mall developer, Klein Karoo Landbou Kooperasie, while he was on suspension. Eastes didn't get back to us.

As things stand the mall is going ahead. But is this really a bad thing, after all only one resident seems to have raised objections?

Brittnell maintains that many support his stance but are too scared to go public because the owner of the land, who is also the developer, Klein Karoo Landbou Kooperasie, is the big employer in the town. The way Brittnell tells it, just about every family has some connection with the Kooperasie. And even businesses don't want to speak out because of the Kooperasie's purchasing clout.

Brittnell says the head of the primary school told him he hoped Brittnell wouldn't object to the mall because the developer "gives my school a lot of money".

Noseweek asked the school principal to comment but he hadn't done so by deadline.

Brittnell also claims that various DA members of the Oudtshoorn council have close ties to the Kooperasie.

Frustrated by his lack of success, Brittnell took his complaint to Afriforum, a body that claims on its website to protect the rights of minorities, with a focus on the rights of Afrikaners. Brittnell asked Afriforum to seek a court order stopping the development. But Afriforum has done nothing. Could it be, asks Brittnell, that even though the people most affected by the mall are Afrikaners, those who stand to gain from it and making the decisions are Afrikaners with more financial clout? Is it possible that Afriforum would have acted differently if the developer had been a black company, or if the province had been ANC-run?

Afriforum's head, Kallie Kriel, simply said that Afriforum does not tell its branches how to respond on issues and that "it seems the community is not opposed to the development".' ■

Residents hesitate to challenge powerful developer's shopping mall

Playing the vulture game

Picture: Russell Roberts/ Financial Mail

Present Transnet CEO Brian Molefe

While railways pensioners battle to survive, Transnet obstructs their legal claims. By Donwald Pressly

THE 62,160 PENSIONERS OF THE OLD South African Railways and Harbours (SAR&H) – now the national transport monopoly Transnet – have grown accustomed to being sold down the river by succeeding waves of management. So they are ready to wait it out while the legal processes – involving their class action to retrieve R79.9 billion plus interest that was looted from their pension fund – grind on at a snail's pace. They believe Transnet wants to stall proceedings until they are all dead – dying at a rate of 300 a month.

But their recent legal victory – where Transnet's attempt at appealing against the permission they were granted to bring a class action was rejected by Judge Ephraim Makgoba in the High Court in Pretoria – gives them renewed hope. And although they expect the next step will be for Transnet CEO Brian Molefe and his board to take the matter to the Supreme Court of Appeal,which could delay their action further, the pensioners are ready to go to war.

Transnet spokesman Mboniso Sigonyela says: "We are still looking at it. We will make a call pretty soon. We are considering our options."

Everyone expects Transnet will be "looking at it" until the very last day allowed by court rules, thereby delaying the process that extra month or two. By the time deadline day comes – maybe even a week or three later, since the courts are very tolerant of lawyers' pleas for extra time – Transnet may find, with luck, that another 300-or-more of the pesky old railways pensioners will have died.

Insiders say Transnet has undoubtedly been "playing dirty" with the pensioners for years because it simply can't afford to pay out the (by now) nearly R80bn it probably owes them.

Most of the Transnet pensioners are battling and desperate, having received inflation adjustments of only 2% each year since 2003. Inflation has seen to it that their real earnings now are worth half what they were getting when they first retired although, with age, their medical costs have doubled.

As part of a major restructuring of the then SA Transport Services in 2000, the Transnet Pension Fund was split. All the pensioners became members of the Transnet Second Defined Benefit Fund (TSDBF). The fund is not underpinned by new members still working, thus its investments need to cover all costs.

Coupled with poor investments and asset-stripping perpetrated by government-appointed pension fund trustees, most of the pensioners, particularly those on lower pensions, have become more and more impoverished. Some 21,083 are living on R1,000 a month or less. The South African Association of Retired Persons (SAARP) reports that many of these pensioners are not able to support themselves, have had to sell their homes if they were lucky enough to own them, or in the worst cases, are moving in with family or relying on charity.

About 62% of the pensioners (numbering 38,007 to be exact) are earning less than R2,500 a month. Some get as little as R200 a month. The average age of the pensioners is 77; their average pension, a mere R2,850 a month.

Freedom Front Plus MP Anton Alberts says Molefe has got pensioners' backs up; he has filed a complaint with the Human Rights Commission over what Alberts says are his threatening comments. Molefe allegedly said that "the advantaged of apartheid... cannot lay claim to any compensation". He is also alleged to have said that if "they want to take the revolution further in the streets, they should just say so".

In a letter to *Rapport*, Transnet spokesman Mboniso Sigonyela said Molefe had made no reference to previous "beneficiaries of apartheid" and that it was a falsehood that Molefe was not concerned about the plight of white pensioners. While the bulk of the pensioners – about 67% – are indeed white, the remainder are coloured and black.

In its defence Transnet has pointed out that most blacks who worked for SAR&H in the apartheid era were temporarily employed and never had the luxury of contributing to pension funds, indirectly implying that the low-paid white and coloured railway pensioners are somehow deserving of punishment.

The leaders of the class action, pensioners Johan Pretorius, 69, of Bloemfontein and Johan Kruger of Pretoria, are hoping that their high-powered lawyers – advocates Jaap Cilliers SC and Leon Kellerman SC and attorney Wynanda Coetzee – will lead them to an unprecedented victory. Their action is against the pension fund and its administrators, Metropolitan, as first respondents. The other respondents are Transnet; Minister of Public Enterprises Lynne Brown; Minister of Finance Nhanhla Nene; and, right at the top, President Jacob Zuma himself.

John Benwell of SAARP – and himself a Transnet pensioner – said "they [*Transnet*] will do anything to delay this thing... but I don't see how they can win the case [*against the pensioners*]". He pointed out that an actuarial valuation prepared by Alexander Forbes Financial Services "clearly states what they [*Transnet*] took out of the fund". It records that T011 bonds [*in effect promissory notes*] worth R4.9bn issued to their pension fund by Transnet to cancel the shortfall at the time, were in turn cancelled and replaced with MCell shares.

"These shares were valued at R1.4bn as at 31 March 2001. The net effect of the transaction was to reduce the fund's assets by some R3.5bn, although at the time, the MCell shares were expected to grow to such an extent that they would fully compensate the fund for the cancellation of the bonds," the valuation statement reported.

The report continues: In total T011 bonds worth R7.7bn were cancelled, saving Transnet Ltd R1.2bn per annum in interest and R7.3bn in redemption payments. In March 2005 the fund sold 75 million MCell shares at R61.26 per share. This contributed just over R1.1bn to the pension fund, less than the interest on the bonds in one year...

Johan Kruger said: "We can't live any more on this money. I am 74... my pension is R2,500 a month. I do (also) get a state pension." Out of this money he has to pay for medical aid, about R1,000 a month, and rent. Kruger admits that he has tried to commit

62% of the pensioners are earning less than R2,500 a month


Former Transnet CEO Maria Ramos

suicide twice but is alive today because of his loving wife. He has discovered a way to increase his monthly income by picking up expired food from supermarket fridges and on-selling the products, like cabbage and potatoes. Kruger particularly objected to the fact that costs for the appeal of the class action were awarded not only against Transnet but against the pension fund too.

Eighty-nine-year-old John Olsen, a former machinery inspector at foreman's grade, lives in a little cottage in Goodwood, Cape Town. He has been retired since 1986. His pension is a little higher than that of Kruger and he too supplements his income – by repairing gramophones.

"That is my passion... it brings in a 74%-owned by the Transnet pensioners.

Although this deal is not part of the class action, a question mark still hangs over whether it was wise to get rid of the pensioners' slice of one of the best and most lucrative commercial properties in the country. Ramos said at the time: "What we wanted to do was maximise the value of that asset. Once you set a process and set criteria, then you have to follow it... you can't come to the end of it and somebody doesn't like (the buyers) and change the process at the end."

It was sold to the L&R Consortium that had British, South African and Dubai elements. More recently it was on-sold to local investors who include the Gupta family.

the Transnet Pensioners Action Group (TPAG) led by Mike Myburgh, a former electrical production manager, and Robin Rowe, who retired 12 years ago as fleet manager of dredging services at Durban harbour.

"They (Transnet) will draw this out until there are no pensioners left… that is what they want to do," said Rowe. Still, there are over 80 of them who are 100 years old or more, so the pensioners' struggle against Transnet hasn't ended just yet

Recently the trustees of the fund representing the pensioners was up for election. Old-timer John Grobler who had previously served as secretary of the fund before being coopted as a trustee by Transnet, was defeated by Clair Herbert Fitchat, a former 747

A question mark hangs over the wisdom of shedding one of the most lucrative properties in the country

little extra money, not much," he said.

Olsen is chair of the Cape Town branch of Club 60, which was started in the mid-1980s for railway pensioners. He believes the rot started when Saki Macozoma was the Transnet CEO. Once a year the pensioner trustees were flown up to Johannesburg for their annual meeting, expenses paid, but this came to a halt when Macozoma took over from Dr Anton Moolman. We had one meeting with him and that was it."

Today Macozoma is believed to be a billionaire.

When current Absa Bank chief executive Maria Ramos was Transnet CEO, she defended the sale (stripping) of the state Transnet and Transnet's pension fund holding in the V&A Waterfront. Oddly it was an ANC member of the national assembly's public enterprises committee who asked her at the time whether the sale, in 2006, had been akin to "the sale of the family silver". The fund scored the difference between the asset value and the sale price. It was sold for R7.5bn and the profit was about R1bn, the difference between the book value and the sale price. It was

By (temporarily) reducing the pension fund's deficit (and Transnet's contingent liability for it) Ramos was also making sure she would qualify for a target bonus – that year, a 53% pay increase plus a performance bonus of R2.9m brought her annual earnings to R6.9m (See *nose*86, "Transnet ups profits by robbing pensioners").

Pensioner Nic Chillek, 82, was a marine engineer with SAR&H. He was seconded to the Union Castle liners, including the *Pretoria Castle*, the *Rhodesia Castle* and the *Edinburgh Castle*, in the 1950s. He returned to the tug service in the '60s and '70s and ended up in the 1980s on the floating deck at the Cape Town harbour which then serviced the Chinese and Japanese fishing boats and other trawlers. While his pension is R6,000 a month, he manages okay, largely because he is housed by his daughter and son-in-law in Bellville. He says he is upset with Transnet management. Many of the "oldies" gave their lives to the company. "Transnet is getting away with murder," he said.

The idea behind the class action came from the Durban-based group

SAA pilot and president of the South African Airways Pilots' Association. He wants the pension fund members to have a majority on the board of trustees so that their interests are articulated. The other three pension fund representatives are: SAARP's Benwell, June Zebert and Len Jordaan, who was once based in New York for SA Airways.

Currently Harry Gazendam, chair of the board of trustees (and appointed by Transnet) has a casting vote. Four of the Transnet-appointed trustees normally toe the Transnet line, as they did recently when voting with Gazendam against the class action case of the pensioners.

The vote was: four votes for the class action; four against, and Gazendam's casting vote was against the class action. One of the four Transnet-appointed trustees is the embattled chair of the SABC board, Ellen Tshabalala. Trustees are paid about R100,000 a year to serve, including Tshabalala, who faces dismissal from both the SABC and the Transnet boards (and the pension trustees board) after failing to provide evidence of her stated qualifications. ■

Fogg obscures endless race track scandal

Former champion motorcyclist takes numerous short cuts in bid to land big prize. By Gavin Foster

When *Noseweek* reported on Mike Fogg's part in the shenanigans over Kyalami, we touched on the way he and the Theodosiou brothers had hidden behind such a convoluted maze of companies and family trusts in their dodgy dealings that took 10 years to unravel in court. Now we reveal how the motorcycle-racing champion who earned his Springbok colours largely at Pietermaritzburg's Roy Hesketh racetrack, has also contrived to become the de facto owner of the circuit that brought him so much glory.

The Roy Hesketh Circuit closed down in 1981 because local residents objected to the noise, but about 80% of the track still existed at the turn of the millenium when Fogg came up with his scheme to revive it. He proposed acquiring the remnants of the old racetrack on 33 hectares of prime municipal land alongside a golf course and game reserve in a quiet Pietermaritzburg suburb, and turn it into "a motorsport park" with clubhouses, a museum, luxury timeshare apartments, car showrooms, workshops, conference centres, and a housing estate.

The circuit itself would be resuscitated with a short new loop to excise the houses that had been built on the southern end. It would be used for advanced driving courses, motor vehicle launches, track days and demonstration laps by the legendary old race cars and bikes that abound in Maritzburg.

But Fogg had a problem; his reputation preceded him and his chances of attracting backers to invest in such a large chunk of prime real estate, then to spend millions developing it, were slim, so he began peddling the idea of forming a Roy Hesketh Motor Racing Foundation. It would be a non-profit association incorporated under Section 21 of the old Companies Act – with the stated intention of restoring and preserving the circuit as a tribute to its golden days. The foundation's non-profit status, as well as the perceived value added to Pietermaritzburg's tourism industry, would ensure that the municipality would be more accommodating on price and investors would thus be easier to attract.

Fogg approached numerous motorsport enthusiasts, many of whom are past racing legends with fond memories of the circuit. Despite some misgivings, more than 100 signed up and paid from R500 to R1,000 each for five years' membership. Many were also successful business people with impeccable credentials to add credibility to the scheme.

Armed with his new-found respectability and support Fogg went about setting up and registering the foundation, with himself as MD and one of his family trusts, Thornham Trust, as the company promoter. He also set up a company of his own, the Hesketh Management Company (Pty) Ltd to manage the project, thus ensuring his control over both the non-profit foundation and the profit-based company that would essentially run the show.

The foundation was then, in January 2002, really just a sort of Hesketh old boys' club, and remained so until Fogg convinced the Msunduzi Municipality that his grandiose idea could work. On 24 January 2004 he entered into a lease with the municipality which granted the foundation just about everything it could wish for: exclusive occupation and development rights for the Hesketh land for 15 years with the option to renew for just R3,000 a month, plus a 10%-a-year rent escalation clause.

The municipality also thought it had landed in the pound seats: in terms of the lease the foundation would build timeshare accommodation, a motor club complex housing the proposed motorsport museum, and all the other structures he'd dreamt up, along with a new housing estate boasting a couple of hundred dwellings that could be sold off.

The increase in property rates income from all this development would be substantial and the struggling City of Pietermaritzburg would benefit greatly from the deal which would also create jobs for the community. The decider was that the foundation – in line with its non-profit status – promised that 75% of the nett profit from the venture would go to a new Grand Prix Circuit Trust, to be set up jointly by the foundation and the municipality to finance a world class new circuit near Pietermaritzburg to bring world championship motorsport to the area.

The foundation also had obligations, but none too onerous. The Hesketh racetrack would not be permitted to host competitive race meetings, but was allowed to hold regular parades, demonstrations, motor product launches, advanced driver training and the like, subject to certain conditions.

There was, importantly, an obligation to complete the development project as planned within five years of the contract being signed, failing which the municipality could reclaim the estate, complete with any improvements thereon.

Meantime the foundation headed into troubled waters; members started asking what was happening with the money. Despite the terms of the constitution, Fogg had cancelled the requirement that other foundation directors co-sign cheques, and funds had allegedly been spent on, among other things, a car, motor repairs, air tickets and repayment of Fogg's son's debt.

A group of 16 members, headed by well-respected local businessman John Truter who had resigned as a foundation director when Fogg brushed aside his concerns, sent a lawyer's letter in November 2005 questioning the way the foundation was being run and querying the constitutionality of Fogg's plans.

The most intriguing question revolved around the Kyalami racetrack ownership. Fogg, they said, had been mandated to negotiate its purchase on behalf of the foundation when it went up for sale three years earlier, and had claimed his considerable costs in doing so from the foundation.

By this time the water was very murky, with Fogg insinuating into the mix another of his companies, Kyalami Property Investments (*nose*93). It subsequently came out that he had indeed bought Kyalami on behalf of his MJF Family Trust for R42m in March 2004, and had sold 60% of it to Nedbank and the Imperial Group for R15m three months later, in an extraordinarily confusing deal that tied up various courts for a decade.

A few weeks after the lawyer's letter arrived Fogg called a foundation AGM at which the financials were distributed, including the auditor's report for the year ending 31 March 2005. This warned that the foundation's liabilities exceeded its assets by R425,531 and there was significant doubt about its ability to continue as a going concern unless further funds were raised to materialise the projects Fogg had espoused so vigorously when punting his dream.

The members came away worried and not much wiser after voting in local attorney Adrian Moore as a director in place of Truter (who had resigned). Moore resigned the next day, pointing out that the foundation was clearly insolvent therefore not legally permitted to continue trading.

Fogg should by then have been worried that the members would stage a coup, but he'd taken care of that from the outset by dint of the foundation's constitution. It dictated that his Hesketh Management Company (Pty) Ltd would appoint two of the three directors – who would both have to be present for a quorum – while the members could elect a third who was effectively powerless.

There was provision for an independent fourth director to be appointed by the other three, so the management company, in a spectacular example of the tail wagging the dog, always had full control of the board. It decided who the MD and his directors should be, determined their remuneration and decided what additional amounts they could claim as "extra services" rendered.

An added barrier to change is a clause declaring that a poll of ordinary members on the election of the chairman could not be demanded. Fogg was in for life, and his company, Hesketh Management Company (Pty) Ltd was impregnable because it was named in the Memorandum as the company appointed to manage the foundation's affairs. That could not be easily changed because in terms of the constitution Fogg's Thornham Trust had to approve, in writing, any proposed amendments.

And so it went. Throughout this period Fogg was very busy with his Kyalami wheeling and dealing, and the paths of

Members voted in Adrian Moore as director. He resigned the following day

Day at the races: Roy Hesketh in all its splendour

A young Mike Fogg (extreme right) in his racing days circa 1973

his two projects often crossed. A letter from Marble Gold 241 (Pty) Ltd, (another Fogg company) to his lawyers in 2005 starts with "We write you this letter in terms of the agreement and undertaking given by Motortainment Kyalami (Pty) Ltd in respect of the liability of Roy Hesketh Motor Racing Foundation and are pleased to advise as follows:

1) Attached please find our cheque in the amount of R150,000… to be deposited in account under the name of Motortainment Kyalami (Pty) Ltd.

2) No amount may be distributed from this account unless such authorisation is given by Michael John Fogg in writing with signature as per the signature of this letter, together with telephonic confirmation with him."

Fogg had everything wrapped up pretty tight. Just about all the members of the foundation let their memberships lapse at the end of the initial five-year period, and their credibility left with them. For some years there have allegedly been just four members of the foundation (Fogg has declined to answer questions about this) with three being directors – Fogg, his son Devlin, and 75-year-old founder member Charles Pratt who sources say has stayed with the foundation because he invested a large proportion of his retirement fund in it and was afraid to let go.

The much-vaunted development at the circuit has not materialised, apart from the closing of the loop to make it operable, and to date little construction has taken place apart from a gazebo/pub area. There is no more talk of a new Grand Prix circuit.

In the meantime Fogg continued to pay only those bills he could not avoid and the foundation's disgruntled creditors included a local architect, a Durban legal firm and the municipality.

Msunduzi Municipality was granted judgment of R72,000 against the foundation in January 2011 for unpaid services relating to the Roy Hesketh track but by then Fogg's foundation owned the place so they couldn't simply cancel his lease. He'd bought the property on behalf of the foundation in 2007 for R3.25m – a fraction of its market value – subject to the same conditions negotiated with the lease, then ignored. He quite possibly paid for that with some of the proceeds of the Kyalami deal, channelled through his family trust, because the title deed for the foundation's Hesketh property now reflects a bond of R5.3m owed to his Hesketh Management Company (Pty) Ltd.

In January 2005 the lines between Fogg's trust, his company and the foundation were tangled further when the Fogg trustees resolved that a R350,000 "facilitation fee" charged by Hesketh Management for arranging the Hesketh lease – a sum ostensibly due to the Fogg family's Thornham Trust – should be ceded to Hesketh Management Company (Pty) Ltd on condition it convert the debt to membership of the Roy Hesketh Motor Racing Foundation in order to maintain 95% membership "from time to time", and to amend the constitution to "protect the integrity" of the companies and trusts involved. In other words the Fogg family trust, dealing with the Foggs' management company, running the affairs of the non-profit company headed by a Fogg.

Later on, when negotiating the purchase of Hesketh, this came into play at a meeting of foundation directors on 1 February 2006 where the minutes report that the foundation: "sought the support of Hesketh Management by way of an undertaking that they would vote in their capacity as a member having a voting capacity in excess of 95% of the membership at a meeting to amend the articles on short notice" .

As matters stand, the foundation still owns the land and the old race circuit, but is indebted to Mike Fogg's management company and his various family trusts – allegedly to the tune of R5.3m on the property alone.

Fogg has reneged on all his commitments to the municipality, and the council resolved to buy back the property in 2010 in terms of the original lease, but that year the mayor and city manager were stripped of their powers and the bankrupt municipality placed under administration. It has become hard to get anything done these days, especially if it involves spending money.

Fogg is still running frequent track days at the circuit, annoying the hell out of the neighbours and scooping between R7,500 and R30,000 a day, ostensibly for the foundation.

With nobody in a position to keep an eye on the till, it looks pretty gloomy for Pietermaritzburg's ratepayers and motorsport enthusiasts. There's a fair bit of irony in the fact that the minutes from the municipality's executive committee meeting to discuss the foundation's purchase of the track quote the city's chief evaluator as emphasising that the credentials of the Roy Hesketh Motor Racing Foundation included having "been involved in purchasing the Kyalami race circuit for R50m".

We all know where that ended up.

One of the supposed benefits of the new Companies Act of 2008 is that there are tighter controls on non-profit companies whose directors often clandestinely siphon off value for members and directors. Some, who owned valuable land, were effectively hijacked by cliques of members who used the assets for personal gain. The new act supposedly ensures that no past or present members or directors of NPOs claim any part of the net value when a company closes down. ■

Dis-Chem jumps on its big, fat high horse

Pharmacy chain has hissy fit over competing claims for weight-loss supplement. By Sipho Mwanza

Dis-Chem has popped up in several *Noseweek* stories, so we were intrigued to see their press release entitled "Integrity is the linchpin of Dis-Chem's business practice".

The release made serious allegations: "It has come to our attention that various social media platforms and websites are making libellous allegations about the quality of supplemental products sold by the group. Dis-Chem refutes these claims in the strongest of terms as false and defamatory... Dis-Chem is profoundly disappointed by the competitive operations set on damaging the reputation of a business that has been trading successfully for 36 years."

Libel, defamation, damage caused by competitors... gosh, what's going on?

Noseweek asked Dis-Chem for details. Turns out that the supplemental products in question are those that are at the very heart of the snake-oil salesman's business – weight-loss supplements. In particular, something that is very much the flavour of the month, Garcinia Cambogia, a supposedly miracle natural extract that suppresses appetite and increases the metabolism to burn fat. Yawn.

As an example of the slander, Dis-Chem cites www.trygarciniacambogia.co.za – one of those sites designed to appear objective, scientific even. On it, Veronika Milyo, who is apparently a nutritionist from Johannesburg (although a Google search suggests no such person exists anywhere on the planet) makes the case for Garcinia Cambogia very strongly, but only for one brand, one which you can purchase very easily by using one of the many links on the site.

The apparently fictitious Milyo says: "After reviewing dozens of Garcinia available in SA, I have concluded that Pure Garcinia Cambogia Extract is the best source for 100% pure, high-quality extract which is the most effective in terms of weight-loss benefit."

She says of Dis-Chem's product: "Whenever we need a supplement most of us will turn to Dis-Chem. Unfortunately, it is my personal opinion that Dis-Chem's Garcinia Cambogia products are lower in quality than the Pure Garcinia Cambogia Extract brand. In my experience they have not reduced my appetite significantly nor did I lose any weight while taking them."

Milyo goes on to explain why "low-grade" Garcinia Cambogia, like that sold by Dis-Chem, is a no-no: "They lack in purity, contain a lot of additives and filler substances, do not contain a high amount of hydroxycitric acid, and are produced in low-quality Chinese labs."

This site has got South Africans talking and asking Dis-Chem awkward questions, some of which have "gone viral" much to Dis-Chem's consternation.

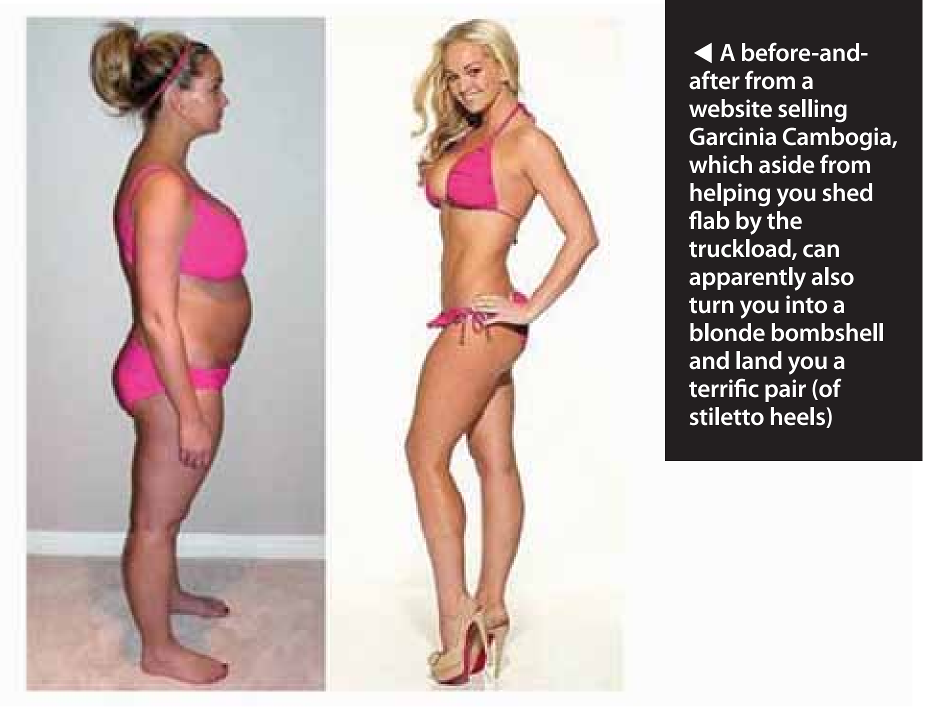
In some cases Dis-Chem has had to refer questions to the companies that supply it with Garcinia Cambogia, USN and Betancourt. The suppliers have assured Dis-Chem that they source their products in India and the USA, certainly not in horrible old China.

Dis-Chem has answered those questioning its Garcinia Cambogia product as follows: there's no such thing as a 100% product; the critical issue with Garcinia Cambogia is the Hydroxycitric Acid (HCA) concentration; Dis-Chem's product, like all good Garcinia Cambogia products, has an HCA of between 50% and 60%; people seeing these percentages on the labels must not assume that the rest is made up of fillers and impurities; Dis-Chem's labelling is accurate and complies with the new Complementary Medicine legislation that came into force in August this year.

Garcinia Cambogia, the marvellous pumpkin-looking fruit that somewhat fishily turns out to be a miraculous cash cow for purveyors of snake oil

The other website that Dis-Chem flagged is www.healthyworldtoday.com – which is no longer accessible. Although it didn't have a go at Dis-Chem, it simply told lies. Under the heading *Women's Health Now*, it publishes what looks like a magazine article that's been written by a journalist, but is obviously nothing more than an advertorial or sales platform – again, with lots of links to one brand.

The "journalist" discusses the new fad of Garcinia Cambogia Extract and early on tries to establish her credibility: "If you're sceptical, you're not alone…" her own scepticism was eventually overcome when people using the



◀ A before-and-after from a website selling Garcinia Cambogia, which aside from helping you shed flab by the truckload, can apparently also turn you into a blonde bombshell and land you a terrific pair (of stiletto heels)

as a means of getting market share… this malicious, devious and unwarranted marketing practice creates doubt and mistrust in the minds of our loyal customer base so that customers' buying habits can be manipulated in favour of the competing trader... various websites and social media platforms that advertise health products with fantastical claims at an irresistibly competitive price pose a great risk to the buying public."

Just what are these risks? The media release explains the risk involved in buying supplements from online retailers as follows: "You don't know if what you're being offered works and has been properly tested; you probably won't be able to return a product that doesn't work; in fact, the whole thing may be a scam and you might never even receive the product you pay for."

Noseweek had hoped to have a discussion with Dis-Chem's experts on the subject of "dietary supplements",

If you look at the obligatory before-and-after pictures you have to say that Garcinia Cambogia is truly astounding

extract started telling her that "the fat melted off like butter". She says her magazine had designated her as the guinea pig and that, to her great delight, the results were fantastic. So much so that "everyone at *Women's Health Now* is kicking themselves for not having volunteered to be the guinea pig".

There are, of course, the obligatory before-and-after pictures. And if you look at these, you have to say that Garcinia Cambogia is truly astounding – not only did the woman pictured shed a load of weight in just four weeks, but her skin tone changed, her face underwent major changes, and her unremarkable chest transformed itself into a great big pair of knockers.

With one possible slander and one complete bullshit site, is Dis-Chem perhaps being a little precious? After all, the weight-loss industry is a nasty little business and Dis-Chem has chosen to take part in it. In fact, you can see how compromised Dis-Chem is in some of the answers it provides to those asking questions: it tells people that the online sites are scams but goes on to say that "there is research that supports the use of Garcinia and we do offer the product in our stores... Garcinia Cambogia Extract (GCE) is used in slimming products because it contains an active ingredient called Hydroxycitric Acid (HCA), an aid in the slimming process".

But, adds Dis-Chem, it's not a miracle cure, it must be used in conjunction with a balanced diet and an exercise regime. Ho hum.

Noseweek suspects what's really vexing Dis-Chem is that it's facing serious competition from online retailers who don't hesitate to lie about the products they sell, who may in some cases say nasty things about the competition, and who, most importantly, charge lower prices. In fact, this becomes quite apparent in the rest of Dis-Chem's media release.

"Dis-Chem deplores the cheap marketing tactic that slanders a reputable, established and responsible retailer...

but after a long wait, got this response: "Dis-Chem management has decided that an interview on this topic would neither serve their interests nor those of customers."

On the topic of safe and informed "sport supplementation" they said: "This is a poorly legislated category and the drive to 'clean up' sport supplementation with respect to testing for banned substances, compliance to labelling claims and auditing of suppliers' manufacturing facilities is a topic more deserving of exposure through a publication like *Noseweek* – especially since the rot starts at school level where steroid abuse is cause for grave concern.

"We apologise to you and the *Noseweek* readers; whilst the defamation issue is concerning for Dis-Chem, we believe that there are more important issues at stake and in need of priority exposure."

What's the idiom? Lie down with dogs and get up with fleas… ■

Fishy whiff at Independent

Iqbal Survé is said to be turning the press group into government lap-dog

Self-declared "gatvol" former employees of Independent Newspapers – now owned by the black-empowered fishing company Sekunjalo, headed by Dr Iqbal Survé – speculate that Survé has been "deployed" to transform the once-powerful Independent Group into a vehicle to promote government policy to the urban middle class.

Or, if that fails, to ultimately close down its titles, which are all seen as traditional mouthpieces for the (predominantly white) middle class and the opposition parties it supports. If not, they are at a loss to explain the purges, restructuring and "sheer lunacy" of the new management.

"In the meantime," one senior staffer tells *Noseweek*, "he is paying himself R500,000 a month [*as executive chairman*].

He will be laughing at all of us for two or three years, living high on the hog and making Luthuli House [*the ANC headquarters*] happy while they pave his way for further sweetheart deals".

"Maybe he'll follow his friend Tina [*Joemat-Petterssen*] and get a posting to the board of the Nuclear Energy Corporation."

Sekunjalo bought Independent Newspapers – with massive funding from the Public Investment Corproation (PIC) and Chinese investors – from the now-insolvent Sir Tony O'Reilly and his clan over a year ago.

There is a general mood of paranoia at the newspapers in Cape Town, Johannesburg, Pretoria, Kimberley and Durban. After a string of firings and retrenchments of editors and senior staff, now even the sub-editors are up for the high-jump. The 102 permanent sub-editors employed at the various titles have all been asked to re-apply for their jobs. Word has it that just 72 will be reemployed and they will be required to accept at least a 10% pay cut.

No-one is entirely certain what will be the fate of the 30-or-so part-time sub-editors nationwide, but there's "a mad scramble" going on to find jobs, any jobs, outside of the troubled company. "There is a general state of panic and fear in the building," said one.

Despite promises that there would not be retrenchments under the new management and a promise to inject R1.5 billion into the "tech" operation, there has been blood on the floor of Independent Newspapers – including the *The Star, Cape Times, Mercury,* the *Daily News,* the *Pretoria News*, the *Diamond Fields Advertiser,* the *Sunday Independent, Sunday Tribune* and the *Weekend Argus* – for nearly a year.

It all started in December when Alide Dasnois, the *Cape Times* editor, was all-but marched out of the office after she carried a front page lead story about Sekunjalo's rather shadowy association with the controversial R800m marine patrol ships tender (instead of carrying the story about Nelson Mandela's death, which everyone in the world had already been told by the television and electronic media and despite an award-winning Mandela wraparound cover).

Next to go was Chris Whitfield, editor-in-chief of Independent Newspapers in the Cape. He was offered a job to set up new operations in the Eastern Cape – a post several rungs down the corporate ladder – which he declined. So he, too, had effectively lost his job, but by resigning there was less of a media fuss than over Dasnois's dismissal.

Then it was the turn of Terry Bell, author of the authoritative "Inside Labour" column in *Business Report* – the national daily finance newspaper carried in *The Star, Cape Times, The Mercury* and the *Pretoria News*. The first he knew that his column was to be chopped was when he read a tweet sent by a colleague.

Perhaps it wasn't surprising that he was targeted because Bell had been seen as large as life outside Newspaper House in Cape Town on 19 December 2013 when the Right2Know Campaign held a picket protesting Dr Survé's sudden dismissal of Dasnois. While Bell carefully didn't mention Survé's name, he did – speaking from the podium with R2K national co-ordinator Mark Weinberg – warn journalists that newspapers could be manipulated by owners. "I had the experience of working with some of these... for some of the biggest egomaniacs in the business, Tiny Rowland and Robert Maxwell."

Bell's colleague Donwald Pressly, *Business Report* bureau chief in Cape Town and author of the "Inside Parliament" column, was also seen in the crowd holding up a poster of Survé with a long Pinocchio nose. Pressly was suspended in January, after it was learned that he had tendered his name for inclusion on the DA's parliamentary election list. (It was not included.) He was fired at the end of March. When he later won his case at the CCMA, he was retrenched "for operational requirements".

The purge has continued in recent months. *Business Report's* deputy editor Peter de Ionno, who had defended Pressly in his disciplinary hearing, was axed in late October. His former colleague Pressly sent out a tweet announcing that he had been axed after a drawn-out disciplinary process. De Ionno is challenging his dismissal at the CCMA.

Pressly also won't divulge the details of his settlement because he signed a confidentiality agreement with the company.

While the dismissals, purges and retrenchments have focused on white journalists and editors, black editors Philani Mgwaba (*The Mercury*) Moshoeshoe Monare (*Sunday Independent*) and Makhudu Sefaro (of *The Star*) have left of their own volition.

All three editors signed confidenti-


The Emperor: Dr Iqbal Survé

ality agreements so can't talk about their problems with Independent, but Mgwaba was apparently outspoken about the fact that he was unwilling to undermine his credibility as a journalist by doing the bidding of Luthuli House (ANC headquarters).

Sefaro was pushed out after he refused to replace Mgwaba at *The Mercury*. He remains active in the South African National Editors' Forum (where he is deputy chairman) although Independent have opted not to pay their R300 000 a year Forum membership fee. Monare has joined the *Mail & Guardian*. He too did not take calls, but it is understood that he refused to take orders from group editor Karima Brown and resigned.

The purge is set to continue. Reporters nationwide are to be served with Section 189 notices. They, like the sub-editors will have to re-apply for their jobs. One long-serving sub-editor Kenny Marshall – who was a wizard on financial stories, a rare skill – applied for the job vacated by Dave Chambers, the head of production.

Chambers left when it became clear that his temporary appointment would not be renewed. During his interview Marshall was asked various questions and he blurted out that he thought the present chairman of Independent (Iqbal Survé) was "objectionable". He was hauled before a disciplinary and found guilty of "gross insubordination and insolence" and given a final written warning.

Other sub-editors who have left are Graeme Feltham, Laura Yeatman – who joined the *Mail & Guardian* – and *Cape Times* content editor (chief sub) Glenn Bownes. Chambers would not talk about his last days at Independent but it was widely known that he objected to the dividing up of the national production desk – where sub-editors edited all the publications of the group – to desks at individual titles (a system that O'Reilly had demolished). Ann Crotty, *Business Report's* editor at large, left to join the *Sunday Times*.

Insiders say that after Pressly's successful challenge of his dismissal – and likely success of Peter de Ionno's challenge of his axing – the company has got wise. Dasnois is also challenging her dismissal at the labour court.

Indepdendent is now offering reporters and sub-editors the option of reapplying for their jobs and taking at least a 10 percent pay cut.

Meanwhile irate staff at the newspaper group have set up a website, *The Daily (Soft) Survé,* described as "A Tumblr devoted to hagiography/arse-licking of their new boss by INL papers". The latest post is in August: "Sekunjalo steps in to rescue Sapa, the national press agency which is a section 21 company representing the major newspaper groups in South Africa.

Fortunately Survé's attempts to take control of it – with a R50 million offer – came to naught. The site carries a "choice quote" from "Our Dear Leader": "Apart from continuing the Sapa traditions of quality local content, the plan will be to expand the operation to become a major provider of content and other news services covering Africa."

It adds a comment: "Perhaps with all that quality local content, there will be need for even fewer IOL journalists? Fortunately the management of Sapa did not allow Independent to buy it out, although Indy looks set to be a significant part of a collective of companies that will control a new private company controlling Sapa."

In a New Year message to staff, the Emperor said: "There will be no large-scale retrenchments. None. Only bad performance will result in someone being asked to go. The days of cost-cutting are behind us. the days of cost-efficiencies, growth and development is [*sic*] part of our new lexicon."

Yet by August, Section 189 notices were sent to all production staff.

It seems the process of turning one of the oldest independent news groups – which remained defiant during the apartheid era – is rapidly being transformed into a private sector Pravda.

Survé himself set the scene last December when he accused the rival Times Media Group of a dirty-tricks campaign aimed at robbing his group of revenue and readers. Times Media had tried in vain, said Survé, to get control of Independent Newspapers, and had tried to portray him as "a crooked businessman and ANC lackey" who wanted to counter negative reporting of the ruling party.

Only he, Survé, has used exactly those words. ■

How greed sank a huge SA shipping deal

Fame and fortune were on the horizon – then it all went pear-shaped.

By Donwald Pressly

SOUTH AFRICAN ENTREPENEUR BERNARD Jacobs, who developed a top-notch ship ballast treatment system that would help prevent contamination of the world's seas, was on the road to international fame and fortune until the greed of a local state-backed development trust fund put the kibosh on a multi-million-dollar deal with an international strategic partner.

The start-up business was established by Jacobs in Cape Town in 2001 but only formally registered as Resource Ballast Technologies (Pty) Ltd (RBT) in 2006. Things went jolly well at first. RBT persuaded the South African Intellectual Property Fund (SAIPF) to buy shares in the company. The IPF is a venture capital fund established with both private and state funding which invests in South African high-tech companies that have developed new technologies which have global mass market potential.

In 2010 RBT was awarded the Frost & Sullivan Global Entrepreneurial Company of the Year Award in the ballast water treatment systems market. In an article published by Frost & Sullivan, the CEO of Triumph Venture Capital, Wellington Chadehumbe, who was also fund manager to the SAIP Fund, said: "Investment in RBT was premised on the strengths of RBT's ballast water treatment system, especially its innovativeness as well as its simplicity. With space being limited onboard ships, the system has a very low footprint [*occupying little space*]. Other advantages: it costs less than other systems to buy and has a low operating cost with low power usage."

Most cargo ships have ballast tanks that they fill with sea water to stabilise them when their cargo holds are empty. Conversely, when they arrive at a port where they are to take on cargo, they empty the ballast tanks into the sea, potentially transferring organisms from one marine ecosystem to another.

Maritime laws now require ships to have treatment systems on board to sterilize their ballast water before it is discharged into the sea, in order to protect the oceans around the world from contamination by alien organisms transported in ships' ballast tanks. (One of the best known examples of contamination from ships' ballast tanks was by the zebra mussel, native to the Caspian and Black seas, which arrived in North America's Lake St Clair in the ballast water of a transatlantic freighter in 1988, and within 10 years, spread to all five neighbouring Great Lakes – Superior, Michigan, Huron, Erie and Ontario. The US Fish and Wildlife Service, according to Wikipedia, estimated the value of lost marine resources at about $5 billion.)

Jacobs said RBT's growth strategy focused on advancing its strengths in the technical arena developing a novel ballast water treatment system that could be fitted on to the ballast pipe and was ideal in the case of retro-fitting ships. In 2001 he had met Ian Vroom, "a scientist who had this idea for creating the perfect ballast water system..." The concept was perfectly timed: when the International Maritime Organisation (IMO) adopted a convention in 2004 that compelled all vessel owners to instal ballast water treatment systems, it unlocked a $34bn industry. It established protocols and a timetable for implementation. Some 50,000 to 60,000 ships are expected to be affected over the next ten years.


Bernard Jacobs – a disappointed man

As part of its growth implementation strategy, RBT searched for a suitable strategic partner with the requisite manufacturing capacity, geographic reach and connections in the shipping industry to facilitate the marketing of its technically advanced ballast water treatment system to appropriate customers. To this end, RBT entered into a strategic licence agreement with a leading Norwegian marine services provider, Wilhelmsen Maritime Services (WMS) which is listed on the Oslo Stock Exchange.

Jacobs reported that in terms of the partnership, WMS industrialised the technology and produced the ballast water treatment system at their production facilities in Oslo, Shanghai, Beijing and Gothenburg, while also marketing, selling and providing service and maintenance on the system globally.

RBT won the Technology Top 100 awards in three of seven categories, including the Department of Science and Technology director-general's award in 2009. It went on to win the Global Entrepreneurial Company of the Year Award from Frost & Sullivan for its strategy excellence, the degree of innovation with products and technologies, leadership in customer value and speed of response.

That was in 2010. After that things went pear-shaped for Jacobs and his RBT. By February 2012 the company was in business rescue and by early last year, had been liquidated.

Ironically, things started to go wrong just when Jacobs thought his business was at the pinnacle of its success. In 2006 RBT had received R6m in start-up funding from the SAIPF. In return, the fund received 30% in shares plus five-year redeemable convertible preference shares at a 50% IRR (that is an Internal Rate of Return which, in layman's terms, is normally considered an exceptionally high return on investment). For the R4.2m invested in the preference shares, the fund would have received R28m by September 2011.

The initial investors in the SAIPF were the CSIR and the University of Pretoria via an entity called Sera, the Department of Trade and Industry, and the Industrial Development Corporation. The private sector involvement was through Sanlam. The "independent" chair of the board of trustees of the fund was attorney Stephen von Schirnding of ENS Johannesburg.

In June 2011 the Norwegians offered to extend the RBT licence agreement for another seven years for an amount of $6m

Where the money went

Of the R120 million originally invested in the SA Intellectual Property Fund about R60 million came from Sanlam Investment Management and the balance from the other investors including the IDC, DTI and Sera.

A sum of R50m was paid to Triumph Venture Capital as management fees. The other R70m went into three investments: RBT received R13m altogether (including R7m during business rescue); R20m funded Insiava (a silicon chip technology company based in Pretoria, owned by the University of Pretoria); and about R30m went to Gauteng-based Ambixtra (which developed an alternative to spark-plug technology).

What stumps Jacobs is that individual investors from the government and private equity organisations allowed an individual to manage a fund with a significant portion of public money without any accountability to their investors. As a consequence, the country, the company – RBT – and other start-up companies have suffered a huge loss, not only in terms of potential investment but by allowing an award winning technology to go down the proverbial drain.

(about R40m at the time). They also offered to purchase 10% of the company for an additional $7.5m. That would have valued the company at $75m (about R500m). If RBT had been allowed to accept the Wilhemsen offer, the SAIPF would have received R90m (a jolly good return on SAIPF's R6m investment) and it would also have retained 10% of the company, RBT, valued at a further $75m.

But, privately, fund manager Chadehumbe had other ideas. He delayed replying to the Norwegian offer until the redeemable preference shares had expired – in September 2011. Two days later, he was sitting with Wilhelmsen in Oslo – together with Mark Eccles, a fellow director of Triumph, and Dr Liesbeth Botha, the "independent" chair of the fund's investment committee – trying to sell RBT to the Norwegians for $150m (about R1bn). The SAIPF had about 34% of the RBT's equity at the time, worth about R350m at that valuation.

They refused. Wilhelmsen Maritime Services was outraged. Chadehumbe, his colleague Eccles, with Dr Botha, apparently hurriedly left the meeting with WMS when it was clear they would not accept these terms. They said they would nip out for a coffee and be back in half an hour.

Jacobs said they disappeared without returning to Wilhelmsen "and returned to South Africa with their tails between their legs". This immediately put RBT into a precarious position.

"We owed Wilhelmsen $1m repayable by February 2011... although we had orders for 24 systems, were busy with eight installations worth $7m and had quotations in for $1.1bn worth of further business."

These all fell away as it became clear that the business was in trouble. Wilhelmsen cancelled its licence agreement with RBT. In February 2012 Wilhelmsen Technical Solutions (WTS) completed a comprehensive performance verification programme on the "unitor ballast treatment system". As a result of the evaluation that followed, the company reached the decision to withdraw the design of the system from the market.

"We acknowledge the potential impact for our customers and others affected by this decision. However, in keeping with our commitment to compliance, quality and customer satisfaction, we believe this is the only prudent course of action," said Petter Traaholt, WTS's president.

Noting that the licensor of the technology had placed itself under business rescue (the equivalent of the US Chapter 11 bankruptcy) in February 2012, Traaholt said: "The verification programme showed that the system … would not … provide our customers with an effective, fully compliant solution for the varied and dynamic water conditions encountered by a vessel engaged in global trade."

During the time of the WMS offer, Jacobs tried to convince members of the fund's board as well as the trustees and the independent board chairman (Von Schirnding) along with investment committee chairman (Dr Botha) to accept the offer, but to no avail. Jacobs was dragged from pillar to post – Von Schirnding and Botha both referred all questions to Chadehumbe the fund manager. Jacobs argues that it was clear Chadehumbe had no intention of acting in RBT's best interests by accepting the Wilhelmsen offer.

As a result of the failed negotiations and lack of adequate funding, RBT was forced to file for business rescue to protect the company's only assets, namely its patents. When it was placed under business rescue in February 2012, an additional R7m funding was obtained from the SAIPF.

The cost of the business rescue administration was about R3m including R1.5m to cover the fee of the business rescue practitioner, Bernard Jongen, over 18 months.

Jacobs is adamant that Jongen's lack of experience and conduct was the final nail in the coffin: Jongen failed to renew the company's international patents despite numerous reminder letters from Jacobs' patent attorneys; Jongen also failed to inform any of the affected parties that the patents were expiring "while ensuring that his own fees were paid". RBT had 36 patents around the world covering about 90 percent of the world's shipping fleet.

Jongen was clearly not pleased to be approached by *Noseweek*. He said Jacobs was "trying to harm me". "I am the most honest business person... this guy [*Jacobs*] is bad news." He later emailed that "a lot of the patents had to be renewed... an amount of R632,000 was due (at the end of October last year)... Of course RBT didn't have these funds available. There was still hope that from the fund's side and from my side an investor would be found to save the company." This did not pan out.

Jongen said the patent extensions could not be regarded as normal running costs "but more as necessary investments... that would only be incurred if new investors would be found.” He said: “I don’t like the fact that you ask why I continued to pay myself. I continued to work during these difficult months. I spent, of course, much less hours than before, but it is normal that I be paid for that work. Chapters 135 and 143 of the Companies Act foresee that my remuneration has priority before all other costs.

“Bernard Jacobs has approached the liquidator asking him to start an investigation, which he refused to do. What you must know about Bernard Jacobs is that he didn’t fulfil his fiduciary duty as director of RBT. He systematically put his interests before those of the company. RBT could have received R6m in April 2013 but Jacobs refused that capital injection because his own shareholding would have been diluted too much in case of conversion of the loan. Out of greed and foolishness he preferred to see his company go down.”

A check with the Financial Services Board’s website elicited a juicy bit of information

Jongen acknowledged the blow to RBT when the SAIPF was wound up in June last year, saying: “This meant the end of RBT”. Without the patents, RBT was unable to attract further investment. Did the SAIPF sell RBT down the river? *Noseweek* questioned Chadehumbe about the purpose of the SAIPF, and his views on the expired Wilhelmsen licence offer and extension to RBT.

Had he, indeed, wanted to sell the SAIPF’s shares in RBT for $50m – in contrast to the R90m (about $9m) that the SAIPF would have made out of the Wilhelmsen offer? Even this offer would have been a massive bonanza for the SAIPF as it had only invested its original R6m into RBT.

Noseweek asked Chadehumbe whether he had deliberately waited for Wilhelmsen’s offer to expire. Chadehumbe replied: “The activities of the trustees of the Southern African Intellectual Property Fund, myself included, are regulated by a Trust Deed that prohibits the disclosure of all the fund’s investment activities. This is also true of the activities of Triumph Venture Capital (Pty) Ltd as fund manager and all Investment Committee members.

“For that reason, Mr Von Schirnding and I and all other Trustees and Investment Committee members of the Fund cannot be of any assistance to you with your questions.” He signed himself as CEO of Triumph Venture Capital (Pty) Ltd (as an authorised financial services provider), 321 Main Road, Bryanston, with a website: www.triumphvc.co.za

A check with the Financial Services Board’s website elicited this juicy bit of information: Triumph Venture Capital (Pty) Ltd, the financial service provider’s name, had applied for this status on 29 July 2004. Its licence had been withdrawn on 9 May 2014. That means Chadehumbe did not have the authority to sign his letters under TVC as a financial services provider.

Similar questions were put to Dr Botha. Her reply: “It is unfortunate that Mr Jacobs and his team could not manage RBT to become a successful technology startup and to be in a position to extend the licence with WMS further. The RBT technology had a lot of potential and there was a very attractive window of business opportunity for it.”

When it was put to her that the main accusation Jacobs was making against her, Chadehumbe and Eccles was that they deliberately allowed the Wilhelmsen offer to expire and that the negotiating team from the SAIPF, led by Chadehumbe, wanted $150m for RBT, Botha replied: “I don’t recall the numbers, but the deal we were negotiating with WMS was according to the valuation implied in their initial offer.”

Noseweek noted that this was in contrast to the Norwegians’ offer that could have got SAIPF R90m on the initial R6m investment. Was that the case? Botha replied “No, that is not correct. See above (answer).”

Did she and the team try to garner this bigger deal which later failed? “See above,” Botha replied.

ENS’s Von Schirnding, when approached by *Noseweek,* said he was not sure whether he would interact “with such a publication”. Eccles did not respond to emails or telephone calls. ■

JUSTICE DELAYED

Hope surges after the long years in tangled R200m fraud case. By Ciaran Ryan

EDWARD DE LA PIERRE AND MEMBERS of his family trust, CMT, have waited nearly 14 years to argue their case that Nedcor's BoE Private Bank (formerly BoE Bank) conspired with the Master of the Pretoria High Court as well as the joint liquidators and two building contractors to defraud them of up to R200 million.

The essence of the case should be familiar to *Noseweek* readers: a false claim of indebtedness, a hastily arranged liquidation and a sham auction, where properties worth at least R34m were sold for R100,000. Yes, a total of R100,000 for the lot.

Just a few weeks earlier, the bank rejected an offer of R20m for the properties as being too low, and publicly announced it would not entertain bids below R25m. De la Pierre says this was intended to drive serious buyers away, so that on the day of the auction the liquidators could claim there were no suitable bids, allowing the bank to walk off with some prime Pretoria real estate for the paltry sum of R100,000.

Four sets of judges have found evidence suggesting fraud or irregularities by the bank and its accomplices (see box), yet De la Pierre's attempts to have the main case heard in court have been repeatedly derailed on technical issues. Early in October the Hawks, after two years, notified De la Pierre that they would not be pursuing criminal charges against the main players involved, apparently without having interviewed any of the key witnesses.

Why is he still pursuing the case after nearly 14 years? "For the benefit of my family and my reputation, and because justice must be done," he answers.

De la Pierre is bringing his civil claim in the North Gauteng High Court, represented by Philip Lessing of DLBM Attorneys, Pretoria.

Where fraud is involved, it is legally possible to sue the culprits for up to 20 years after the event. And there's another factor playing in De la Pierre's favour: in June last year he established the SA Litigation Funding Company (Salfco) with UK backing, for litigation cases with a value in excess of £10 million (R176m) in return for a percentage of the proceeds. He now has the money to pursue his case with some heavyweight legal counsel at his side. Salfco will only take on cases where there is a strong chance of success.

De la Pierre had been involved in property development since 1973. In the late 1990s he acquired Gilboa Properties on the JSE's Venture Capital Market as a way of raising funds for development. In 1999 he sold the Waterkloof Boulevard development to Gilboa, resulting in a reverse take-over, leaving De la Pierre's CMT trust in control of the listed entity.

De la Pierre had to get both BoE bank – as the primary bond-holder and later manager of the project – as well as the JSE to approve the deal, which he says was done at a fair market value.

(Gilboa later changed its name to Absolute Holdings, then became Baubu Platinum, which is a mining exploration company listed on the JSE.)

Everything seemed to be going swimmingly for Gilboa. On another front, there were advanced plans to re-focus business on diamond mining off the west coast, while continuing to nurse its interests the Waterkloof Boulevard. It had tied up a deal in principle with the British marine drilling group Seacore and local engineering firm Batemans to launch revolutionary diamond extraction technology on marine platforms known as Seawalkers. These would allow round-the-clock extraction from the shallower beds off the west coast, unlike other vessels that manage only two or three production days a month.

Preliminary testing produced a yield of 32 carats from just seven tonnes of undersea gravel, or roughly 450 carats per 100 tonnes (compared with yields of 2-4 carats per 100 tonnes from the alluvial deposits in the North West province). Based on these figures, De la Pierre was in theory a paper billionaire many times over. But it was not to be. The deal with Seacore and Batemans was torpedoed when Gilboa's Waterkloof Boulevard was suddenly placed in liquidation in early 2001 by BoE which, in August 1995, had provided a development bond of R14.2m. The project, launched in 1996, had achieved presales of R20m, well in excess of that required by the bank.

BoE was in charge of the disbursement of funds for Waterkloof and – through what De la Pierre says was mismanagement and delays – managed to run up a hefty interest bill to the ultimate cost of Waterkloofspruit Projects, then a subsidiary of Gilboa. The company was forced to raise another R5.1m from the bank in July 2000.

The project was by then clearly distressed, and a meeting with BoE's then legal adviser Herman van Rensburg was arranged to plot a way to avoid liquidation. The bank realised it faced the threat of a damages claim from Gilboa – which is critical to understanding what was to follow, and perhaps explains why the bank then decided to launch a preemptory strike against the company by applying for its urgent liquidation.

Of the 211 stands to be developed (valued at a total of R30m) roughly 142 had already been sold and 74 transferred to buyers. It was agreed that the remaining 137 would be sold to developer Dennis da Silva, a BoE-selected contractor, who would service and complete the remainder of the development. For its part, BoE would immediately halt the interest clock, and write back the interest to 1997 due to what De la Pierre claims was mismanagement caused by the bank. Waterkloofspruit Projects would in turn surrender control of the company to BoE to expedite marketing and selling of houses to be built by Da Silva. This should have yielded a profit of R8m for Waterkloofspruit Projects.

When the written agreement to the arrangement arrived from the bank, it detailed all the key points but made no mention of the interest write-back, nor of the agreed undertaking to pursue damages against the previous contractor. The agreement was nevertheless signed by De la Pierre, but had not yet been ratified by Gilboa shareholders.

While discussions about the interest write-back proceeded, Waterkloof Projects sold all 137 remaining stands to Da Silva for R30.47m. An agreement was signed in July 2000 whereby BoE would instal and pay for the outstanding services.

No such thing, claims De la Pierre, he was "just trying to stick to the rules of the JSE in seeking ratification of an agreement".

A few days later he received a doorstopper of an urgent application for the liquidation of the company. From there, matters proceeded at the speed of light. The claim from the bank was for R29m. De la Pierre claims the outstanding bond should have been R22m when the agreement was signed with Da Silva. Even without the interest write-back, the outstanding bond should not have been more than R26m.

"In bringing this claim for R29m, the bank in effect inflated the debt and misled the court, resulting in the unlawful liquidation of the company," he says.

De la Pierre claims the company was not in arrears on its bond, so the application for liquidation was completely without merit. The bond agreement clearly stipulated that the bank

A Section 417 inquiry was hastily convened so as to badger witnesses and paint the directors as reckless.

"Tell me, where did you and Mr De la Pierre hide the money?" asked the advocate, spicing his interrogation of the shell-shocked company secretary with threats of sequestration. This was despite the bank having had full control of the money and all disbursements since the agreement was signed in July 2000.

In the mayhem of liquidation proceedings, De la Pierre agreed to cough up a further R5m but the liquidators then upped their demand to R10m. De la Pierre agreed but then realised he could not bind Gilboa to this agreement without getting his board's approval.

A few weeks later, on 23 March 2001, the Waterkloofspruit Project's remaining 137 stands went under the hammer. The instruction from the Master was to sell them individually, so as to fetch a better price than if sold as a single lot.

The auction was a fraud which benefited Nedcor's Private Bank, says complainant

Da Silva started work on 14 houses – improvements valued at the time at R8.4m. Meanwhile, yet another contractor, Ralph Rojahn, was introduced to BoE as the project's purported saviour, because Da Silva's lack of haste was seen to be imperilling the project.

Rojahn offered to take over some of the stands from Da Silva and to service them at his own expense. The bank jumped at passing the cost of servicing the stands to Rojahn but the fly in the ointment was the agreement signed the year before with De la Pierre, whereby the bank had undertaken to foot the bill for servicing the stands.

A way had to be found to ditch the agreement and, for this to happen, the bank had to liquidate Waterkloofspruit Projects, claims De la Pierre. An opportunity soon presented itself: in the first week of January 2001, De la Pierre fired off a "Happy New Millennium" email to his trusted bankers, also reminding them that he still had to get shareholders' ratification of the agreement signed in July. BoE fired back saying he had repudiated the agreement.

would recover its money as the stands were sold and transferred to buyers. But due to the bank's own mismanagement of the project, stands could not be transferred because the bank had not serviced the stands as required by the agreement. Had the bank done so, all the stands would have been transferred to the buyers by the end of 1999, leaving a surplus for Gilboa, says De la Pierre.

There was no provisional liquidation order as is usual in such matters, even though the application was mysteriously deemed urgent. The process leaped from summons to final liquidation on 14 February 2001 with liquidator Arno Cronje appointed by the Master and Leon Lategan immediately afterwards.

Another unusual piece of evidence in De la Pierre's affidavit is a copy of correspondence sent by Cronje to the Master requesting permission immediately to sell the Waterkloofspruit asset – two months before the bank applied for liquidation – further evidence of collusion, says De la Pierre. The second liquidator, Enver Motala, was appointed shortly after final liquidation was granted.

De la Pierre says the auction was not advertised in the *Government Gazette* as required under the Insolvency Act, and that it was a sham intended to defraud him, the family trust and Gilboa to the benefit of the bank, the liquidators, the auction company and the contractors – and that this was the second fraud in the series of irregular actions.

"I didn't even know there was an auction. Much later I found out that the plots were sold off as a single lot, and that BoE would not accept less than R29m – banks cannot do this in liquidations. The bank also advised potential buyers that the stands needed additional investment for servicing and that the buyer had to maintain the adjoining park for 30 years – which was not true as the onus was on the bank to pay for the servicing. The bank also pretended the stands still had to be serviced, which was not true. This was clearly an attempt to torpedo the auction and drive buyers away. In law, misleading information is considered fraud. Not surprisingly, no-one made an offer on the day of the auction," says De la

Pierre. Having frightened off potential buyers (there were only about 60 present) with this alarming information, there were understandably no buyers and BoE declared the auction concluded.

De la Pierre took the liquidation on the chin. But in 2004 he noticed a newspaper article exposing "repo scamming" where banks were found to be colluding with liquidators and auction companies to commit fraud. Repo-scamming involved the sale of repossessed properties through sham auctions to friendly buyers at knock-down prices. These assets would then be sold by the fraudsters at market-related prices, enabling them to pocket a juicy profit. This, says De la Pierre, is exactly what happened to him.

When De la Pierre later obtained a copy of the Liquidation and Distribution Account of the liquidated company, he discovered that all 137 stands had been sold for a total of R100,000 – or R730 apiece. A year earlier, they were selling for more than R200,000 a stand.

In its response to De la Pierre's damages claim, the bank claimed it had sold the 14 stands on which Da Silva had built the 14 houses prior to liquidation. But Da Silva contradicts this in his court papers, claiming he bought the 14 semi-complete houses and an additional 19 stands after the liquidation. He appears to have got the deal of a lifetime, picking up the houses for the price of the vacant stands only – although none of it is reflected in the company's liquidation and distribution account.

Both Da Silva and Rojahn received bonds from BoE to fund their acquisition of stands soon after the company was put into liquidation. Da Silva's company, Randparkridge Extension 60 Development, received a bond to purchase, and Rojahn raised bonds through their company, Dotcom 635 (Pty) Ltd. This, says De la Pierre, supports his contention that the bank colluded in the frauds.

A curious detail: two of the defendants – Rojahn and his company Dotcom 635 (Pty) Ltd which bought several stands after the liquidation – have their registered address as: c/o George Michaelides. He happens to be the attorney who shot and killed his client Kevin Trytsman, a private investigator with links to organised crime. Michaelides pleaded self-defence, escaped conviction, and promptly fled overseas along with millions of rands belonging to his clients.

Defendants in De la Pierre's summons for restitution and damages include Nedbank/BoE Bank, the joint liquidators Cronje and Motala of SBT Trust, Waterkloofspruit Projects which was liquidated in 2001, the Pretoria Master of the High Court, as well as Da Silva and Rojahn. Of the 12 defendants, De la Pierre is seeking damages from Nedbank, the two liquidators, two contractors and their two companies. These parties are all opposing the claims.

De la Pierre accuses Keith Adams and Herman van Rensburg of BoE of colluding with the liquidator Cronje and later Motala of masterminding the repo scam. Adams and Van Rensburg left BoE soon after PriceWaterhouseCoopers conducted an audit in another investigation. That was brought by BoE's own preferred auctioneer, Henk van der Walt, who alleged that an "inner-group" was planning repo-scams and operating a slush fund for their own benefit. Nedbank has yet to explain the sudden departure of Van Rensburg and Adams.

De la Pierre claims in his summons that the auction was a sham and he is asking for damages or restitution. Several judges have agreed with him (see box.)

"Nedbank is legally liable to effect the return of the stands, alternatively and insofar as Nedbank may not be able to deliver any stands, to make payment of their market value… the current value of all stands with improvements being at least the sum of R400m, and without improvements, at least… R200m."

Litigation funding is a new and exciting development in the South African legal landscape. For those with strong cases, there is a prospect of real justice. The days of cutting off litigants at the knees by dragging them through the courts for a decade or more may, for some, will become a tad more difficult in the future. ■

The judges are asking questions about the liquidation

FOUR SETS OF JUDGES HAVE FOUND EVIDENCE OF fraud, collusion or irregularities in the Waterkloofspruit Projects (WKP) liquidation case.

In 2007 Nedbank tried to have certain references to fraud and other irregularities struck from De la Pierre's replying affidavit. Judge Lettie Molopa in the Pretoria High Court ruled against the bank, saying, "…where public figures like liquidators are concerned, and where issues of fraud and/or *mala fides* [*bad faith*] are raised, it is important that all issues be properly ventilated before a court…"

She said bad faith and fraud "both deal with the issues of dishonesty".

In 2008 Judge Moses Mavundla of the North Gauteng High Court ruled that the liquidation should be set aside, the Loan and Distribution account re-opened, and WKP revived. He advised action against the liquidators and any other party who had benefited from the fraudulent conduct of the liquidators.

Judge Mavundla also questioned the benefit to creditors of selling 137 stands to Nedbank for a total of R100,000: "Such sale of the stands at such nominal value has a potential of being prejudicial to all and sundry concerned and interested in the matter."

Nedbank's purchase "in the face of an allegation that there had been an offer of R20m made by one Joubert," bolstered claims of bad faith or fraud or collusion on the part of the liquidators and Nedbank and to the prejudice of creditors, he said.

The matter went to the Supreme Court of Appeal which overturned the ruling to re-open the Loan & Distribution account and revive WKP. But the judgment did not preclude De la Pierre from pursuing his damages claim against the bank and the alleged co-conspirators.

The SCA also found that there may well be a claim against the liquidators due to their dereliction of duties to act in the best interests of the company.

In a damning opinion on the case, prior to any of the court hearings, retired Judge Kees van Dijkhorst wrote: "Was BoE – who torpedoed the auction by its statement that it would not confirm any bid below approximately R29m, thereby engineering that it would be able to purchase at a rock-bottom price – a *bona fide [good faith]* purchaser? Was the co-liquidator (Cronje) who permitted such statements to be made at the auction without repudiating them, thereby acquiescing therein, a good faith seller? The answer to both is negative if BoE had no right to confirm bids."

Van Dijkhorst concluded that the sale in liquidation was void and "it is conceivable that the (Loan & Distribution) can be set aside on ground of fraud."■

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Russia with love. Bob Mugabe's new best friend

Bear hug: Russia's President Putin

AMIDST THE VICIOUS SCRABBLE FOR the succession, Zanu-PF's new best friend Moscow delivers investment in the platinum industry, money and planes.

Nothing and no one seems able to stop the rival factions of the ruling party from undermining each other as they position themselves for the presidential succession. The claimed victims range from the former Governor of the Reserve Bank of Zimbabwe, Gideon Gono, whose bid for the Senate has been blocked by the Zimbabwe Electoral Commission, through to the prophets of a breakaway Apostolic sect, charged with sexual abuse and attacking the police.

Information Minister Jonathan Moyo has been unmuzzled and his special brand of vitriol reactivated in the columns of the state media. Uncovering "US agents and other gay gangsters" who have infiltrated Zanu-PF is the current obsession. Insults fly, tempers fray and even close relatives of the First Family have been drawn into the fights.

For a break from it all, in September the cash-strapped treasury somehow rustled up the funds for a chartered plane to carry President Robert Mugabe and his entourage of 100 to New York for the opening session of the UN General Assembly. After the official business, they were off shopping – the novices taking "selfies" for their social media pages, more devious old hands snapping spendthrift colleagues to feed to the press back home.

As new SADC chairman and chairman-designate of the African Union, Mugabe had a never-to-be-repeated chance to make an impact. Yet he studiously ignored issues such as climate change, Ebola and armed jihadists. Instead, he attacked the USA for hypocrisy in supporting "settler regimes", notably in Gaza.

Such rhetoric is a sure sign Mugabe is under pressure; white Zimbabweans are now largely politically irrelevant. He played the settler card relentlessly in his speeches during his recent state visit to China, but returned from Beijing with little more than another medal and diplomatic advice about succession planning. Then he turned to Russia as his new best friend. Russia is no longer the full-blooded red of Mugabe's youth, but unashamedly white.

On the eve of his departure for the UN, Mugabe received the welcome boost of a lightning visit by Russian Foreign Minister Sergey Lavrov, who joined his Industry and Trade Minister, Denis Manturov, who had preceded him by a week. They came bearing gifts in the form of a promised US$4 billion investment in platinum and an immediate cash injection of $400 million for the ailing economy. The Russian visitors also brought components for the Air Force: two of the country's few remaining airworthy helicopters had been written off in rehearsals for the mid-September Air Show.

Russia has much expertise and the promise of a platinum group metals refinery will relieve Zimbabwe's reluctant other producers, who had been under pressure to do the same in order to fulfil the beneficiation dreams of the Zimbabwe Agenda for Sustainable Socio-Economic Transformation, more usually known as Zim Asset.

Already under sanctions pressure over Ukraine, Russia needs all the quiescence it can generate in international forums and clearly hoped that Mugabe's tenure as the chair of such key organisations as the SADC and the AU would help. There is also the prospect of stealing a march on fellow BRICS (Brazil, Russia, India, China, South Africa) members South Africa and China. Beijing was fairly unsympathetic to Mugabe's pleas for cash, and Moscow is much less likely to offload its own cheap labour on any project.

After the farewell photocall at the Kutama summer palace, Mugabe was off to New York, accompanied by the newly capped Dr Grace Mugabe PhD. No incidents with US immigration this time: the First Lady had little to declare but her genius.

Grace Mugabe's fast-track doctorate, in months rather than three years, has sparked controversy. Few accept that her upgrade owed much to anything other than political pressure, and it could prove a dangerous over-egging of the pudding. Dr Grace is being introduced to the grass roots in a series of large rallies and is expected to gain high office at the Zanu-PF Congress in December. It is now almost certain she will lead the Women's League and gain an *ex officio* seat on the key Politburo. ■

Poll position. Guess who's coming to dinner ...

The appearance of Mohammed Bashir Suleiman, who has been designated a "drugs kingpin" by the US – at the banquet of a Mozambican business association on 18 September – has infuriated friends of Filipe Nyussi, Frelimo's presidential candidate. This is because the organisers, Confederação das Associações Económicas de Moçambique (CTA), invited Bashir to the event and placed him at the top table, just a couple of seats away from Nyussi.

As the CTA banquet in Maputo turned out to be a fundraiser for Frelimo's election campaign, Bashir's attendance sent a clear message: that he remains an important financier of the party, despite US reports that his fortune derives from drug smuggling.

The USA was unequivocal in its June 2010 designation: "Mohammed Bashir Suleiman is a large-scale narcotics trafficker in Mozambique and his network contributes to the growing trend of narcotics trafficking and related money laundering offences across Southern Africa," said Adam J Szubin, the Director of the US Treasury's Office of Foreign Assets' Control.

Bashir's conglomerate Grupo MBS Limitada, which includes retail stores and a shopping mall in Maputo, were placed under US sanctions. Bashir has repeatedly denied all wrongdoing.

The business people at the banquet were doubly surprised. Firstly, at the way in which it turned into a fundraiser for Frelimo. Secondly at Bashir's presence: since the US designated him as a drugs kingpin, President Armando Guebuza has publicly distanced himself from the wealthy businessman.

Bashir's presence and the party fundraising was also awkward for two executives attending the banquet from the US oil company, Anadarko, which is building Mozambique's liquefied natural gas plant.

The US State Department has said it will respond to questions from *Africa Confidential* about the legal implications of Bashir's financing of Frelimo and participation in the CTA meeting.

The reports on these facing pages are from UK-based ***Africa Confidential*** (www.africa-confidential.com), the authoritative fortnightly bulletin on Africa.

Nyussi supporters feared that Bashir's association with his campaign would undermine his efforts to establish himself as a credible reformer. Nyussi was meant to have been the main attraction at the CTA banquet. Although he has become better known and liked in recent months, he lacks the political stature or experience of his predecessors.

He was clearly unhappy that a supposed business gathering had turned into a somewhat vulgar party fundraiser: as Frelimo supporters and others enthusiastically joined in the auctions, bidding vast amounts for objects of little value, Nyussi is said to have spent most of the evening dealing with texts and emails on his cellphone, although he spoke briefly to other Frelimo notables and even had a very short exchange with Bashir.

Known for his huge donations to Frelimo, especially at election time, Bashir has been a key party supporter. In return, he has developed political connections helping the growth of his business empire and giving him a degree of protection. Although he was kept at a distance, at least publicly, after the US designation, he seems keen to ingratiate himself with presidential candidate Nyussi. The enthusiasm doesn't appear entirely mutual.

Bashir is nonetheless a long-time party donor and Frelimo certainly needs funds.

Associates of businessman Silvestre Bila, who played a key role in winning Nyussi's nomination as Frelimo's candidate, say that he opposed Bashir's invitation to the CTA banquet. Despite confusion about who actually issued the invitation to Bashir, we hear that it was approved by President Guebuza.

Also at the top table at the banquet, along with Nyussi and Bashir, were several other wealthy guests of honour including Alvaro Massingue, another prominent businessman and Frelimo financier. For the astonishing price of just over 2 million meticais (US$65,000) he purchased the pen with which Nyussi was to sign the official documents at his inauguration. The pen purchase seems to have become a symbolic gesture of support, accompanied by a hefty party donation. When Guebuza was candidate, it was Bashir who bought the presidential pen for a similarly inflated sum.

The following week the CTA held another dinner at which it gave a brand new Mercedes-Benz to President Guebuza. Embarrassed at the gesture, especially in the run-up to an election in which Frelimo's commitment to fighting corruption is a key issue, Guebuza immediately returned the gift.

In October 2009, Massingue's company Sotux, alongside another company in which Guebuza was a shareholder, won contracts to supply equipment for the elections. Earlier that year, Massingue had escaped any censure in the Banco Austral scandal: the bank was accused of making reckless loans to politicians and well-connected business people that were never repaid.

Massingue was one of Banco Austral's top three officials at the time but the government took no action against the bank or its management. ■

ANNE SUSSKIND

Brain drain. Conquest of Oz

A plastic sword that "wouldn't be able to cut a cucumber", was one of the more frightening images flashed around Australia after it was bagged as evidence during recent counter-terrorism raids.

Operation Appleby resulted in 16 arrests and 22-year-old Omarjan Azari being charged with conspiring to behead a random person in Sydney's CBD. It also provoked a civil suit for damages from a family who say they were unfairly targeted by men in balaclavas who arrived before dawn, and stayed for 12 hours.

The sword's owner, Mustafa Dirani, 21, who was detained and released without charge, says the Zulfiqar – a symbol of Shiite Islam – has been on display in his home for years and he is waiting for the police to return it. His family are Afghan-born Shiite Muslims, while Isis is almost exclusively Sunni.

Australia is apparently a prime target for jihadists and the government has said some people's freedom will have to be curtailed to protect that of many. There's new legislation, expanded police powers and the media is having a field day unearthing links to the war on terror, with balance represented by interviews with anguished local Muslim families whose children have gone to be part of "violent Islam" overseas.

Australia's foreign aid looks set to take a cut because of the funds needed to pay for military operations in Iraq. Also mooted are "savings" on old-age pensions and higher education, and increases in medical fees and petrol tax. In early October, PM Tony Abbott gave the "green light" to join the seemingly open-ended war in Iraq, with warplanes to support the US in its aerial strikes, and, since then, ground troops too.

On the same day, burqa hysteria gathered force, with Abbott saying it was "a confronting garment" which he wishes wasn't worn anywhere, and could even be a security risk in parliament – which

Former South African Latin teacher Gail Kelly was Australia's fifth highest-paid executive last year

by the end of the day had ruled that women wearing the burqa to parliament would be seated in a glassed-in section of the public gallery usually reserved for schoolchildren. This despite the fact no-one knew of women in this attire having parliament as a destination. It was pointed out that, while Tony Abbott is a confronting sight in his "budgie smugglers" (he was once interviewed in his speedo), there's no talk of a ban there.

Australia holds 647 children of asylum seekers in closed detention: 500 on the mainland and 147 offshore on Christmas Island, including 28 children with disabilities. Another 222 are detained on Nauru, an island in the South Pacific. On average, says Australia's Human Rights Commissioner, Prof Gillian Triggs, children and their families waiting to be processed (although none has been since this government came to office 13 months ago) have been held in closed detention camps for over a year.

Paediatricans believe mandatory detention is child abuse, says Triggs, and their doctors are having to consider whether to honour their hippocratic oath and speak out or abide by the confidentiality clauses of their contracts. They were seeing things they did not think appropriate for a mature democracy like Australia, said Triggs.

A recent survey in the *Medical Journal of Australia* reported that after visiting Christmas Island, one paediatrician concluded that "almost all the children are sick" and other doctors have reported widespread self-harm occurring among the children.

Alongside all this, are the well-intentioned contradictions that are Australia. Age Discrimination Commissioner Susan Ryan says older workers (approaching 50) should be offered 'career check-ups' to prevent unemployment later. These would involve a skills analysis test and advice about work for the next 20 years, particularly for those in a declining industry, physically unable to continue their job, or burnt out. Ryan says she wants to move away from a model that "seeks and favours only youthful ... and 'high energy' dynamos".

Making their mark: South African born Gail Kelly, CEO of one of Australia's biggest banks, Westpac, was Australia's fifth-highest-paid executive last year, with statutory pay of AU$9.1 million (R87m). Her "realised pay" was $14.1m. Kelly, 58, grew up in Pretoria, went to UCT, and worked as a Latin teacher in Zimbabwe before going into banking and emigrating to Oz in 1997. She was Forbes's 56th most powerful woman in the world in 2014. Last year, when she unveiled a bust of Mandela at the University of NSW, one of Australia's most influential businessmen and philanthropists, Chancellor David Gonski (whose family emigrated from Cape Town when he was seven) said the bust would stand as a permanent tribute, not only to the man, but to the contribution made to Australia by all South Africans. No sign of burnout there. ■

LEN **ASHTON**

Killer thriller. Bennie redux

COBRA
by Deon Meyer
(Hodder and Stoughton)

Bennie Griessel, the boozy, battered and despairing anti-hero cop of crime novelist Deon Meyer's invention, is an endearing character. His personal and professional woes provide startling insights into the minds of conflicted South African lawmen who try to reconcile duty with the confusing messages emanating from state powers.

Meyer makes it clear that police who survive the previous regime often suffer particularly demoralising angst as guilts from the past collide with new challenges to integrity. What do you do when the new overlords proceed to replicate actions and attitudes which echo apartheid era horrors?

But world-weary Bennie is not alone in his attempts to preserve decency in daily police practice: he is awed by resolute colleague Mbali Kaleni, a substantial lady in every sense. She may be given to furtive consumption of sweeties, but she is clear about the difference between right and wrong, and prepared to speak her mind on the subject.

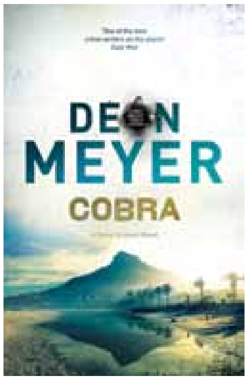
Meyer fans will relish the reappearance of his colourful crew of crime-fighters, including Griessel's dauntless sidekick Cupido, who is obsessed with historic resentments, stylish grooming, and fluent Mitchells Plain abuse. He can *gooi* the *taal* to devastating effect, Mbali's fierce indignation notwithstanding. The lady is convinced that rude language constitutes an offence against national propriety. She may have a point.

And who is the villain who challenges our heroes to solve this dramatic high-speed thriller mystery? X visits death and destruction on sundry familiar sites, eg Cape Town's glamorous Waterfront precinct. Our tourism authorities will blanch at the notion of such desecration, but the tale also has international reach, with rich and powerful baddies colluding to suppress the facts behind a string of whodunit murders, chillingly portrayed.

The amusing wild card is a nervous young pickpocket named Tyrone Kleinbooi, who is going about his unlawful business when he coincidentally witnesses bloody mayhem. This picaresque orphan youth learned his trade at the knee of a professional. And he's silky smooth at the game of extracting wallets from distracted citizens. Well, mostly tourists, actually.

But he knows too much about the murders, and all his slippery skills come into play as he dodges both cops and robbers in a dangerous game of hide-and-seek.

Meyer famously knows police characters and practice, and he researches diligently. The train service is vital to the plot, and the author treats us to some breathless Third Class rides, plus hectic pursuit through back alleys and winelands. *Cobra* is perfect movie material. ■




Deon Meyer

BHEKI **MASHILE**

Nyaope. Name of mothers' misery

RECENTLY MY HEART WENT OUT TO a bunch of mothers as they described the turmoil they were going through because of their sons' addiction to drugs – the concoction known as nyaope to be exact.

These mothers were not from my Barberton but from another Mpumalanga dorp, Delmas. Their story was televised on an evening news broadcast. Apart from sympathy, I felt a deep sense of anger at the authorities' inability to deal with this scourge that is spreading through our communities like a runaway brush fire. Even more infuriating was the comment from some politician who simply regurgitated the tired old line: "We will do everything we can to help these families and clean up the community of these drugs." Nothing more than political spin-doctoring on a problem that is clearly out of control in our communities. Meanwhile the authorities, local police, provincial drugs investigation units are simply not able to deal with it.

My investigation was prompted by the recent spate of burglaries in this once fairly safe "Jewel of the Lowveld", as Barberton is famously dubbed.

Sure, like most communities around the country, Barberton has not been immune to house break-ins. However, over the past two years, the burglaries have been too well-organised, with several households or business premises hit at once, and all with the same sort of items targeted: exclusively electronic equipment and specifically laptops and LCD screens. Odd that these items contain a powder that is used in the drug concoctions.

My investigation revealed several key factors. First, the dealers were operating so openly that one could conclude they were doing so with impunity. The second point that struck me was that, if the community was well aware of who the burglars were, so should the police be. Last, I discovered that scoring a fix was as easy as buying a loaf of bread at a spaza shop.

Why is it beyond our men and women in blue to uphold the law and crack down on them? On the take? There would be no surprise there.

All it took for this journo to buy some drugs was to have a community member point out one of the dealers. From there, a quick meeting was held to express interest in scoring, and, whoa, a few days later this scribe was called and asked if I was still interested.

What do you have? I asked.

What do you want? Cocaine, cat, (methcathinone) heroine, anything you want I can supply, was the response. I could not believe it. It was that easy, over the phone and without any fear whatsoever.

The drug dealer brazenly lived behind the police station

Naturally such a scenario suggests these guys either have fantastic muti or possibly make regular donations to the police's "retirement fund", benefiting a few select officers, of course, since some at the Barberton Police Station have expressed frustration at seeing these dealers going about their business with impunity. And, when one is arrested, at the ease with which they are granted bail.

"Why aren't the arresting or investigating officers opposing bail? The fact that all those caught turn out to be foreign nationals, usually Nigerian, should render them a flight risk. One alleged dealer, 38-year-old Nigerian Chigibo Onyinyo Samuel, was busted just behind the Barberton Police Station but released on bail of R3,000 when he appearing in the magistrate's court.

"There is something wrong with this picture," said an officer who asked not to be named.

Understatement. The bust was made by the White River Dog Unit which handed the suspect over to the Barberton Police, the same police station behind which the dealer brazenly lived. Yah, some things truly boggle the mind.

Ok, I made my score of a gram of cat at a cost of R300 (investigative journalism can be a costly exercise) to collect evidence to back up my story.

Some time back after I wrote an article, "Barberton's drugs hell", a Colonel Joubert at Barberton told me he was *gatvol* that I would make such an insinuation and insisted Barberton did not have a drug problem. Well, what will our local coppers say now, when presented with the evidence? But, heck, I could get busted for possession. Dear Editor, please put some money aside for a legal defence fund just in case.

After the purchase, or score, my man – who called himself Charles – said if I needed any more I should just call. He then walked away cool, calm and collected. Of course all along I was shitting myself, hoping he would not recognise me as the local scribe. If he did, I don't think he cared.

The end result? Simple, the RSA needs a national illicit drugs fighting team like the US's DEA, a unit that is allocated the resources to go after the head of the snake, the suppliers.

Barberton is said to have one main supplier who is well-known to both local and regional cops in Nelspruit's Lowveld District police headquarters, as well as to this journo. He is reportedly a police informant – which officers have confirmed. Who is he informing on, one wonders – the competition?

Sorry, but the sympathetic spin-doctoring words of a politician will not put an end to the suffering of the Delmas mothers and certainly won't stop this runaway fire engulfing us. Gone are the days of a drugs problem confined to the Cape Flats and Hillbrow. It's now all over Mzansi for sure. ■

HAROLD **STRACHAN**

Something soft. End of the Rhodes

In defiance of Britannia who had stolen Oom Paul's gold, my Ouma in die Ou Transvaal used to sing *We are marching to Pretoria, Pretoria Rules the Waves. En daar lê die ding. Finish and klaar*. And thus she was still singing in 1931 when my ma with three kids took off for the Colonial Capital of the British Empire, namely Pietermaritzburg, Natal.

Here I was enrolled in a school set up by a couple of sentimental old Scotch ducks who came from a Scottish place called Merchiston and loved the Empire like anything, wherefore I got stuck in a school house called... called... wait for it... Rhodes. The other school house was Milner, he, the only no-good cunning merciless imperialist sonofabitch I presently can think of who was worse than Rhodes. But there you have it, so gaan dit mos in die ou wêreld, one of the first things I learned at the age of literacy were Rhodes's Last Words: So much to do, so little done... (sob).

Ja, here we sang hymns in the quad each morning, thus: *God bless our native land, may His protecting hand long guard our shores, may Peace her power extend, foe be transformed to friend, and Britain's rights depend on war no more.* Bloody Hell! thought I (for the first thing I'd learned at Merchiston was swearing in the British mode) my Ouma should hear this one! But I soldiered on regardless, and at 14 I was installed in an Imperial Pietermaritzburg high school with a crest of crossed Martini-Henry rifles and stabbing spears in memory of iSandlwana. School colours were black on white plus red for the British blood that was spilled there, you see. No Zulu blood. I got a manly man made of me by prefects beating my bum for not playing rugby. And there, a disillusioned old Pom gay History master, name of Whoopsie, taught me that Rhodes's last words were actually: Roll me over on me left side, Jack.

But that was not the end of this last-word saga. I further soldiered on, a full generation of imperial bullshit, and of all places, I found myself in Salisbury, Rhodesia, which was about to become Harare, Zimbabwe, and there I met an old wartime flying buddy who'd been in the Rhodesian Air Force and now was proper pissed off with all heroes whomsoever incl ol' Smithy, and he told me Rhodes's last words were actually thus:

Rhodes: I'm fading fast, Jack... I'm slipping away... say something soft, Jack...

Jack: (sob)... Oh-h-h shit!

And the trouble is, all this old Rho-

desian kak lingers on and it's much too facile to say it's all because of a no-good cunning merciless sonofabitch Robert Mugabe aka Mad Bob. You can betcha life on it when ol' Mugs departs this vale of tears one of these days he won't go murmuring sententious crap about so much to do and little done, he'll go to the Foreverhereafter cursing T Blair as a N-GCMS. and yelling "Zimbabwe will never again be a colony!" And let it be on record that I agree with him. There are plenty plenty people like R Willy Johnson who this very day opine, nay insist, that Africa's salvation will come only by recolonising the place, all of it, let's face it it's all one country. Why, our Willy even writes books about such bollicks, f'chrissakes. I mean come on, Johnson's prime obsessive hatred was for Thabo Mbeki personally because Thabo saw himself as an intellectual and there's only one intellectual around here, see, and that's me from Oxford (I mean that's I). But particularly he hated him since when Blair had come wheedling up to Mbeki, smiling the 64-tooth smarmy smile, inviting him jointly to invade Zimbabwe on behalf of British decency, Mbeki in his genteel mode of speech had invited Blair to get stuffed. On his Catholic Sabbath.

Modern colonialism goes more or less like this: you eye the natural resources of some sovereign country way over the horizon, whose people bear you no grudge, possibly never even have known about you. You do dirty deals with their president. He gets disobedient. You lay sanctions on him. To get at the natural resources you first crank up your mainline media machinery to vilify this president, he's a danger to the civilised world, his people fear and hate him, he's mad. You give him a whack of the old Shock & Awe under the banner Operation Free Soandsoland. You liberate his people. You liberate their natural resources too. You murder their president. You murder his sons too lest they give evidence at the International Criminal Court about your past dirty work with their father. You decide it's best to take over the natural resources as guardian against unscrupulous fundamentalists. Something like that.

Maybe Mad Bob too remembers Oom Paul's gold, how 80% of all profit went overseas, how, of the remaining 20%, precious little went to the people who got the stuff out of the ground. Wealth doesn't trickle downwards as the wealthy like to say. By a process of osmosis it seeps upwards to where their greater wealth already exists. ■

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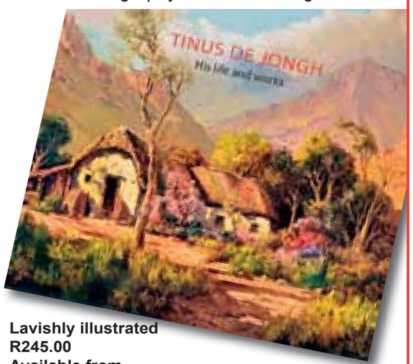

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