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188 JUNE 2015



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Survé's hypocrisy

THANKS FOR ANOTHER GREAT ISSUE WITH news that is independent in the true sense. I have just subscribed to a print copy, as well an internet version so that I can catch up on past editions!

Thanks for the wider perspective in the excellent editorial on the Rhodes statue issue.

As for exposing some of Iqbal Survé's hypocrisy, I wondered whether it was coincidence that Independent Media broke the Rhodes excrement story. Its owner, Iqbal Survé, broke ties with the UCT at the end of January, accusing the institution of lack of transformation.

Funny how, soon afterwards, Independent Media reporters just happened to be on campus to capture the exact moment of excrement throwing. Independent Media then fuelled the subsequent protest by championing it on their front pages day after day until it gained a momentum of its own, with some destructive consequences.

How good it would be if we could all

Gus



Unable to effect forward motion, *Homo velocipediensis* became tragically extinct 2 million years before the invention of the bicycle.

wake up in a non-racist, inclusive South Africa, as in Mmusi Maimane's dream.

Thanks for the uplifting and informative article about this inspiring man. An astute and principled leader with moral authority and courage is just what our country needs.

Sandra Hewitson
Cape Town

Keep talking

TODAY I BECAME A *NOSEWEEK* READER. (I found a copy in a friend's loo, and went out and bought my own copy). I am disillusioned with the *Cape Times*, but will not stop reading it, mainly because I want to know what everybody is thinking.

Recently, for example, there has been a fertile discussion between Crain Soudien, Deputy Vice-Chancellor of the University of Cape Town, and Xolela Mangcu, Associate Professor of Sociology, also at UCT, about academic freedom and the role of a university.

Apart from these topical discussions on issues confronting the community, one wants to keep a tab on how the opposition (the ANC) sees things. And we need to keep open the channels of communication at all costs.

Conditions in this country do not permit us to tell each other to shut up. We need to keep talking through thick and thin. At the moment, perhaps all we have is our amazing ability to communicate. Let's do it!

Irma Liberty
Rondebosch

A future of tolerance

MMUSI MAIMANE (PROFILE, *NOSE187*) sounds like the right type of person to lead the DA, and to lead the country. He represents a future of tolerance and interracial understanding, with the right mix of decent education.

But, he has one thing wrong: don't pray for the country, pray for the unenlightened who, like sheep, still vote ANC. It is they who need the prayers.

Roger Webster
Wendywood

Serial squatter

SUBSEQUENT TO YOUR INTERVIEWING our serial squatter, Matt Ndlovu, (*nose187*) we managed to "convince" him to move out of his own accord. The coward ran away and left his children to pack up and transport their belongings to who-knows-where.

We are continuing litigation to ensure that he can never return, and, will be selling his assets to defray legal expenses and loss of rental and utility payments. The house has been completely vandalised and will be inspected by an insurance assessor soon, pending major repairs

Clive Bruyns
Johannesburg

Now see *Editorial and story on p28.*

Steinman a selfless champion

REGARDING DR BARBARA ZEISLER'S letter in *nose186*: For one who has apparently taken the Hippocratic Oath (Hippocrates 460-370 BC) and who then states that "scientific medicine is only approximately 100 years old", she is confusing the public.

For Dr Zeisler to attack the bonafides of Dr Harris Steinman is unfortunate. He is much admired by his colleagues working in human allergies and does so much to target "snake oil salesmen" who prey on the gullible public. He is a member of the Allergy Society of South Africa.

For a number of cases he has paid for his own air tickets to fly to Joburg and devoted much time to appear before the Advertising Standards Authority. For this, he is not paid.

The inadequacies of the ASA have been obvious for some time, but an attack by Zeisler on an ex-judge who is chairman of the ASA is uncalled for.

Having been a GP for 32 years, I can only say that it is incumbent on us to protect our patients against the untruthful claims of so many "snake oil salesmen" – a surprising number of whom have degrees and are permitted to practise medicine.

Dr Joan Lewis
Bergvliet



Facing the Mmusi... Survé's hypocrisy

Defy's defects

WHY OH WHY DO PEOPLE STILL SUFFER such aggravation? I read the Jaron Tobias story about Defy in amazement. If a consumer wants to make a *real* difference, then use the Consumer Protection Act for what it was intended – defective new goods. The option to claim a refund, a replacement, or repair, is Jaron's.

Always choose a refund, then buy another unit (even if it is identical, as this is a new transaction). End result: the retailer has been inconvenienced with the paperwork due to the manufacturer's defect. If that happens often enough they will either reduce their product lines or change suppliers. The manufacturer is left with a second-hand unit that must be collected and returned to the factory (at a cost), or sold at a reduced price. Both options hit where it hurts most – the bottom line.

When enough consumers do that, companies like Defy will either bend over backwards to help or their top dogs will be where they should be – awaiting unemployment payouts. Either way, the consumer is spared emotional and financial harm.

Kevin Martin
Glenwood, Durban.

SOME TIME AGO MY FRIDGE PACKED up and was taken to Defy, PE, for repairs. After a couple of inquiries I was told they couldn't help because the guy working on my fridge was in America! I eventually got hold of the

regional manager and was given a new fridge – after three months!

My Defy upright freezer has given problems from the day I bought it and the Defy microwave was repaired twice under guarantee; I now no longer rely on Defy – I buy Samsung.

J Els
Kenton-on-sea

THERE'S NO DEFENDING DEFY'S LACK of response to complaints, but I wonder why Jaron Tobias bothered with them at all. Let the retailer, Hirsch's, resolve the problem. If they had delivered a second faulty product from the manufacturer, I would have insisted they give me another make, and they would have done so. They have enough purchasing power to sort the problem out with Defy, so let them!

H E Robinson
Westville, Durban

EVEN THE DEFY WEBSITE IS DEFECTIVE. Not only does it take ages to load, but the company profile has absolutely nothing on who the management is. However, from this article one can deduce there is no proper management.

Richard Bennett
By email

WE WILL NOT BE SPECIFYING DEFY IN our residential projects unless we see a concerted effort by them to put this perception right and improve their appalling customer service.

A R Katz, Architects
Oranjezicht, Cape Town

Insurance chancers?

RE YOUR ARTICLE "NO FIRE WITHOUT smoke" (*nose186*). It seems some insurance companies don't only want to avoid paying claims but also go to dubious lengths to intimidate people into paying money not legally due.

Last year I had an accident in an area where roadworks were in full swing involving multiple cars from three directions. My insurance settled and I thought that was the end of it until I received an email from an "Uninsured Recoveries Consultant" at Telesure, saying: "Please that this matter has been discussed with your insurance and therefore advised that your claim for them to cover for the loss of your negligence on the above date has been rejected as by you could not keep proper control of your vehicle that resulted in your vehicle colliding to our clients vehicle." (Exact wording)

This was followed by a letter of demand and a specific threat of judgment and a warrant of execution.

I referred it to my broker who responded: "I have confirmed with Zurich no rejection was given on the basis that my client was negligent. I don't know where you got your information from. Our client was not the cause of this accident and therefore will not be held liable."

One wonders if this type of behaviour is simply about trying their luck or possibly even illegal?

Colin Mitchel
Ballito



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Editor

Martin Welz
editor@noseweek.co.za

Contributing Editor

Donwald Pressly

Designer

Tony Pinchuck

Consultant

Len Ashton

Sub-editor

Fiona Harrison

Contributors

Glenn Ashton, Len Ashton, Helen Grange,
Jack Lundin, Harold Porter
Susan Segar, Jaron Tobias, Barry Sergeant,
Anne Susskind

Cartoons

Gus Ferguson, Stacey Stent

Accounts

Nicci van Doesburgh
accounts@noseweek.co.za

Subscriptions

Maud Petersen
subs@noseweek.co.za

Advertising sales executive

Godfrey Lancellas
godfrey@madhattermedia.co.za

Advertising

021 686 0570

ads@noseweek.co.za

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What about the landlords?

OUR COVER STORY ON PAGE 26 MIGHT BE worth the telling simply because of it's weirdness, but note that it follows a series of stories *Noseweek* has published about small-time landlords suffering serious harm at the hands of squatter tenants and some of the extraordinary laws they so easily exploit.

To understand why those laws need urgently to be amended, consider this: we as a society – our government – are unable to provide housing for our millions of indigent citizens who then occupy land to erect shacks. Yet we are content to shift the burden on to individual citizens who happen to own property that they rent out – with a law that keeps a non-paying tenant in residence indefinitely.

To add insult to injury, the landlord is forced by other laws to continue paying the bond, electricity, water and rates. And we claim our laws are reasonable and fair?

IAM SURE READERS HAVE NOTICED HOW RACIST, puerile and generally offensive so much of the interaction is on our social media platforms – Facebook, Twitter and the comment facility found below most news reports on the internet. The exchange (copied below) that I came across beneath IOL's recent report on Bob Hewitt having been sentenced to six years' imprisonment for raping two minors more than 20 years ago, makes the point.

The focus of the very first comment is race. By the second comment we have left Hewitt's case far behind, in favour of our pre-occupation with race, gleefully recalling the 19th century Xhosa prophetess who wished all white men to be driven into the sea. So far, both commentators are (apparently) black. Now a white enters the fray, addressing "you racists" – also with no reference to Hewitt. Invigorated by having succeeded in provoking a white opponent, No. 1 Black delivers a neat "Like you". At this stage, White No. 2 comes in with a jovial bit of puerile doos-abuse, launching a my-race-is-better-than-yours sparring match.

Civilised people might by now think this is getting really ugly and, in fact, a moderator appears to intervene to strike out a particularly offensive contribution – only to have the participants all complain: "That's stupid because all of us on this forum are practically invisible, so we must be able to speak the truth as it is, I mean what harm is there?"

Maybe until now I've missed the point entirely. A younger generation of black South

Africans are free and equal enough to roundly abuse their white contemporaries, while the whites learn to take as good as they have been used to dish out.

Might there be something to be said for this racist sparring? Let it all hang out; unburden yourself; confront your abuser and, hey, what's more fun than a good wrestling match to let off steam? A sort of online sport. Maybe it's another way of getting to know one another?

Let *Noseweek* know what you think of this (and other examples you may have come across). That exchange:

Lerato Lerato: Only 6 years because he is white

JveeSobukwe: bathathe Nongqawuse you are my hero today

Micky Summer: You racists have to stick together after all

JveeSobukwe: Like you... How does it feel to be on the other side

Jilly: you are such a DOOS. Johannesburg is the rapist capital of the world, how many whites are guilty of that?

JveeSobukwe: whatever... we will overcome, and soon

Jilly: you mean you haven't? after 21 years?

JveeSobukwe: not at all... we are way behind... take note, the old man sold us out to you on a silver platter

Jilly: you never will you are not smart enough bwaaaaa haaaaaaaaaaaaaaaa There is no place for racists like you in the WORLD

JveeSobukwe: Are you sure?

Rogan Twort: Yes on every point

Onedtent: Overcame his shyness – 21 years before he plucked up the courage to comment on this forum...

Jilly: and now he makes a total twaat of himself, he does not believe in Democracy

JveeSobukwe: its everybody for himself, with us africans, what do you expect

Rogan twort: Not much

JveeSobukwe: yes baas

Witte Boer: You have the normal low standards we have become accustomed to

JveeSobukwe: it affects you, thats why

Jilly: and you are fugly bigtime

JveeSobukwe: these scumbags don't learn
MO: if some1 flags your post it will be deleted when the moderator is online they dont read just delete... so its user censoring

Nongqawuse: that's stupid because all of us on this forum are practically invisible and so we must be allowed to speak the truth as it is, I mean what harm is there?

The Editor

The two faces of Djavan Arrigone, model

1 IN FEBRUARY, UNIVERSITY OF CAPE TOWN student and ex-Boss model Djavan Arrigone, 20, explained to a magistrate that he and his friends had been drinking vodka, tequila, white wine, and whiskey shots over four hours before he decided to urinate off the balcony of nightclub Tiger Tiger on Claremont Main Road in Cape Town's southern suburbs.

Since he had seen people do this often, it didn't occur to him in his inebriated state that he should go to the toilet.

"My attention was fixated on two friends laughing at me. I was so significantly intoxicated that I guess I thought I was being funny," he told Wynberg (Cape Town) magistrate Siviwe Yake.

Arrigone has been charged with crimen injuria after his urine landed on Khayeitsha taxi driver Michelle Nomgcana. Nomgcana said he felt his dignity had been impaired, particularly after Arrigone allegedly told a bouncer that he didn't see any problem with urinating on a black man.

He testified that he could not say where he had aimed his urine: "Just wherever it went, I guess."

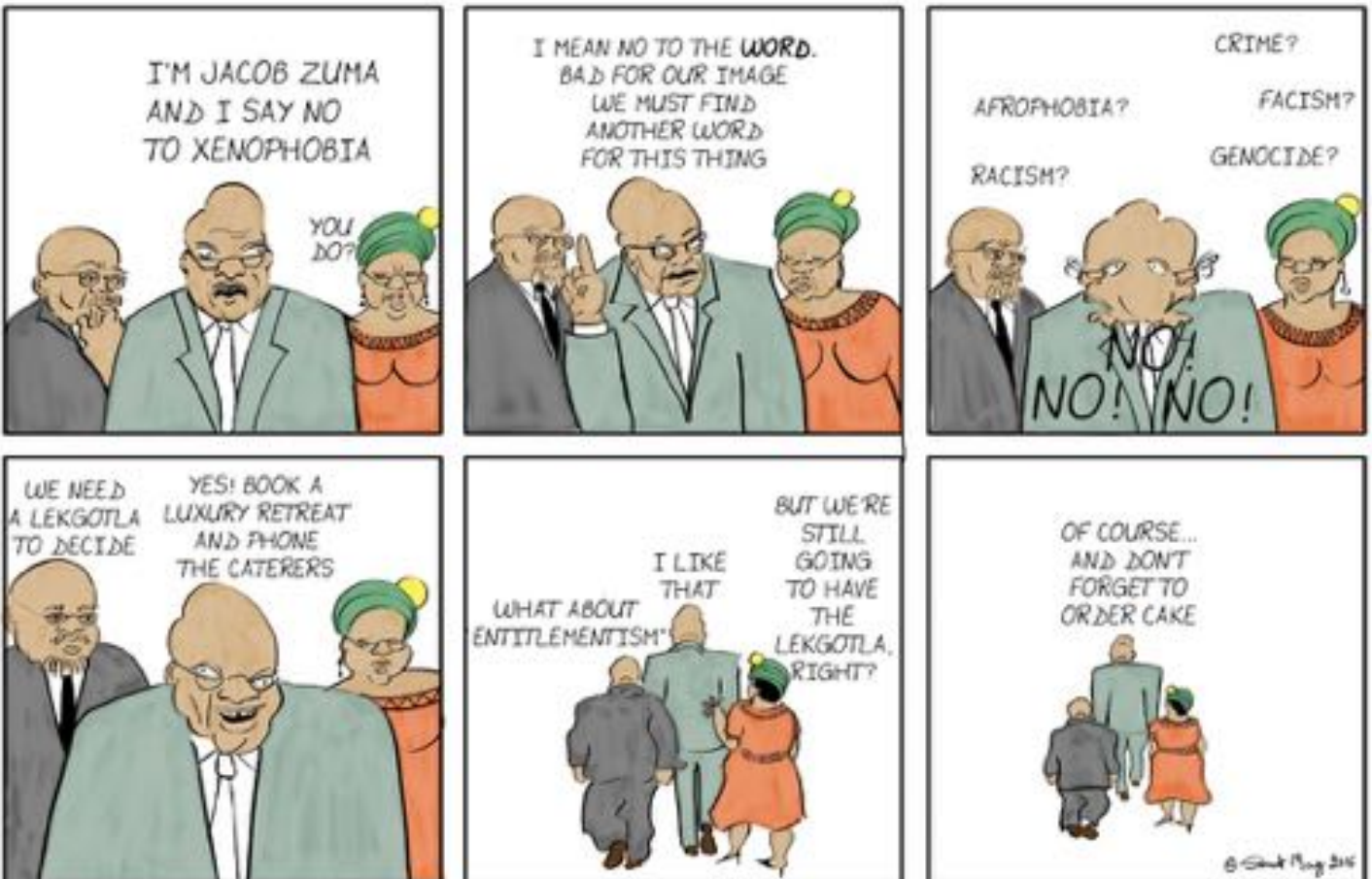
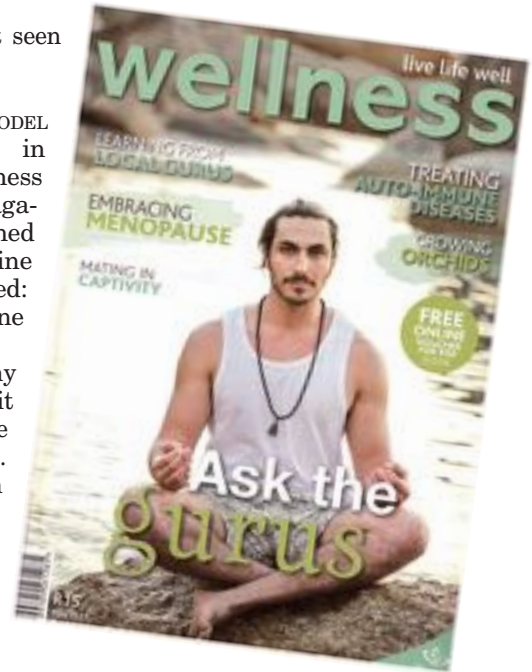
Arrigone claimed that he hadn't seen Nomgcana below the balcony.

2 IN MAY, UCT STUDENT AND MODEL Djavan Arrigone appeared in yoga pose on the cover of Wellness Warehouse's complimentary magazine, promoting an article headlined "Ask the gurus". Inside the magazine an editorial cover note declared: "We asked model Djavan Arrigone how he lives life well. His reply:

"For me going to the gym is my sanctuary. I love training and how it makes your body feel. I also believe in green tea, it's my favourite drink. Keeping up good connections with my buddies is also very important."

His favourite wellness tip? "Drink good quality clean water and sleep as much as you can."

Would the real Djavan Arrigone please step forward!



Stent



Secretive state diamond deal sparks legal drama

By Barry Sargeant

AS A SENIOR GOVERNMENT DIAMOND valuator and as a “new South Africa” success story, Conrad Dintwe Benn could have expected some respect. Instead, he has been living a nightmare for more than a year, thanks not least to his employer, The South African Diamond and Precious Metals Regulator, known in the trade simply as the “Diamond Regulator” – and to be distinguished from the State Diamond Trader (both entities are parastatals).

Benn is simultaneously in the cross-hairs of the heavies at De Beers, the world’s biggest diamond miner. As one of the more enduring corporates, De Beers has for more than a century maintained a vice-like control of the global diamond market through its various sales entities, known loosely at times as the CSO, the Central Selling Organisation.

This strange and terrifying tale is told in papers filed in a case still pending in the South Gauteng High Court. The case was triggered by events that led to, first, a disciplinary hearing for Benn, then a Labour Court hearing and, finally, the currently pending high court case.

Benn and his lawyers forced the matter into the high court for a review of why his persecutors – as he sees them – have been dragging their heels ever since they were faced with the disclosures he made in his defence. Those disclosures apparently have his detractors so “spooked” that they are now hoping the case – and Benn – will simply disappear.

A year on, and most of the people and entities implicated have still not filed answering affidavits to Benn’s allegations.

Read on and take a guess why.

As a diamond valuator, Benn is expected to know about all sorts of things, including how miners allocate certain diamonds to the commercial trade – licensed buyers – and also to the state, a legal requirement. By law, a South African diamond miner must offer a representative basket of 10% of its “rough” diamonds to the relevant South African government agencies for onsale to smaller commercial buyers.

Ultimately, the value of a diamond depends on how it shows up on the “four Cs”: colour, clarity, carats (mass) and cut. The 10% allocated to the state diamond buyer is, by law, required to comprise a representative spread of “good”, “poor” and “indifferent” stones.

South African diamond miners are also required to offer an additional, equally “representative”, 40% of their mining output directly to licensed diamond cutters and polishers and jewellery manufacturers in South Africa. Typically, the balance of 50% is then sold abroad.

Benn had noticed that the 10% basket of De Beers’s production offered to the state was not what he regarded as representative. Exceptional – high value – stones were notably missing from the offerings to the state diamond buyer.

The bigger issue, however, was that Benn had become aware that, of the 40% allocation of diamonds that De Beers was expected to offer licensed members of the South African diamond trade (“beneficiaries”), no less than 35% (88% of the base of 40% allocation) was going to just one establishment – Ascot Diamonds.

Ascot is owned by Beny Steinmetz, an Israeli citizen, loosely described as

a global entrepreneur and one of the world’s richest businessmen.

In early March last year, a concerned Benn invited Peter Moeti, sales manager of De Beers, to attend a meeting at Benn’s office in Johannesburg, where Moeti was invited to explain why the majority of exceptional stones were being sold to Ascot Diamonds.

Moeti said he would provide answers at a follow-up meeting planned for 19 March. On this occasion, Moeti arrived accompanied by Kagiso Fredericks, a key accountant/manager in the employ of De Beers. Once again, Benn voiced his concern over the seriously skewed allocation of exceptional stones. The gentlemen from De Beers still had no explanation to offer, but promised to get back to Benn.

In sworn affidavits filed at court, Benn states that, instead of Moeti and Fredericks coming back to him (on 26 March 2014) with an explanation as promised, Fredericks now advised Benn that Nompumelo “Mpumi” Zikalala, the vice president of De Beers’s Sightholder Sales South Africa (the company’s rough diamond trading division) was voicing concerns over “leaks” of highly confidential commercial pricing information, allegedly from the Diamond Regulator’s offices.

On 26 March, Benn received a telephone call from Fredericks informing Benn that he had received such a complaint from Peter Moeti. He suggested they meet to discuss the matter.

This is how Benn describes their meeting, which took place an hour later: “He told me that Zikalala of the rough diamond trading division, had telephoned Moeti and told him that Nigel Simpson,

a senior vice president of De Beers in charge of sales, had phoned her to inform her that he had received an email from Erez Daleyot [a licensed diamond buyer] containing secret information relating to De Beers and that such information had been disclosed to Daleyot by me [Benn].”

Daleyot, of Life Diamonds, has been a De Beers sightholder since 1986. Since 2004, he has held sight privileges with De Beers in South Africa, Botswana and in London – regarded as the core of “international sights”. Sightholders are the privileged few who qualify to buy rough stones directly from De Beers.

In Johannesburg, Daleyot had previously advised Benn that a substantial number of the diamonds in the 10% allocation to the government were “of extreme poor quality in colour”, according to affidavits filed in court by both Benn and Daleyot.

According to court papers, Benn had advised Daleyot that De Beers production manager Gregory Jooste had told Benn that customers of the State Diamond Trader did not have the capacity to consume “exceptional” stones, which are “particularly large diamonds having a value of more than US\$250,000”. Benn believes that the largest profits are made from large diamonds, an observation few, if any, would dispute.

To return to the “leak” of heavyweight De Beers secrets, supposedly by Benn: Daleyot met with two senior De Beers men named Simpson and Rowley in Gaborone on 27 March 2014. Daleyot denied sending the emails which, it was contended, contained confidential information pertaining to De Beers – information supposedly legitimately received in confidence by Benn, but which Benn had then allegedly forwarded to various De Beers competitors. Benn emphatically denies having done so.

Benn argues in court papers that “it is highly unlikely that if I was disclosing confidential De Beers information to Daleyot (which I deny), that Daleyot would then copy the same to two senior executives of De Beers”. He adds: “Indeed, it is submitted that not only would that be unlikely, it would be suicidal.”

According to sworn affidavits, Simpson was given Daleyot’s mobile phone, and was invited to inspect his emails of any kind. Simpson later agreed that Daleyot was correct and that there was no email sent by Daleyot to him or to Rowley.

The following month, on 2 April, a



Clockwise from top left: Paul Rowley, Beny Steinmetz and Kagiso Fredericks

lengthy article appeared in *Diamond Intelligence Briefs*, under the byline of a well-known journalist, Chaim Even Zohar; for the first time, the alleged “leak” of De Beers secrets was put into the public domain.

According to Zohar, “initial investigations suggest the breach was not a result of any wrongdoing on the part of De Beers or any of its employees.”

An analysis of the Zohar piece shows

weak attribution to sources – often an indication that the source has an ulterior motive.

A week later, on 11 April, De Beers wrote to the Diamond Regulator: “The De Beers Group is conducting an internal and third party investigation and the third party investigation is being carried out by an independent external firm of forensic investigators, Kroll Advisory Solutions, who are recognised globally as one of the leading firms in this regard.”

On 16 April, the Diamond Regulator, in turn, instructed the forensics division of well-known law firm ENS to initiate an independent investigation of the allegations contained in Zohar’s so-called “exposé”. On the same day, Benn’s employment at the Diamond Regulator was suspended with immediate effect.

On 10 June, the Diamond Regulator, represented by ENS, launched an *ex parte* (meaning that the other party is not informed of the case) action against Benn for an Anton Piller order. This was granted. In effect, it permitted ENS on behalf of the regulator to invade Benn’s life and seize almost anything they deemed germane to the “case” against him.

At Benn’s house, gracious lawyers and other staff from ENS discovered that in the confusion, Benn’s young son could not remember his password for his personal

‘They are trying to prevent us from exposing fraudulent activities’

iPad. This was summarily confiscated, and has never been seen again.

Then ENS, representing the Diamond Regulator, addressed a letter to Benn's legal representatives on 23 July, giving Benn just seven days to prepare for a disciplinary inquiry of extraordinary complexity.

On 25 July, Benn's lawyers referred ENS to a letter in the "confidential bundle" from De Beers to the Diamond Regulator dated 11 April 2014, in which reference was made to "preliminary findings by Kroll Advisory Solutions". They requested a copy of these preliminary findings. (It is to be noted that the Regulator had done everything to resist releasing the "confidential bundle" and only reacted under direct legal threats.)

A few days later, ENS replied, stating that they had been instructed by their client that the Regulator was not in possession of the preliminary findings by Kroll. On 5 August, ENS advised that Kroll's preliminary findings did not form part of the complaint filed against Benn, and that the Diamond Regulator had not seen any such report.

On 22 August, attorneys Nortons Inc, representing De Beers, advised Benn's lawyers that "We note that De Beers had not, at the time the letter was sent, received any report from Kroll and the preliminary findings referred to in the letter were a reference to the internal investigations conducted by De Beers."

This makes no sense at all. Why would De Beers have referred to "preliminary findings by Kroll Advisory Solutions" if in fact no such thing existed?

As time has passed, there has been a growing school of thought that such findings do in fact exist, but that the findings were contrary to what De Beers sought,

and, quite possibly, the opposite of what De Beers was hoping for.

It is notable that De Beers's attorneys quickly added, "any reports which were subsequently produced by Kroll are confidential and privileged having been prepared for De Beers for purposes of its own internal investigations."

A week prior to Benn's disciplinary hearing (changed to starting on 2 September), ENS delivered four lever-arch files of documents to Benn's lawyers. In response to a reasonable request for a postponement, Benn's lawyers were told, that's all right, but in the meantime, you must pay the chairperson of the hearing fees of R18,000 a day.

At this stage, it is worth noting that the chairperson is Greg Fourie, an advocate, whose bills are paid by ENS.

Benn is facing, in effect, the same entity on all fronts. ENS are attorneys to the Regulator and will "prosecute" the disciplinary hearing against Benn. ENS are forensic investigators, on behalf of the Regulator, trying desperately to nail Benn. And ENS has the chairperson of the hearing on the ENS payroll. And Benn is supposed to expect a fair hearing?

Within the detail of this savage case, one of the most worrying aspects concerns the bundle of emails, which are part of the court record, and which have been examined by Benn, as detailed in his filed affidavits. Sombre analysis indicates that some kind of a cyber-pirate was able to hack into both Benn's and Daleyot's email systems and then generate emails to create the impression that Benn had forwarded highly confidential emails he had received from De Beers to Daleyot. These were then, in turn, forwarded by Daleyot, to two seriously senior people at De Beers.

If this is true, then the possibility of a serious criminal conspiracy raises its head. Assuming that there was indeed a cyber-pirate at play, he or she may have been technically adept, but they certainly slipped up on some minor – and decidedly crucial – details.

The bundles of evidence show Benn's private email address as lometu52@sadpmr.co.za where it is in fact (and has always been) lometu52@gmail.com. Another email apparently implicating Benn is shown as coming from shalomddm@hayoo.com where, in fact, the correct address is "yahoo.com". In a third, the sender's address is indicated as shallomddm@yahoo.com (with two "l's") but is, in reality, shalomddm@yahoo.com (with one "l").

Daleyot, who has filed supporting af-

fidavits in Benn's case, has no doubt as to what's going on; as he puts it in a sworn affidavit: "When Life Diamonds purchased diamonds from the State Diamond Trader during the third and fourth quarter of 2013, I discovered that De Beers and the Steinmetz Group are working in collusion with Levi Rapoo [CEO of the Diamond Regulator]..."

No papers have been filed at court in which Rapoo denies this extremely serious charge.

Daleyot is not holding back on any front: he goes on to state under oath that "Conrad Benn, Life Diamonds and myself are the victims of a fraudulent plan by De Beers to terminate Life Diamonds as a sightholder of De Beers to prevent us from exposing their fraudulent activities of exporting and under-declaring diamonds to the authorities of the Republic of South Africa."

Various offshore agencies have been alerted to the apparent implications of the dealings between Steinmetz (Ascot in South Africa) and De Beers.

For Conrad Benn, it's possible that justice may still have a chance. It would help him, however, if those who have tried to assassinate him in all but the physical sense had the guts to face him. Instead, these people and entities seem to be doing whatever it takes to avoid having to testify in a case that has developed into a monster.

At this stage, none of the six parties being sued by Benn have filed answering affidavits in response to his allegations:

- The Diamond Regulator;
- Levi Rapoo (CEO of the Diamond Regulator);
- Greg Fourie (chairperson of the disciplinary hearing for Benn);
- The State Diamond Trader;
- The Minister of Mineral Resources (Susan Shabangu, at most times relevant to the case) and
- Ntombifuthi Zikalala (CEO of The State Diamond Trader).

Life Diamonds Cutting Works is also named as a respondent in the case; this however, is for administrative purposes, in that it receives correspondence in the case. Life's Daleyot is, as shown, one of Benn's strongest supporters.

The one-tonne gorilla absent from this litigious hothouse is, of course, De Beers. Might it be true, as one retired officer from the UK puts it, that De Beers has long been the home for "elegant organised crime"? But that "the boys from Eton and Oxford appear to be losing their touch"? ■



Erez Daleyot (right) inspecting diamonds with colleague Alon Arabov

On June 2 Clifford Elphick, helicopter pilot, owner of snooty Kurland Polo Estate and London-listed Gem Diamonds CEO, takes the podium at the group's annual general meeting in London. Shareholders will have the opportunity to question the elfin 54-year-old on his 2014 annual remuneration package – up 15% to £892,935 (R16.25 million). And one or two other matters of concern... Jack Lundin investigates

Between a rock and a hard place



Picture: Times Media

Clifford Elphick

CLIFFORD ELPHICK, FORMER TRUSTED aide to Harry Oppenheimer and would-be diamond king himself, was dazzled by John Bond's secret gem-cutting invention. "My one regret is that Mr Oppenheimer is not alive to witness this amazing technology in action," he enthused. "It would have changed De Beer's strategy for ever."

It was June 2006 and Elphick was on a visit to the pilot plant of Calibrated Diamonds at Pelindaba near Hartbeespoort Dam in North West province, to witness for himself Bond's award-winning laser technology that routinely produces polished diamonds to the ultimate quality of Hearts and Arrows.

Elphick had shone in his earlier career at Anglo American, albeit in the process gathering a reputation as an arrogant bully. An executor of Harry O's will, he rose to become MD of E Oppenheimer & Son, the investment arm of the Oppenheimer family. In 2004 he departed the mining giant, not entirely harmoniously, taking with him a rumoured R50 million farewell package.

Elphick promptly formed his own company, Gem Diamonds, and on 1 July 2006, just days after his visit to Pelindaba, Gem took formal ownership of Letseng

diamond mine in Lesotho, acquired from the late Brett Kebble's JCI, for \$118.5m.

John Bond, a 63-year-old grandfather of four, is a super smart electronics engineer who had been working on the industrial application of lasers since the 1980s. In the 90s an early version of his diamond-slicing system was copied and 4,700 machines were sold in India. There were more rip-offs in Israel and Belgium. So when Elphick dropped his helicopter into Pelindaba the latest version was Top Secret, with confidentiality agreements demanded from anyone privileged to see it in operation.

The Pelindaba pilot plant had been financed by a consortium including Optimus Coal director Peter Gain (worth R515.4m according to the *Sunday Times* 2011 Rich List), his brother Doug, their father Peter, and Dean Cunningham, MD of Mozambique gold producer Auroch Minerals. For their trouble they took 71.64% of Calibrated's shares. But the consortium had reached its limit. In the hunt for new participation, Peter Gain approached Elphick at Gem, while Bond sounded out Johan Dippenaar's Petra Diamonds, already listed on the AIM sub-market of the London Stock Exchange.

All this happened in 2006, the year before Gem Diamonds, registered offshore

in the British Virgin Isles, also listed on the London Stock Exchange. Elphick commissioned a due diligence and the secret technology passed with flying colours. To the Gain consortium, Elphick promised funding to build a plant to handle 2,500 carats/month and a flow of rough diamonds that would enable Calibrated to hit performance targets.

"The truth is that we have a pilot plant that certainly works and produces exceptional output," Elphick enthused in an email to Doug Gain. "We have control of Letseng today, but September 11 [2006] is when I become chairman of (Letseng Diamonds Pty Ltd) and can start to deliver some of its production to Pelindaba."

Clifford Elphick is a clever man, renowned for his ability to drive a hard bargain. But on one issue John Bond put his foot down: unless Elphick could produce a ROM (run-of-mine) report showing that Letseng, then Gem's only producing mine, could supply a regular flow of rough diamonds, there would be no deal.

Meanwhile, talks were proceeding with Johan Dippenaar's Petra Diamonds. And Petra's offer was more specific: R30m of investment, a regular supply of rough diamonds, share options and, best of all, a profit participation. The latter would

pay out up to £28m to John Bond and key staff when Calibrated hit four diamond-cutting milestones – the last one being the processing of 10,000 carats of rough for two consecutive months.

Not surprisingly, Bond elected to go with Petra, whose R16.3m purchase of Calibrated's shares, plus the know-how, was announced on 27 November 2006.

Today Petra is a formidable force in the diamond industry, promoted to the FTSE 250 index of the LSE. Last year its mines produced more than 3m carats of diamonds, bringing revenue of \$471.8m and profits of \$201.1m. But eight years ago it was a different story; it was not until the second half of 2007 before the group could report its first net profit, a modest \$8.2m on revenues of \$32.1m.

To oversee Calibrated at distant Pelindaba, Petra installed Ken Axsel as MD. Axsel, a former financier with Dutch bank ABN Amro, says now that there were problems from the start. "Petra's run of mine was not available to Calibrated, and this was critical. Petra was only producing about 60,000 carats/year. They needed to have cash flow to continue working, which meant they had to sell their best rough. John was only getting about 100 carats/month, so there was no way he was going to meet his first performance milestone of cutting 2,500 carats/month."

The Gain consortium became frantic. Unless Calibrated met its targets within three years, their 3 million Petra share options fell away. (Bond and his colleagues' 1 million options ran on and there was no time limit to hit the 10,000 carats/month jackpot).

In October 2006, a month before Petra



bought Calibrated, Elphick signed an agreement, prepared by law firm Werksmans for Petra's peace of mind, pledging that neither he nor anyone from Gem would "persuade, induce, solicit, encourage or procure" any Calibrated employee to terminate their employment with Calibrated or "associated entity" (such as Petra) for a period of three years.

However, just six months later, shortly after Gem's 2007 listing on the London Stock Exchange raised a \$635m war chest, Elphick called John Bond and told him: "If necessary I'll buy Petra to get control of Calibrated and the laser technology". Now flush with cash, Elphick was embarking on a \$390m spending spree on prospects and projects in Australia, Botswana, the DRC, CAR, Angola and Indonesia.

That June Elphick called Bond to a meeting at his Rosebank, Johannesburg office and assured him there would be no problem supplying as much rough as Calibrated could handle from Letseng.

Swearing Bond to secrecy, Elphick handed Bond a highly confidential Letseng ROM production report as proof of his ability to deliver its rough. Take this and show it to your key people, he urged.

The ROM listed 96,000 carats of rough produced by Letseng annually. Of this, it stated that Calibrated would receive

1,779 carats/month of high quality stones.

Bond didn't question the document. And when he showed it to his key managers they were ecstatic. Their enthusiasm doubled when Elphick repeated the pledge to them all in the Calibrated boardroom at Pelindaba. "He said we could have as much Letseng rough as we wanted," recalls Bond's veteran master polisher Leon Lamprecht. "There was a unanimous vote to go with Gem."

Back at Petra the mining group was having second thoughts at the prospect of having to pay out £28m to its recent acquisition. Finance director David Aberly proposed a reduction on the percentage, which Bond rejected.

So Peter Gain moved in. To get round Elphick's "no contact" agreement, he merely told Petra that he had a buyer for Calibrated. Gem was only revealed as the true bidder a month later. And finally the deal was done. In September 2008 it was announced that "in order to focus on core skills" Petra had sold Calibrated Diamonds to Gem for R47m.

All this, remember, ignited by Clifford Elphick's assurance of 1,779 carats of rough diamonds every month from Letseng if Calibrated was his. An assurance, it was to transpire, that bore scant relation to reality.

In an arrangement between Gem and Petra, the Gain consortium received R9m for its Petra share options. But there was no similar payout to Bond and his key staff for their 1 million options (valid until 2016 and worth more than R10m today). He had to surrender them – and renounce the £28m payout agreement.

As soon as Calibrated's shares and the company's intellectual property (the secret technology) were safely in Clifford Elphick's hands, negotiations over a profit-sharing agreement slowly died away. John Bond was now just an employee of Gem Diamonds.

Today Bond says that leaving Petra and turning away from a potential £28m payout was "the worst mistake of my life"... Clifford said: 'we'll work out a profit share later'. He asked me how much money I wanted to make. I said \$50m and he put that in his little black book, promising to help me realise my dream. I ended up with absolutely nothing."

But there was some hope. Elphick decided to set up Calibrated and the secret technology in an offshore plant in Mauritius. A new company was formed, Gem Diamonds Technology (Mauritius).

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Werksmans legal opinion

JOHN BOND ASKED TOP LAW FIRM Werksmans if he had a claim against Clifford Elphick and Gem Diamonds because the latter's [false] promise of a regular supply of rough diamonds from Letseng had persuaded him to walk away from Petra and £28 million.

In a written opinion, Werksmans director Dave Walker first summarised the law: Only a material misrepresentation would justify rescission (undoing) of the contract and a claim for damages. In this case it must have played a material role in the victim's decision to enter into the contract. Next the misrepresentation must have been made with the intention of inducing the victim to conclude the contract to his detriment – in effect to defraud him.

He then assessed the facts of the case:

- Our client [*Calibrated/Bond*] was, to the knowledge of Gem Diamonds, going to lose a guaranteed revenue stream in terms of the EBITDA [the

performance-based deal with Petra];

- The misrepresentation was made with the intention of inducing our client to (1) facilitate, to its detriment, the transaction; (2) waive its right as regards Petra.

- The defendant [*Gem/Elphick*] knew that failure to honour the guarantee would result in our client suffering direct financial loss.

- The harm is severe, given that the undertaking from Petra was made on the understanding that, although our client had ceded/assigned its IPR [*intellectual property rights*] it had not received the full value of the IPR, having regard to the time and money invested in the development of the IPR.

- Gem [*Elphick*] took no precautions to ensure the accuracy of its statement. In fact it knew that it could not supply all the diamonds as it was bound by other [*conflicting*] agreements. [*This, in terms of the legal definition, amounts to fraud.* – Ed.]

Letseng's promised rough, Elphick explained, would be carried to newly-formed Gem Diamonds Technology DMCC (Dubai) in the Gulf. They would sub-contract the new Bond-led company in Mauritius to do the cutting and polishing using the laser technology. The finished polished would go back to Dubai and from there would be sold by Gem through auction, direct sales, tender, and supply contracts.

What Clifford Elphick didn't mention was that since 2005 Letseng Diamonds Pty Ltd had been under exclusive contract to sell all of its diamonds – polished as well as rough – through a UK company called WWW International Diamond Consultants, who offered an independent valuation service to governments of diamond-producing countries. And WWW's contract was in force for two more years, till August 2010, making all this talk of Gem selling Letseng polished out of Dubai a nonsense. Under its contract with Letseng Diamonds, WWW sold everything the mine produced – all of its rough and any polished – in sealed bids by tender in Antwerp.

Not that this stopped Gem from repeating the story of all this rough from Letseng and marketing the polished

through Dubai, to the Mauritian government and banks in a fund-raising blitz.

Keith Whitelock, CEO of Letseng Diamonds with a seat on its board, tells *Noseweek* he was totally unaware of

Elphick failed to mention that Letseng Diamonds had been under exclusive contract to sell all of its diamonds through a UK company

Gem's 1,779 carats/month pledge. And he says he wouldn't have allowed it anyway. For in Whitelock's view, Calibrated's much-vaunted laser technology simply did not work. "From the technical point of view it's unsound," he tells *Noseweek*. "It certainly wouldn't work on Letseng diamonds. With the algorithm they were using you get a clunky diamond that's too heavy and it's got no sparkle. And because of it being an automated system, it would have reduced the number of downstream jobs created in Lesotho through cutting and polishing its diamonds.

"I would not have permitted Letseng to enter into such an agreement. It would have simply given Gem the opportunity to do transfer pricing."

Whitelock had a long association with Letseng mine, which is located in the Maluti Mountains (alternatively Maloti) and holds a reputation for diamonds of exceptional size and quality. Now nudging 80, as a youngster he accompanied the prospector who discovered diamonds there in the late 1950s.

After 40 years with De Beers as a mine manager Whitelock became CEO of Letseng Diamonds in 1995. Fiercely loyal to Lesotho and its people, he disapproved of Clifford Elphick's maverick style and says: "I used the WWW contract to force Gem not to find other ways of selling diamonds, and I always took government's view against Gem. Gem resented that fact and I got out (in October 2009) before I was fired."

Gem Diamonds owns 70% of Letseng Diamonds' stock. The Lesotho government, with two seats for its representatives on the board, holds the remaining 30% and government takes an 8% royalty on sales.

WWW was jointly-founded by former De Beers diamond buyer Charles Wyndham. Wyndham was close to Keith Whitelock, and shared the latter's misgivings about John Bond's laser technology. He says that he too had never heard of 1,779 carats a month of Letseng rough being earmarked for Calibrated. And he was certainly not aware of Gem's statement to the Mauritian banks that its plant there would operate on Letseng rough, with its polished product marketed by Gem's operation in Dubai. "Gem could not offer rough to Calibrated and sell the polished except through WWW," comments Wyndham.

Elphick had long resented the restrictive marketing contract with WWW that



Picture: Times Media

Johan Dippenaar

he inherited when he bought Letseng. And there was no mention of WWW when Gem's new business manager Brandon de Bruin made a presentation for backing to the Mauritian banks in Port Louis in December 2008.

The subterfuge was repeated in a business plan later presented by De Bruin and colleagues to Standard Bank Mauritius. A spreadsheet was produced showing 8,407 carats/month of Letseng rough – 100,878 carats annually – flowing to Mauritius through Gem. Impossible, one would think, in view of Letseng's contract with WWW. This presentation was a success: in February 2009 Standard Bank Mauritius announced it would be pleased to grant Gem Diamonds Technology (Mauritius) a \$15.2m facility, comprised of a \$4.2m loan to set up the cutting and polishing business on the island and an overdraft of \$11m for working capital. A pledge over the diamonds to be processed "as owned by Gem Diamonds Technology DMCC (Dubai)" was offered as a security!

John Bond made increasingly desperate calls to Standard Bank Mauritius asking when he could expect the facility. He was referred to head office in South Africa, but got nowhere. Certainly the \$15.2m would have been more than welcome at head office as fast-spending Gem battled with a near-terminal cash flow crisis as the world recession deepened.

A crisis from which the group has now recovered, reporting 2014 revenue up 27% to \$271 million and net profits boosted by 57% to \$33 million. A relief to its institutional investors, who include Lazard Asset Management (holders of 3.53% of the stock), JP Morgan Asset Management (3.24%), BlackRock Investment Management (4.57%) and

Lansdowne Partners (14.99%).

In a final and little-known bid to shake off the fetters of the contract with WWW, Elphick mobilised Letseng Diamonds Pty to challenge the contract's exclusivity in confidential arbitration proceedings before retired Judge LI Goldblatt in Johannesburg. In his September 2009 arbitrator's award Goldblatt not only confirmed WWW's exclusive right to market Letseng's entire production, but interdicted Letseng Diamonds from entering into any other agreement during the term of the marketing contract. That would have made the Mauritian bankers sit up, had they known about it.

Wyndham and Whitelock's scepticism of Bond/Calibrated's technology is sharply contradicted by no less than the Gemological Institute of America and HRD in Antwerp, the world's two leading graders of diamonds. *Noseweek* established that each was sent seven diamonds randomly selected from a parcel of 220 stones cut with Bond's laser technology. They certified all 14 stones, awarding them all top gradings – the ultimate Hearts and Arrows from HRD and Triple X from GIA.

John Bond's long-standing polishing manager Leon Lamprecht, 59, has worked in the diamond industry since he was 16. The former polishing head at Tiffany's South African diamond plant declares that Whitelock is talking nonsense. "Letseng was biased against Calibrated," he claims. "They couldn't supply us with rough and the one parcel they did send was so bad, it was horrific – coal black. I couldn't even polish them.

"If handled correctly, Bond's technology is priceless. Our stones are known for their most brilliant sparkle. They are absolutely beautiful and I got 100% Hearts and Arrows all the time."

Elphick responds to our written questions with a statement: "Save to confirm that Gem Diamonds acquired the entire share capital of Calibrated Diamonds in 2007 [it was 2008! – Ed], Gem Diamonds is neither able nor willing to respond to your questions.

"Gem Diamonds has concluded agreements with various parties regarding Calibrated Diamonds, including agreements with erstwhile employees of Gem Diamonds and Calibrated Diamonds, which agreements contain confidentiality provisions which are binding on all the parties to these agreements."

● *Next issue: Debacle in Mauritius and death knell for the secret technology.* ■

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A man of

Imtiaz Sooliman (in green top and cap) at a Gift of the Givers disaster relief project in Nepal

In a world of natural disasters and political chaos, Imtiaz Sooliman keeps a cool head. The remarkable founder of Gift of the Givers confronts a sea of troubles and never loses heart.

By Sue Segar

great gifts

NEXT TIME YOU'RE FEELING REALLY, really busy, spare a thought for Dr Imtiaz Sooliman, founder and director of Africa's largest disaster relief agency, Gift of the Givers. "It's insane at the moment," he says when we meet in April. "We have chaos happening in Syria, chaos happening in Yemen and chaos happening in Somalia."

We're at the organisation's Cape Town branch – a large warehouse and office complex in Athlone. Sooliman is in town for the 19th World Congress on Disaster and Emergency Medicine, where he is the keynote speaker, and he has screeched in from the convention centre just in time for our interview.

A woman in a headscarf has brought a tray with tea and an elaborate array of eats. Sooliman, dressed in his trademark green Gift of the Givers tracksuit top, lays out five cellphones in front of him. A lean, animated man, he speaks with rapid-fire speed. At the same time he appears unfazed, perhaps even a little detachedly amused, at the chaos he describes.

"Right now there is massive bombing outside our hospital in Darkoush, Syria. We have multiple casualties in the hospital. I've just told the staff to be on standby... if they see the helicopters coming any closer, they must pull all the patients and doctors out of the hospital."

Then there's Yemen. "I had to close our office in Sana'a yesterday because a bomb fell right next to the building and the explosion blew out all the windows. I couldn't take a chance – so I instructed them to get out.

"We also had to move staff away from our warehouse in Hodeida (Yemen's port city) because the bombs were exploding right there too... we have a warehouse

near the port to store all the stuff that comes from South Africa. So we had to move all the staff to safety."

He pauses to sugar his tea. "Then of course, the problem with Yemen is that the man who runs the office, Anas al-Hamati, has been living in exile in Egypt. Remember al-Qaeda threatened to kill him after the Pierre Korkie incident? He can't live in his own country! So I have to look after his wellbeing in Egypt. He's still doing the job and trying to supervise the staff from Egypt, but I have to do a lot of it from here. Even while the bombs are falling, we are still sending aid and doing distributions in the different provinces of Yemen. People have to eat."

He continues with his report-back on the year so far: "Then Zimbabwe got hit with the floods and Malawi had floods and then the xenophobia flared up in South Africa..."

Besides having to interrupt his conference speech to tell Yemen they needed to shut up shop, Sooliman is also fielding urgent calls from Home Affairs minister Malusi Gigaba on the outbreak of xenophobia. Gift of the Givers immediately stepped in when the violent attacks on foreigners began, to set up camps in and around Johannesburg and KwaZulu-Natal and, at one stage, was assisting more than 8,000 displaced people in them.

He shows me an invitation on his iPod. It is from President Jacob Zuma and requests Sooliman's presence at an urgent consultative meeting "to build a united response to the challenge of migration in the country". He shrugs his shoulders and gives a bewildered laugh: "I can't go! This meeting was at ten o'clock in Joburg, and I was keynote speaker at the disaster conference on the same day! I said, 'Tell the president I will meet him some other time'."

On top of all this, Sooliman was in demand at the conference. "I was the only one from Africa... most of them are from Europe, America, Asia and Canada. They were stunned by my presentation. I showed them the evolution of our disaster responses – how, on each mission, we advanced, improved and modified.

"The people at the conference can't stop asking questions. They want to open branches of Gift of the Givers in their countries... they want me to go and speak to their government ministers... My greatest pride is that we are from Africa."

Another crisis Sooliman has just been landed with is that seven South Africans are trapped in Yemen. "I am trying to get them out urgently. The family called me directly this morning because they know we have offices there (our government has no embassy in Yemen) and they know we got Yolande Korkie out.

"They call me because I have ground staff and connections with the president and with everybody in Yemen.

"Sometimes people call me, saying, 'My sister is missing in Pakistan, my husband is caught up in Equatorial Guinea', or 'somebody has disappeared' in this or that country."

Sooliman has also just been contacted urgently about a young South African man who left the country to join Isis without telling his parents.

"He is 21 and lives in Johannesburg and on the Friday night, his family tried to get hold of him on his cellphone. He didn't answer. They went to his home and discovered he had gone. They called the police and the intelligence services... and traced the day he left South Africa on the computer.

"They knew he'd bought a ticket to Turkey. I checked with Turkish intelligence

and confirmed he'd landed in Istanbul.

"We sent the boy's photograph to the Turkish authorities, who sent it to all the hotels. We even sent pictures to our contacts in Syria and to places where Isis is in control and they were on the lookout. They found him two days later. He was caught before he crossed the border. They want me to talk to him.

"Also, the mother of the teenage girl from Cape Town who recently ran away and tried to leave the country contacted me two weeks ago to ask me to speak to her. I am hoping to talk to the girl today or tomorrow."

Besides all this, Sooliman also has to attend to what he calls his routine responsibilities, such as those in Gaza. "We are busy building a six-floor centre for women and children and are now in the process of sending blankets and other items for winter.

"In Somalia, the fighting continues and

there are many hungry and sick people. We have created a facility in our hospital there for a whole lot of disabled people who have literally been stranded in the chaos."

There are ongoing commitments back home too: "We start off every year with our nationwide bursary awards for university students. We also run a national counselling service from Pietermaritzburg, where people phone us with all kinds of problems, and which requires continuous development programmes for counsellors. Then there is Jump Start, our entrepreneurial programme based in Durban, which is aimed at putting school kids in business. The kids come with a business idea, we evolve it and then they get a package made up of a letterhead, a brand identity, a business card and invoice and quotation page. They get banners, a cellphone, sim card, 24-hour business support and a website designed specifically for their product. And then they start their business. We've put more than 450 kids in business in the past three years – and some of them are earning up to R15,000 a month."

He pauses for breath, checks his phone. "I have to be in the office to manage things and to kick the year off and there hasn't been much time to do that."

Last year, besides a high-profile mission to Gaza, the Gift of the Givers hit the headlines when they became involved in attempts to free South African couple Pierre and Yolande Korkie who were kidnapped by al-Qaeda militants in Taiz province, Yemen, in May 2013.

The couple had lived in Yemen with their children for four years while Pierre worked as a teacher and Yolande as a hospital relief worker. Following intensive negotiations facilitated by Gift of the Givers, Yolande was freed in January last year, but just under 12 months later, Pierre and American photographer Luke Somers were killed in a US Special Operations Forces raid. Gift of the Givers had already negotiated Pierre's release.

"We spent a lot of time trying to get Yolande out... and we got her out quite quickly last year, but for Pierre, it took the whole year. I had to stop all my other projects to focus on Pierre. I was not allowed to get distracted because if we made one mistake, they would have killed him," says Sooliman.

He recalls the night Pierre was killed: "I was guest speaker at a mosque in Joburg... but I was texting Yolande all

Gift of the Givers hit the headlines when they tried to help free SA couple Pierre and Yolande Korkie who were kidnapped by al-Qaeda

the time. She was terribly unsettled, and needed reassurance that he was really going to be released... I was trying to stabilise her while making my speech... I remember saying to her, 'the waiting is over'. An hour later they called to say Pierre had been killed. I was heartbroken for Yolande. When I said the waiting was over, I didn't mean a body.

"Then my staff came under threat and I had to pull our manager out of the country... al-Qaeda was threatening his life, saying it was because of him the Americans attacked them and killed Pierre and Luke on 6 December. They accused him of acting in bad faith when they had already promised to release Pierre.

"But man, *we* didn't send the Americans in. They went in on their own! I sent our manager back three weeks later to carry on with all the projects... but I had to take care of his welfare.

"On top of that, we had continuous projects going on in all the countries we work in – and I was invited to make 70 speeches in just that year. Then there were also my family responsibilities and my father's cancer, so, yes, I thought last year was busy, but this year has gone totally insane."

Sooliman's beloved father, Ismail, who is 78 and lives in Potchefstroom, has cancer of the prostate which has spread to the spine and hip. "He needs constant medical care, so, in between all this I



Gift of the Givers founder Imtiaz Sooliman

Gift of the Givers stamp issued by the SA Post Office in 2013

"Best Among People are those who Benefit Mankind"



visit him regularly. I fly from Pietermaritzburg to Joburg, then I drive to Potch to see him. Sometimes, I spend two or three days with him and sometimes only three hours. My father loves my company and he loves my work. He is so proud as a father. It gives him life.

"But every time I go to see him, somehow the damn day is messed up because somebody is looking for me. Recently, I had just got there when I had to go live on Al Jazeera, so we had to set up Skype in the house.

"My father loved it because his kitchen was in the background of the interview. I heard him telling my sisters, 'Yes some people have big, expensive houses, but my house is worldwide now!'"

Sooliman laughs as he recalls the anecdote. "You know, this sort of thing helps with the illness. It helps him to fight his disease. So I don't mind those things. I know that when I go there and he sees me working, he feels proud. He knows how the government looks for me, how the media and the public look for me... it is not an ego thing. He is just a father who is very satisfied. He tells me every day, 'You are feeding so many people in so many parts of the world. You are saving so many lives in so many parts of the world. God will bless you...' and then when he talks, he gets excited and forgets about his pain. We try to keep him busy so that the pain goes away. I go as frequently as I can and my brothers and sisters take turns to be with him."

Imtiaz was born to Ismail and Farida Sooliman in Potchefstroom in 1962. His

father ran the general dealership in town which, in turn, had been run by his father and grandfather before him.

"The store was our life. We sold clothes, groceries, stationery etc. As children, we would go to school and then help our father in the shop every afternoon. At weekends, we would also help in the shop. That was all we did. It was a very relaxed, happy childhood. My dad still runs the shop with my brother and sister. It hasn't changed much. Potch will always be home."

As a child, Sooliman says he was docile, quiet and serene. He was the eldest son.

"I loved my dad. He has always been a soft, caring man. He and my grandfather as well as my great grandfather always had a soft heart for the black people who came into the shop. If they were struggling with money, they would let them pay later. If they came in and said somebody in their family had died, my father would say, 'Do you want funeral money?' They would say yes, and we knew they wouldn't pay it back... Even Afrikaans people came into our shop."

His mother, Farida, was "a very lively, boisterous, outspoken person" who hailed from Durban. "Potch was a dead town compared to Durban and she didn't manage very well there. Eventually she and my father separated and she returned to Durban, with very little means... She remarried but died at 42 of breast cancer. The chemo was killing her and I told them to stop... and then she died."

Sooliman's father has since remarried and "we all get along very well". He has

three sisters and three brothers.

The young Imtiaz grew up surrounded by an enormous extended family. "We all lived in one yard. The shop was in front, my grandfather had one house, his brother had another and the sisters had houses... all with the big yard in the back.

"It was such fun... such a joyous feeling. You are never alone in an extended family like that. We always had company. We always did things together. There is so much happiness in family life. We still have gatherings... we had a Sooliman reunion in Potch the other day and all the generations came together. There were 140 people. Only eight were missing."

Sooliman says that when the Group Areas Act came into force, the clan was no longer able to share the one big property and the different families moved into their own houses in the town.

Imtiaz took part in nine sports at school, but soccer was his passion. "I did karate as a child but I couldn't go far because there was not enough time. There are two things in my life I did not achieve: to be a specialist physician and to get a black belt in karate. Karate teaches you discipline. Given the opportunity I would go back and study to be a physician. I love internal medicine."

As a Muslim child, Sooliman was greatly influenced by a local doctor in Potchefstroom, Dr Ismail Haffeejee.

"I became a doctor because of him. He was a fantastic doctor ... one of those men who did house calls. His patients always got better. He was also a religious person who had memorised the Holy Koran by



Imtiaz Sooliman's father, Ismail, in the family shop in Potchefstroom

heart. He often led our congregation. He was a doctor by day and a spiritual leader by night. I was just so impressed that a man could be a doctor and also have the Koran in his head. I remember thinking as a kid, 'what a good doctor this must be, taking care of body and soul'. I admired him so much."

Sooliman lived in Potchefstroom until 1974 when, aged 12, his family moved to Durban, where he went to high school and university. After qualifying as a doctor, he went into private practice in Pietermaritzburg. His two wives, Zohra, whom he married in 1984, and Ayesha, whom he married in 2007, both live there, in separate homes.

Sooliman has five children, four of whom live in Pietermaritzburg, while his son, Muhammad Rayhaan, a computer engineer, lives in Joburg and has helped on missions with setting up satellite technology.

The turning point in Sooliman's life came when, in the early 1990s, aged 30 and working as a doctor, he went to Turkey and met the Turkish Sufi master, Mohammed Saffer Effendi. In what has become a legendary part of the Gift of the Givers' history, the master instructed Sooliman to set up an organisation of that name to do humanitarian work.

"I first met him in 1991 and I fell in love with him. I went back to Turkey with the intention of becoming one of his disciples and I met him on August 6, 1992. I don't understand Turkish and he doesn't understand English, but he spoke to me in Turkish – and when he spoke, I understood. The funny thing about that was, if anybody else spoke to me in Turkish I didn't understand a word! All I can say is that I had never been exposed to somebody like that in my life."

Asked to elaborate, he says, "You can't explain. You see the man's face and you don't understand what is going on inside – there's a spiritual connection, there's no rational explanation. They say that when a spiritual teacher connects with your soul you are hooked for life. I just connected with him and he connected with me and I realised 'I love this man'."

Sooliman knew nothing about Sufism at the time. "It was completely new to me. I fell in love with something I didn't understand. God said if you want to know about something, listen to your heart... I did that."

When he met Mohammed Saffer Effendi for the second time in 1992, he "felt the same vibes" and "wholeheartedly accepted" his instructions. That same year Sooliman established the Gift of the Givers Foundation, also known as the Waqful Waqifin Foundation of South Africa. Since then it has become Africa's largest disaster relief agency, providing aid in 41 countries and conducting more than 20 international missions in places that include Bosnia, Pakistan, Indonesia, Haiti, Syria, Yemen, Somalia, Palestine and several African countries.

In a recently-launched book about Sooliman, *Imtiaz Sooliman and the Gift of the Givers: A Mercy to All*, author Shafiq Morton describes the effects the organisation has had on the lives of people in need. World-renowned for its speedy interventions, Gift of the Givers has put up hospitals, created agricultural schemes, dug wells, built houses and fed people and/or provided psychological help to millions of victims of disaster and war.

After the 2010 Haiti earthquake, the group sent four rescue teams. In 2011, it was the only international aid group to

provide food aid to Somalia and has been assisting people for years during Syria's civil war.

Among the numerous awards bestowed on Sooliman is South Africa's high accolade, Order of the Baobab: Silver, awarded in 2010 for his "excellent contribution through the Gift of the Givers Foundation to humanitarian aid in South Africa and humanitarian relief missions in various countries.

Author Morton relates how, when travelling with Sooliman during the 2011 famine in Mogadishu, he found him still working at 3am, his phones "going crazy" organising a second medical team to help with new injuries from the conflict.

On another occasion, says Morton, he heard Sooliman "actually scolding Pierre Korkie's kidnappers for not respecting human dignity".

"Only he could get away with that!"

Sooliman ascribes his energy to a higher power. He prays five times a day, "whenever I can". He says nothing done by Gift of the Givers is done without spiritual connection.

"Faith drives everything we do. I get up at 4.30 every morning and I start praying... but sometimes I get up and then I don't pray. God must think, 'so this guy got up to pray but he's not praying, he's doing other things...' the cellphones are working, the emails are working... then the sun's up and I say, 'oops'. Then I say, 'God, I need to do these other things, please excuse me.'

"He must be saying 365 times a year, 'every day you have an excuse that you are bloody busy...' then I say, 'well, where did the disasters come from? I didn't create them! You are the guy making the problem and I have to deal with it.'

"I have a very humorous relationship with God almighty. I can feel this is a loving God and I will do anything for him."

What is the essence of Sufism?

"Love," he answers. "Sufism is love. Sufism is high-level Islam. It is the spirit of the law, rather than the letter of the law. The people who call Islam a religion of murder are wrong. Islam is not a religion of murder; it is a religion of love, but some people have misunderstood it and taken it out of context."

How does he manage to hold all the different issues in his head simultaneously?

"I can do that because I eat, sleep, breathe my work. My wives know this is my passion 24/7. They know that, to live with me, they have to understand this. I

am a person that loves to help people. I love my family but I don't have time for them."

He hasn't yet got to the point where he has wanted to give it all up. "The more complicated, the more challenging it is. I used to do one project at a time. Now I do 16 projects at the same time. Whilst I am in the middle of one disaster I am coordinating projects all over the world."

Asked about the worst situation he has witnessed, he does not hesitate: "Syria. Fellow human beings, citizens of the same country, who are torturing and killing each other. There are more than 14 million people displaced, 400,000 in prison. Agriculture is destroyed, people cannot travel or move left or right. There are no medical services, hospitals are bombed, people are eating cats and grass."

"How can this be, in the 21st Century, and the world does nothing? It makes me so angry – and more angry at the Muslim world. Leaders of the Muslim countries have enough resources to stop this war in 24 hours. They will have to answer to God Almighty for this."

Sooliman believes the world is in a worse state than ever. "It has gone crazy, insane. I have actually been speaking about this at religious functions. I say, 'God must be so messed up, so sad and upset with the human he has created, that man has lost it completely. When you see the violence, the madness, the mindless killings, the disasters, the torture, the inhumane treatment of women and children, those who die are better off; those who are living are suffering, especially in conflict areas."

"When you see the chaos everywhere it is heartbreaking, and with each day it gets worse and every day I say it can't get worse than this."

Does he ever cry?

"No. The only time I cried was when my father went for his bypass. My wife says I am not human, that I am definitely an alien!

"I have lost interest in worldly things... I can't enjoy holidays or outings anymore. Every second I am only thinking of the suffering of people. I used to be able to take time at least for a family holiday, now there's no such thing. We are being blasted from every direction."

Retirement is out of the question. "I will work till I drop. The day I can't do anything for anybody will be the day I say goodbye."

He still manages to keep up with events

Isis, he warns, is making inroads, even in South Africa. 'I have heard that many people have been approached'

in South Africa and follows politics and events closely. He believes new DA leader Mmusi Maimane is "going to make history... he is keeping people on their toes. He will get the support, you'll see. These are such interesting times".

He says about the recent spate of xenophobia: "People say that criminals are responsible, or that the [Zulu] king's utterances brought it about. It is far more than that. It is too well planned. Somebody is trying to destabilise this country. If the people listen to the king, then why don't they listen when he says they must stop?"

Sooliman nurtures a dream to build a hospital in South Africa which caters for both the rich and the poor, and which is cross-subsidised. "I am praying about

where it will be. I see so many people suffering because they cannot pay hospital fees."

As the interview draws to a close, the premier of Gauteng is trying to arrange to visit a camp set up for victims of xenophobic attacks and there is a text message from a relative of one of the women stuck in Yemen asking, "Is there some way you could help us get her safely out? It is too dangerous to travel by road."

And Sooliman is making plans to visit the young girl who was intent on joining Isis. "I will ask her clearly 'What did you go for? Did you think you were going for religious reasons and standing for God's cause?' Then I will show her how Isis does not represent Islam, how it represents everything that is against Islam and everything that the Prophet of Islam stood for."

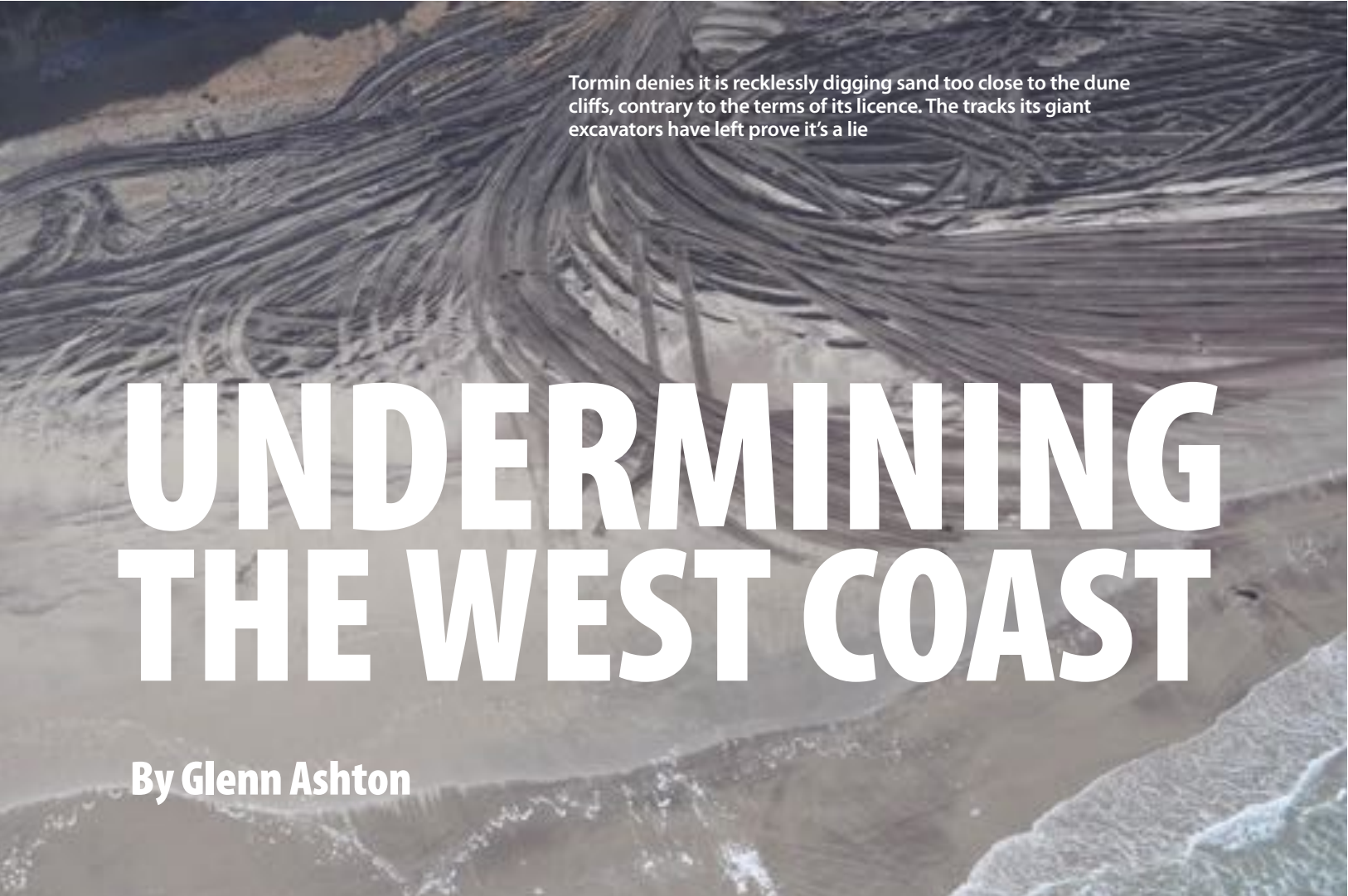
"I would say to her, 'You think you are going with good intentions to do your religious duty but actually what you are doing is against religion and you are harming the name of the Prophet'. It is very simple. If the Prophet of Islam were here, would he allow any caliphate or any country to be built on the blood of innocent people?"

Isis, he warns, is making inroads, even in South Africa. "I have heard that many people have been approached. People are being misled. They think this is the proper Islamic way, they don't realise it is anti-Islam. We are not merciless people who behead Christians."

"Isis is everything but Islam." ■



GREATER CAPE TOWN 101.3 | ATLANTIC SEABOARD 97.1
FISH HOEK/NOORD HOEK 107.9 | HOUTBAY 94.7



Tormin denies it is recklessly digging sand too close to the dune cliffs, contrary to the terms of its licence. The tracks its giant excavators have left prove it's a lie

UNDERMINING THE WEST COAST

By Glenn Ashton

THE SOUTH AFRICAN WEST COAST has always had a reputation as a wild place but it has taken an Australian mining outfit to show the locals just how wild things can get.

The heavy mineral sands Tormin mine, owned by ASX-listed Australian company Mineral Commodities Ltd (MRC), boasted in its first quarter of operation that the mine would pay for itself after less than a year in full operation – an almost unprecedented return on capital from mining. The mine is currently valued at around AU\$50m (around R477m). In the light of these extraordinary profits it seems the company has been tempted to take some unhappy shortcuts to achieve its goals, raising questions about its management approach and operational ethics.

Research into the mine, situated 350km north of Cape Town, has revealed numerous infractions that serve to undermine South African environmental and mining regulatory regimes.

Tormin appears to be operating on the borders of the law and possibly beyond – echoing allegations around Tormin's

initial controversial venture into South Africa; the Xolobeni mineral sands resource in Pondoland, Eastern Cape (*nos-94&158*). There, huge ructions were created in the previously united community – in which violence has recently resurfaced around renewed attempts to gain access to these resources.

On the West Coast, MRC has obtained permission to remove and sell zircon and rutile, used to manufacture ceramics and coatings, from the Tormin site. They are extracted from beach sand in the mining area, north of the Olifants River Estuary. The sand contains between 2% and 5% of the zircon/rutile mix. The permission and method of extraction of this resource is set out in both the Environmental Management Programme (EMP) and the Mines and Works Programme (MWP), approved by the departments of Environmental Affairs and Mineral Resources respectively – whose documents directly inform the mining licence conditions.

However, Tormin is simultaneously removing and selling two other profitable commodities from the beach, namely ilmenite and garnet, used respectively for metallurgy and abrasives. The extrac-

tion of these is not covered in the mining methodology as agreed in the original EMP and MWP. This is important because the effects of their removal and mitigation of their impact were neither assessed nor approved, say senior sources in the Department of Mineral Resources.

Together the garnet and ilmenite constitute around 40% of the total beach sand. MRC declared in this year's January results that it had extracted a total of 42,668 tonnes of zircon and rutile over its first year of operation. In the same period it removed 100,437t of ilmenite and 254,816t of garnet – from just over a million tonnes of sand processed.

While Tormin apparently has the mineral rights to exploit these resources, they cannot legally be removed because there is, as yet, no management plan to extract or manage their extraction, so the mine is not legally entitled to remove these minerals from the beach, let alone export or sell them. However MRC openly admits to doing so in its published quarterly reports.

Besides unilaterally increasing the type and volume of minerals extracted, Tormin has also fundamentally changed

its mining methodology from the approved procedure. Instead of using primary mineral concentrators on the beach and pumping small amounts of zircon/rutile slurry concentrate to the secondary processing plant 500m inland, all of the sand is being removed by excavator into trucks, along haul roads not designed to handle such heavy traffic, to the processing plant inland. The waste slurry is simply returned to the beach.

As a result, far higher volumes of material are now being handled by the plant than it was designed for. Zones originally designated for processing have instead been used for stockpiling and handling. Consequently the overall footprint of the plant has expanded way beyond the original permitted area. An application has been made to enlarge the processing area but this is awaiting approval. Because of changes of legislation since the mine was first licensed, it may prove difficult to fulfil new criteria for this expansion.

The changes in extraction methodology have resulted in far higher water use than originally envisaged. Consequently the ground around the site has become saturated – with salty sea water. This has increased the risk of groundwater contamination and destabilised the cliff.

Photographs taken by employees show runoff from the plant on to the beach across designated conservation zones.

There has been a massive collapse of the cliff directly below the processing plant, most likely as a result of the excess water ingress into the ground. This has been exacerbated by alleged damage to the impermeable membrane installed below the site, that was meant to protect the groundwater from salt water contamination. The Department of Water Affairs is currently conducting an investigation into these concerns.

On a practical level, experienced mining engineers state that the removal of such a high proportion of dense, heavy minerals from the beach increases the environmental and safety risks by reducing the density of the beach that underpins the steep, unstable cliffs.

The concerns about environmental management at Tormin are being investigated by the Western Cape Department of Environmental Affairs and Development Planning, according to Melanese Schippers of the provincial Land Use Department. The departmental report is still being finalised. Since the department inspected the site in February,



Engineers say the removal of such a high proportion of heavy minerals from the beach increases the environmental and safety risks

significant new works – including a sea wall and jetty construction – have been undertaken on the beach zone with boulders brought on to the site. This is illegal in terms of the Integrated Coastal Management Act which expressly forbids interference in the beach zone without extensive research and permission.

By contrast, the national Department of Mineral Resources has been singularly unhelpful in providing relevant information, stating only that Tormin “has an approved MWP [*Mines and Works Programme*] and EMP [*Environmental Management Programme*] for the duration of the mining right.” It has failed to answer questions regarding the extraction of garnet and ilmenite, or other questions around the management of the operation.

The mine management has hindered official access to the mine CEO Mark Caruso informed the DEA & DP just one day before they were scheduled to visit in February that they would not be given access, despite it having been agreed to in advance. Similarly the regional town

MRC's ugly track record

NOSEWEEK HAS COVERED THE shenanigans around attempts by MRC minerals to exploit the Xolobeni mineral sands along the Pondoland coast (noses94,116&158). A new application to gain the mineral rights there is currently under way and community blood has already been spilled.

John Clarke, who has written extensively about the history of the Australian mining company's efforts to exploit the minerals lying below the dunes of Xolobeni in Pondoland on the Wild Coast, has recently reported on the re-application of MRC to gain access to the mineral rights for this resource.

MRC was previously forbidden to exploit the Xolobeni ilmenite resource due to strong community resistance. A new consultant, Piet Badenhorst, recently attempted to reopen the application to mine through consultation with the local community on behalf of MRC. However Clarke reports that the consultation was rejected and both Badenhorst and local Amadiba chief Lunga Baleni, along with his "fixer" Zamilé Qunya, were hounded from the community meeting place after failing to adequately respond to questions from the Amadiba Crisis Committee, a community organisation founded to deal with the threat of the mine.

However it is reported that mine affiliated interests returned later in the night, only to be blockaded by the local community. Shots were fired and a 65-year-old woman was stabbed, allegedly by someone associated with MRC and its subsidiaries, Xolco and Blue Bantry. Two others sustained gunshot wounds and others were assaulted.

MRC-affiliated individuals laid charges against the community for blocking roads. The police are investigating the claims and counter claims but have stated that two individuals, aged 30 and 65, were arrested and charged with discharging a firearm and were due to appear in court on 6 May.

Tensions in the area are clearly increasing through pressure by MRC to gain access to the mineral resources that MRC CEO Mark Caruso has called a "company maker." But as Clarke says in his recent commentary on the matter, one wonders what shareholders in MRC would think of the role of the company in escalating tensions in this area, well known for its independence and historically anti-colonial attitudes. After all, these are the same AmaPondo people who kicked Cecil John Rhodes's butt in court more than a century ago.

MRC is yet again showing itself up as just another interloper in the area, trading trinkets (in the modern form of motor cars) for the community heritage. ■

planning department was refused access to inspect the property in September last year. And when the National Nuclear Regulator visited, the plant was mysteriously "inoperative".

Because of the high proportion of garnet being extracted, Tormin has adopted ad hoc storage practices. The material is presently being stockpiled in at least three locations, none of which were designated as part of the original mining approval. The first is on the beach itself, the second is on a farm 30km away, on land designated for agricultural use. This constitutes an illegal land-use change according to district municipal officials. Neighbouring farmers have expressed concerns about this land-use change. Large amounts are also being stockpiled

prior to export on a farm near Saldanha – which may also constitute an illegal use of farming land.

Zircon, rutile and ilmenite are all radioactive materials.

Because more than eight-times more material is extracted than is set out in authorisations, the local transport infrastructure has come under significant extra pressure. The mine was initially to generate only four extra vehicle trips a day, to run on the N7 and other approved roads. Instead, local residents report over 100 heavy trucks a day, carrying these minerals through small towns not on the approved route plans.

When the mine began operations in 2014 all the zircon/rutile material was transported by rail to Cape Town in an

extremely efficient operation. This was set up with short timelines with extensive co-operation from Transnet. Rail was the preferred choice of transport in the management plan. However after a few months Tormin made a unilateral decision to cut costs by switching to road. Yet, instead of using the approved route – the N7, which is the only road suitable for heavy vehicles – trucks have been using unsuitable secondary roads, several of which are unpaved. A local road engineer who constructed and surfaced many of the roads says they are systematically being destroyed by this traffic.

When questioned about a vehicle accident on an unauthorised road, Tormin's then general manager Gary Thompson had said it was not the mine's responsibility to report such incidents after the minerals had left the mine; that the onus lay with the transport contractors.

Avoiding the N7 also means weighbridges are bypassed, so the loads are unmonitored. While vehicles are meant to be limited to 30-tonne consignments, loads of up to 36t have been witnessed in Cape Town.

Provincial traffic authorities accused of turning a blind eye claim they are not empowered to redirect these trucks despite width and load limitations on the routes. And when the police set up roadblocks, the truck drivers were allegedly tipped off and had suddenly, mysteriously stopped using the route. A traffic official in Vredendal told a source that "money can make many problems go away".

Local newspapers have reported that motorists' wheel rims and car suspensions had been damaged particularly on the Vredendal-Dwaskersbos road.

By shifting from rail to road, Tormin has reduced its transport costs by more than 60%. Rail costs to Cape Town were R560 a tonne; road costs, R220 a tonne. Instead of bearing the true transport costs, Tormin has effectively externalised its costs by passing them on to local communities through directing unsustainable loads on to local roads. The damage to the road network could cost hundreds of millions of rands to repair – while the district council is reportedly in dire straits. Upgrades to these roads are estimated at around a R1m per kilometre.

Even so, the recently upgraded N7 route is entirely suitable for Tormin's loads. The provincial traffic department said it had been alerted to allegations of possible transgressions of permit restric-

tions and weighbridge requirements. They recognised that roads had “taken strain” and said “this may be dealt with as budget allows”.

It is compulsory to clearly identify vehicles carrying radioactive material – the responsibility falls to the despatching authority, Tormin. Each vehicle must carry proof of full and proper authorisation and a strict set of management criteria. Provincial traffic authorities are not technically equipped to check for radioactive material in loads on trucks using public roads, despite their statutory requirement to do so. However they said they were “looking into the matter”.

When National Nuclear Regulator inspectors checked vehicles carrying Tormin materials in Cape Town, the drivers appeared to be unaware of requirements or of precisely what they were transporting, saying it was just “sand”. The regulator also found and acted on radioactive zircon/rutile that had been illegally stored near the centre of Cape Town, adjacent to animal feeds and fertiliser.

There has been a significant turnover of key staff at Tormin. Besides the departure of its CEO Andrew Lashbrooke late last year, at least two general managers have left, as have several environmental and mining managers. Management of the mine was recently assumed by the MRC’s CEO Mark Caruso, who told *Noseweek* he had no comment to make.

To date, no sanction has been ordered against the mine by the departments of Minerals and Energy (DME) or Water and Environmental Affairs. The lack of transparency around how Tormin operates highlights the inability of the DME to police environmental compliance and gives rise to concerns about oversight of mining and extraction in South Africa.

MRC has cultivated strong political ties through its BEE holding companies: Erakis; Blue Bantry; and Xolobeni-linked Xolco – whose directors include the ex-MEC for mining in Gauteng; as well as various tribal leaders and political players from the Eastern Cape.

For a minor mining company, MRC has a complex cross-holding structure that effectively distances its Australian parent company from its complex local structures involving various holding companies and BEE subsidiaries.

Tormin has recently sought to expand its operations and enhance its rights to mine offshore from the beach. The section 102 application has met strong op-



The lack of transparency around how Tormin operates highlights the government’s inability to police compliance

position from local farmers, environmentalists and planners who question the impact of the current operation, let alone the expansion of the mine. Any expansion of operations will have to be reassessed in terms of newly promulgated regulations on coastal management. The application will certainly come under close scrutiny by many interested and affected parties from both civil society and government and will depend on whether MRC and Tormin can show itself to have acted legally, transparently and ethically.

Ex-CEO Lashbrooke, who abruptly parted ways with Tormin late last year, is bringing a court action against the

mine over disputed funds he forwarded to MRC as bridging finance. The case is due to be heard on 1 June. It concerns a primary application for an order halting local operator MSR from trading its garnet offtake with any entity other than Lashbrooke’s company, Blastrite. After Lashbrooke and MSR parted ways, the CEO of MSR, Mark Caruso, set up an offtake agreement with an Australian company that purchases garnet, which is now a respondent (among six others).

This is linked to the issue of money lent by Blastrite/Lashbrooke to help set up Tormin, the repayment of which is now in dispute and was evidently tied up with the value of the extraction of the garnet resource, from which Lashbrooke was to recoup the value of the loan.

One of the concessions that the court made at the initial hearing was to force Caruso into court so that he can be cross-questioned about his alleged failure to honour his obligations and agreement made with Lashbrooke.

By the way, Caruso and company are reputed to operate in mafia-like ways in Perth, Western Australia, and have a bit of a reputation as strong-arm enforcers.

Caruso was also linked to a gold mining company in the Solomon Islands that set up a deal with a select group within a community and struck an agreement to mine the land, creating huge conflict with the other traditional owners. MRC/Caruso then evidently walked away from the deal after selling it on to a third party who went on to win the dispute in

Prince of pot

Evicted Rasta lawyer blames prejudice against marijuana cult for his running battle with desperate landlords. By Helen Grange

HOW DOES AN APPLICATION TO EVICT a non-paying tenant end up in the Constitutional Court? Apparently it is doable, if the defendant is vexatious litigant Gareth Prince, the Rasta lawyer who failed in his 2002 attempt at the Constitutional Court to have marijuana legalised, and was blocked by the Cape Law Society from being admitted as an attorney due to his convictions for dagga possession.

Prince has managed to occupy a luxury, five-bedroomed house worth R2.5 million in Glencairn Heights, Simon's Town, for almost three years – most of the time without paying rent – while he found every conceivable legal loophole to stave off the owner's attempts to secure his eviction. Finally, on April 1, after the matter bounced numerous times from eviction order to eleventh-hour appeal in the Western Cape High Court, the Constitutional Court ordered Prince to vacate the house without further ado.

The chronology of events in the Cape courts and the Sheriff of Simon's Town's office reads like a farce, with Prince masterfully buying more time to continue trashing a swanky residence – rent free. This begs the question: How come a litigant is able to abuse the courts' time and resources all the way up to the Constitutional Court?

Prince was initially served with an eviction order in the Simon's Town Magistrate's Court on February 13 last year for failing to pay rent or municipal services for over a year. He had been unemployed in the wake of his conviction for growing dagga.

Prince consented, in writing in the magistrate's court, to leave the property, but was granted an extra four months, to the end of June, to make arrangements for alternative accommodation.

The property's owner, London-based music producer Dawit Tafari and his wife Roshnie Moonsammy, thought this would be the end of it. But on June 27, three days before eviction day, Prince lodged an appeal at the Western Cape High Court, arguing that the rules of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE Act) had not been followed, as an inquiry into his circumstances hadn't been conducted, i.e. that he and his family would be left homeless.

Judge Ismail Jamie, finding that Prince had harboured the intention to dishonour his agreement all along, dismissed the application with costs, whereupon Prince immediately appealed. Once again, on August 27, Judge Jamie heard his appeal and dismissed it, ordering an immediate eviction.

Yet again Prince appealed and on September 1 it was heard by Judge Leslie Weinkove, who drove home the point more bluntly.

"I have read the two judgments of Judge Jamie and agree with him in every respect... I heard Mr Prince (who represented himself), whose arguments were singularly unpersuasive and who demonstrated an incapacity or unwillingness to either understand or accept the two judgments of [Judge] Jamie... This present application is irregular and a gross abuse of the process of this court because Mr Prince had full knowledge of Judge

Jamie's judgments and orders," said Judge Weinkove.

Not to be dissuaded, on Saturday September 6 – unbeknown to the owners, of the house – Prince applied for an urgent interim order to stave off his eviction, and got it from Judge Siraj Desai. Here began another legal rollercoaster ride for Tafari and Moonsammy.

"Judge Desai's order came with a new case number, thus not showing that this case had already been struck off the roll by Judge Weinkove. So now it was back on the court roll and a new hearing was scheduled for September 11.

"From this point on, we represented ourselves because the legal costs were too high. For just the magistrate's court and two occasions in the Western Cape





Gareth Prince outside the Cape High Court

High Court the bill was R120,000,” says Moonsammy.

Judge Ashton Schippers heard that appeal and dismissed it, but allowed for a postponement of eviction until September 22. On September 19, Prince applied again for an urgent order to stay eviction, and got it, this time from Judge Allie Blommaert, who allowed a postponement pending another hearing on October 15. By now, Prince had also lodged an appeal against his eviction at the Supreme Court of Appeal in Bloemfontein.

“Prince was deliberately abusing the court processes. When the case went back on the roll, I was devastated, as I had to defend it all over again myself. Here this man was, staying in our house for free, and using every legal loophole at

no cost! Not only that, he was neglecting and doing damage to the property, which later became horribly apparent,” says Moonsammy.

Judge Keith Engers heard the matter on October 15, and upheld the eviction but allowed it to wait for the Appeal Court judgment. On November 17, that court dismissed the appeal, allowing Prince’s immediate eviction.

However the sheriff held off for more than a week to allow Prince to lodge his petition to the Judge President of the Appeal Court, which he did, but failed again.

Finally, the Sheriff of Simon’s Town, Johan Fourie, was able to carry out the court order, and, on February 2 – to the great relief of Tafari and Moonsammy – Prince and his family moved out.

But the Gareth Prince fiasco was by no means over. Prince was planning an application to the Constitutional Court to have the previous orders reviewed on the grounds that the rules of the PIE Act were not followed, i.e. that none of the courts had answered the question: “Is this eviction ‘just and equitable’ in the context of his human right to shelter?” (Prince pleaded poverty and unemployment throughout.)

So on the day of his eviction, citing his intended new fight, Prince obtained an urgent order from Judge Desai staying the eviction for 15 days pending his appeal being lodged at the Constitutional Court. The next day, on the back of Desai’s decision, Judge Robert Henney ordered that Prince could move back in.

New tenants, busy moving in, were stopped in their tracks, and Prince and family moved back in!

Simon's Town Sheriff Johan Fourie was totally perplexed by this time, having become hesitant to execute each eviction order in case of it was retracted again. In an email to Moonsammy on February 4, he wrote: "I must say that in my 42 years in the profession I have not seen anything like this and I am hesitant to make any comments as I am an independent and impartial officer of the court who only does what the judges order."

The Constitutional Court Bench eventually attended to Prince's matter on April 1 and quickly dismissed it without costs. The following day, the Rasta lawyer asked the Western Cape High Court for a 10-day reprieve, but his number was up and he was evicted by the Sheriff of Simon's Town by noon the following day, April 2.

Next to greet Tafari and Moonsammy was the squalor of the premises. "The place was left in a terrible state. There were enormous damages to the kitchen, bathrooms, ceiling, and bedroom cupboards, which we've reported to the Simon's Town police. We've had to spend thousands on repairs," says Moonsammy.

She has since lodged a complaint at the Judicial Services Commission (JSC)

Prince attributes his failure in the Constitutional Court to his Rastafarian way of life

against the conduct of Judges Desai and Henney, and is expecting the outcome by the end of May.

"I have been severely prejudiced by the courts and this has resulted in me suffering financially and emotionally by these unfair court decisions and severely delayed repossession of my property which has been hijacked by the illegal tenant...

"I therefore humbly request that the JSC look at the court processes and decisions made by the Western Cape High Court in terms of the two latest orders issued on 2 and 3 February 2015 by Judge Desai and Judge Henney as well as the decision to bring the case back on the court roll after being struck off the roll by Judge Weinkove in September 2014," wrote Moonsammy to the JSC.

Gareth Prince attributes his failure in the Constitutional Court directly to his Rastafari way of life, which is "still criminalised in South Africa". He says: "But for the unjust laws against cannabis, I would never have been arrested at the house, and consequently would not have been served with an eviction order and be

deprived of security of tenure," he says, accusing the courts too of being biased "towards preserving the status quo in relation to contract and property law".

The Constitutional Court, he contends, "went against its own jurisprudence, without reasons or justification, and ordered an eviction in circumstances where there was more than enough doubt surrounding the justness and equitableness of the eviction". And simply because his lifestyle is "illegal" doesn't mean the courts can ignore his constitutional rights, he adds.

Prince also says that Tafari knew all about him growing dagga on the premises – "it happened with his consent" – which, he argues, means that Tafari couldn't legitimately apply for an eviction order.

"If you are complicit in illegality you cannot ask the court to come to your rescue, primarily because of the principle of legality and the doctrine of clean hands," he says. In other words, this was a case of "*in pari delicto*" (which means "in equal fault"), he says.

Tafari vehemently refutes this, saying these "wild allegations" were presented and dismissed by every court that heard them.

As to the state of the Simon's Town house, Prince says it was in disrepair at the time he moved in. "The rates were in arrears, and the exterior and interior in a state of deterioration. We didn't mind and made the house liveable for us. The owner never did any repairs in the three years we were there, as was his duty in terms of our purported lease.

"The holes in the ceiling were made for the growing operation, which carried his blessing, otherwise the house is in a better state than what we found it in," he says.

Again, Tafari refutes this, saying that before Prince's occupation, a reputable estate agent lived in the house, and all the bills were up to date. "What Mr Prince did was tantamount to hijacking the house," he says.

True to form, Prince has taken his case to the Human Rights Committee of the United Nations, under the International Covenant of Civil and Political Rights. "The most obvious right under the covenant that was breached is the right to a fair hearing and the right not to be arbitrarily deprived of security of tenure or to have the sanctity of your family breached for no justifiable reason," he contends. ■



The view from Gareth Prince's Simon's Town pad ...



... and the scene inside

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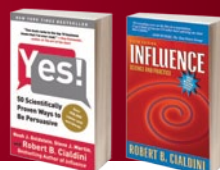
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A bridge too far

THERE'S SOMETHING STRANGELY comforting about the fact that there's a Ship Society of South Africa – a group of enthusiasts who get together regularly to listen to speakers or watch DVDs. But equally there is discomfiture in the fact that two organs of state recently tried to interfere with this harmless little society's activities by dictating who it could invite to speak at its meetings.

Earlier this year the society decided to ask one of its members, marine salvor Gary Mills, to give a talk. The idea was that he would discuss the work he'd been involved in during 2013 – the raising of the bridge of the *SAS Pietermaritzburg*. As usual, invitations were sent out but in this case there were some unusual replies.

The first of these came from Jaco Boshoff, marine archaeologist at Iziko Museums of South Africa. On 11 February this year he sent an email to the secretary of the society. Of subtlety, there was none: "It is with great trepidation and a fair amount of disappointment that I noticed the talk... Mr Mills was instrumental in destroying important naval heritage and caused a huge public outcry amongst the diving community, to the extent that the South African Heritage Resources Agency had to declare the *SAS Pietermaritzburg* a heritage site to stop him completely destroying the wreck..."

"Providing Mr Mills [with] a platform legitimises his activities and makes a mockery of the efforts to protect this important part of our naval heritage... this is counter to the mission of your society which proclaims to 'maintain the rich and diverse heritage of SA's shipping history'."

Perhaps fearing he hadn't made his point strongly enough, Boshoff sent another email on 12 February: "It is even more of a disappointment that the Ship Society have people in their membership of the calibre which



Land ahoy: The bridge of the *SAS Pietermaritzburg* hoisted ashore

Naval battle rages over the undersea remains of the good ship *Pietermaritzburg*.

By Harold Porter

means that by default they condone the kind of action that has upset several conservation bodies... as part of a heritage institution I will have to look at future interaction with the Ship Society in this light."

On the same day, Tara van Niekerk, Heritage Officer at the South African Heritage Resources Agency (SAHRA),

wrote to the society secretary saying: "The reason for my email to you today is that there is one talk in particular happening this month that we in the heritage field are not happy with and that is the talk by Gary Mills..." She said the wreck had "strong historical significance... it therefore pains me to see that the society, in a way, will be

supporting these sorts of activities by allowing Gary Mills to give a talk... I understand there has been a request made that this talk not be allowed”.

These emails caused some consternation, with some members of the society suggesting the talk should be canned. One wrote: “This could cause a lot of resentment against the Ship Society from the diving fraternity, the heritage societies and all those who are passionate about heritage and the preservation of such.”

Cooler heads prevailed, however, and it was decided to let Mills have his say. As one of the members put it in an email: “The Ship Society should not shy away from subjects which some people don’t agree with, or we will soon be accused of censorship.”

So on 19 February Mills gave his talk. And on 20 February 2015 the sun once again rose in the east.

The *SAS Pietermaritzburg* started its life in 1943 in the UK as the *HMS Pelorus*, a mine-sweeper that played a starring role in the Normandy landings in 1944. Naval historian Roger Williams describes in the *Naval Digests* that *HMS Pelorus* had to create 10 separate channels between British shores and Juno Beach, Normandy, for the enormous flotilla. “In effect, she became the point of a huge arrow that took shape in the Channel.”

In 1947 the *HMS Pelorus* was sold to the South African Navy, which renamed her. She seems to have been used as a training ship for some time. In the mid-60s she was moored at Simon’s Town and, since then, has served as nothing more than an ac-

commodation ship. In 1991 the Navy decided they had no more use for the ship and that she should be destroyed.

Many wanted the ship preserved as a naval museum, however, so the *SAS Pietermaritzburg* Preservation Committee was established. Despite their best efforts she was scuttled near Miller’s Point, False Bay on 19 November 1994. The sinking was done with explosives rather than missiles. A large crowd watched, and a man of the cloth led prayers. Since that day the *SAS Pietermaritzburg* has lain on the seabed, 22 metres below the surface, not far from Simon’s Town and has become a popular dive site.

Mills is a licensed marine salvor. As such he’s authorised to conduct salvage operations on any ship in SA waters provided that it has been under water for less than 60 years. In 2013, while working on a desalination project in False Bay, he came across the wrecks of four steam tugboats, as well as what he would later establish was the bridge of the *SAS Pietermaritzburg*. The bridge was some 800m away from the rest of the ship.

Mills was struck by several things, including the fact that the scuttling of the *SAS Pietermaritzburg* had clearly been done with very little attention to environmental issues. He had found: an oil cooler with oil in it; oil in various valves and pockets; asbestos sheeting; and plastic-coated cabling.

He said he’d been struck by the fact that the bridge was facing Simon’s Town and might well have ended up damaging underwater telecommunications cabling. And he had identified



Full speed ahead: The *SAS Pietermaritzburg* in its heyday

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sufficient brass and copper to make it worth his while to raise the bridge.

Mills, an ex-navy man who spends much of his time in and around the Simon's Town Naval Dockyard, obtained permission to use the naval facilities for the raising of the bridge. But that operation didn't go very smoothly – an officer, Captain Glen Knox, who appeared in a *Noseweek* story a few years back for his moonlighting activities (*nose147*) started giving Mills a hard time about his use of the facilities, so the raising was seriously delayed and Mills had to hire extra equipment.

Through an attorney, Mills submitted a claim to the Department of Defence for R450,000 in damages. The claim was not acknowledged and Mills has taken it no further – he knows how these things work: “You can sue the government but even if you win they'll just keep filing appeals with taxpayers' money until they break you.”

The raising of the bridge caused something of an outcry. Simon's Town Historical Society spokesman Eric Mawhinney, was quoted in the local media: “We wouldn't expect it to last for ever, but we are very concerned about it being destroyed. It is a very special ship.” A petition was drawn up, signed by 384 people, saying that the wreck should be protected – something that Jaco Boshoff referred to in his email to the Ship Society when he said “these [384] objections are therefore not just from heritage bodies, but from a significant number of Cape Town residents”. (Um, 384 is a significant number of Cape Town residents?)

As a result of the outcry, the SAS *Pietermaritzburg* was declared a national heritage site in 2013.

Noseweek asked Iziko and SAHRA to comment on the apparent absurdity of authorities ignoring calls for a ship to be preserved as a naval museum, deliberately sinking it with explosives, and then claiming that no-one can touch it while it lies rotting on the ocean floor because it has such great historical significance.

Is it not a bit like throwing out an old appliance and then objecting when someone goes to the rubbish dump and takes it?

Boshoff made no pretence that the wreck had historical significance, he simply claimed it was a popular diving spot: “At the time many people wanted

**Boshoff made
no pretence
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it was a popular
diving spot**

the ship to become a museum, but due to the cost involved, it was decided to scuttle the vessel as an artificial reef – this has in fact proved a popular decision in the sport-diving community as it has become an excellent dive site and is often used for training dives. Mills's actions were done without consulting the dive community.”

SAHRA's response, which came from CEO Veliswa Baduza and Corporate Communications and Marketing Manager Thomas Khakhu, tried to cover both bases. First: “The significance of many shipwreck sites lies in their age and the artefacts they contain and what these can tell us about the past. In the case of the SAS *Pietermaritzburg*, its significance is more intangible and rests with those who served on the ship, many of whom are still alive, both during World War II and during the vessel's years of service in the South African Navy.”

And then: “South Africa has a huge, and growing, diving community for whom visiting a wreck is one of the highlights of any dive. There is thus nothing absurd about making people

aware, whether through the declaration of a site or other means, of the value of this fragile heritage resource. Most divers are responsible and understand that such sites have value as both heritage sites and dive sites and that, by leaving them as they found them, others may follow to enjoy the same experience in future. Some divers, however, are not [*responsible*] and strip wrecks of non-ferrous metals and other artefacts.”

SAHRA also denied that it had “suggested to or pressurised the Ship Society to withdraw their invitation to Mr Mills to speak”. It said that SAHRA had asked the Ship Society for a chance to speak on the matter at one of its meetings and that it would be doing just that shortly. It went on to say that SAHRA “may declare any wreck which has qualities so exceptional that they are of special national significance, to be a National Heritage Site”, and that the SAS *Pietermaritzburg* was declared a National Heritage Site – South Africa's first shipwreck NHS – on 23 August 2013.

What became very clear is that the authorities don't like Mills much. Boshoff said he hadn't attended the “apparently very slanderous talk” because of other commitments. He clearly doesn't buy the claim that Mills found the bridge 800m from the wreck, saying that although the bridge “had collapsed to some extent it was removed and separated by Mills's actions”.

SAHRA said the first they knew of the bridge being “separated” was after receiving reports of Mills having landed it in Simon's Town. The agency said it was unconvinced that the bridge – “a metal bridge of substantial weight can have been moved off the wreck to such a position by the action of the sea” – hundreds of metres away.

Mills vehemently denies that he was the one responsible for breaking off the bridge. He points to a report written by Georgina Jones on the *African Diver* website in 2010 where she said: “Fifteen years underwater have left their mark on the PMB. It has been seriously damaged by winter storms – the most notable being the storm of late August 2008 which twisted the deck out of true and left the ship with a distinct list. Further damage was done by the storm of June 2009, which ripped the bridge off the ship.” ■

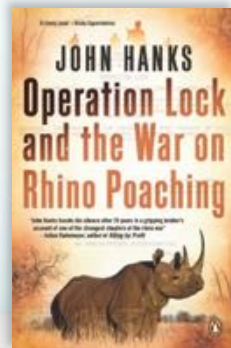
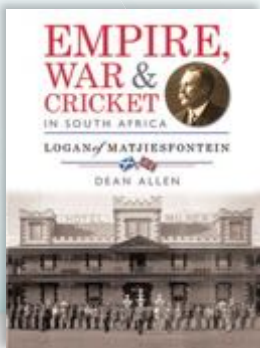
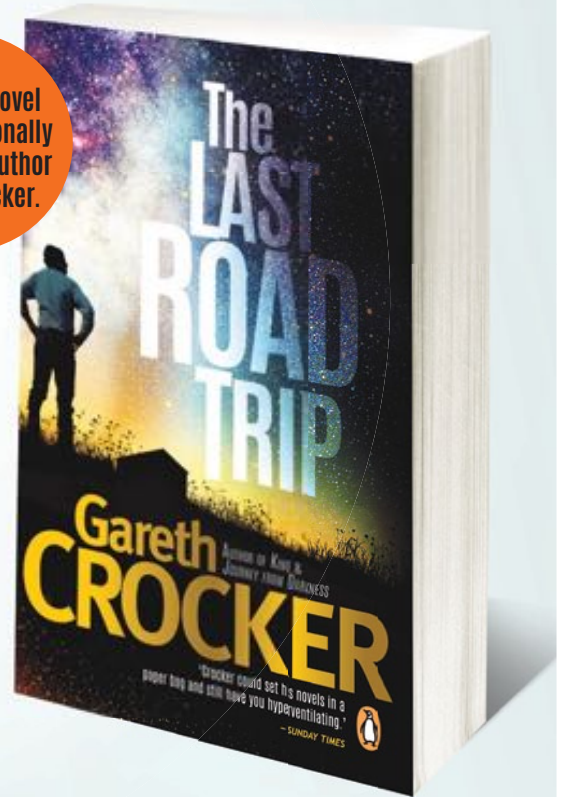
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R852,000 flying Tutu: who cashed in?

By Donwald Pressly

I'LL SEND YOU BAD DREAMS," ANGLICAN Archbishop Emeritus Desmond Tutu told Ed Young, the sculptor who created *The Flying Arch*. It was a joke of course, but it may have been a portent for whoever came to own it – of good or bad luck.

The Flying Arch first "flew" in 2010 – from the ceiling of the Dakar Room at the Cape Town headquarters of Idasa (the Institute for a Democratic Alternative for South Africa), in its handsome Herbert Baker building on Spin Street, just around the corner from Parliament.

It was unveiled in September of that year, just a month after the archbishop officially retired from public life. Idasa had bought the sculpture from the artist for R40,000, when it stood out as the most popular (but not the winning) entry in an art competition sponsored by the institute.



The Flying Arch cheerfully symbolised the courageous and optimistic initiative by Dr Alex Boraine and the late Dr Frederik van Zyl Slabbert, who founded Idasa in the dark days of 1986. It was to be an independent public interest organisation committed to promoting sustainable democracy based on active citizenship and social justice. It also aimed to explore new ways of addressing polarisation between black and white South Africans.

The last the public had seen of the popular artwork was in 2012, when it disappeared – in retrospect, a premonition of the tragic, and still financially murky, collapse of Idasa the following year.

Three years on, in March this year, Strauss & Co, the fine art auctioneers, advertised in their sale brochures and on their website that *The Flying Arch*, clad in purple cassock, was once again flying from a chandelier and up for auction in the foyer of the prestigious Vineyard Hotel in Newlands, Cape Town.

In the Strauss & Co catalogue, as is customary, the auctioneers gave an estimate of the price they expected it to fetch: between R400,000 and



High times: Ed Young's flying Archbishop Desmond Tutu sculpture and Richard Calland, who recently sold it

R500,000. Clearly in the eyes of knowledgeable people in the art world, this was no mere puppet hung from the ceiling. Any doubts on that front were soon dispelled when, at auction, it was knocked down to an anonymous buyer for R852,500.

So where had the flying Arch been in the meantime? Who was the seller and who was to benefit from this extraordinary windfall?

Not Idasa and its many unhappy creditors, it soon transpired. Despite repeated requests for an accounting, the US-headquartered global private philanthropic organisation, the Ford Foundation, has been unable to establish what happened to the R2 million grant it was persuaded to make to Idasa only months before it closed its doors. And employees who lost their jobs found that they did not qualify for Unemployment Insurance Fund benefits because the Idasa management had not paid over their contributions.

The seller, *Noseweek* has established, was none other than Dr Richard Calland, the former director of Idasa's Economic Governance Programme – and its best known public "face".

When had Calland acquired *The Flying Arch* from Idasa? Best estimate is more than a year after he resigned from the institute to take up a full-time post at the University of Cape Town, and shortly before Idasa's board resolved to put the institute into liquidation in March 2013.

For some years Idasa had battled to make ends meet despite a steady income stream of about R100m-a-year from donors that included the World Bank, European embassies, various organs of the UN – and the Ford Foundation. It had run out of cash.

So, what had Calland paid Idasa for *The Arch*? "Next to nothing," said one former senior Idasa employee, now abroad. Another proffered: "R35,000



sticks in my mind – less than what Idasa had paid for him two years earlier, because the *Arch* had in the meantime got dusty, had lost some buttons off his cassock and the chandelier was in need of repair.

“The staff had been retrenched and he had been more-or-less abandoned in that back room, with no security. Richard offered to take him off their hands before he disappeared or fell apart.”

Idasa board chairman Njabulo Ndebele, former Vice-Chancellor and Principal of the University of Cape Town, said he could not quite recall the details of the board decision to sell the artwork. He referred all questions to Idasa’s former CEO, Paul Graham.

“I can’t remember for certain, but I think he paid R200,000 or thereabouts,” said Graham. “Mr Calland made a cash offer for it... which we felt was probably sufficient return on what we had paid for it. We didn’t have the time or expertise to take it to the public market. You will agree that a cash sale has less risk attached to it than an auction.”

Dr Ivor Jenkins, Idasa’s administrator at the time, said an attempt was made to sell the artwork through an

international agency, but this had come to naught. “Then Richard made the offer... we realised it was [otherwise] going to be stolen or [would] fall apart.”

Jenkins, too, could not say for certain what Calland had paid, but also suggested “R200,000 or thereabouts”.

Idasa’s finance manager up to liquidation, Florince Norris, recalled that *The Flying Arch* had been sold to Calland, but could “not for the life of her” remember whether it was for R35,000 or for R200,000. “The records are in storage with the liquidators,” she told *Noseweek*.

The liquidators, Westrust in Pretoria did not respond to *Noseweek’s* numerous emails.

The obvious person to ask was, of course Richard Calland himself. But his reply, while indicative of something, was not the answer *Noseweek* was after. “What I paid is nobody’s business,” he said. “I bought a piece of art from Idasa... a few years later I sold it. When I bought it, I was not employed by Idasa.” He was not prepared to say anything further for the record.

Calland is now Associate Professor in the Department of Public Law at UCT.

Ironically his CV says he specialises in “the law and practice of the right to access to information and whistleblowing protection”. While at Idasa, his office led a campaign to force political parties to make transparent their public and private funding.

Calland’s close friend and former colleague at Idasa, Judith February, was not prepared to discuss what he had paid for *The Flying Arch*, however she was at pains to explain the reasons (other than profit) why Calland might have decided to hand the artwork to Strauss & Co for auction.

“The maintenance is very costly – *The Arch’s* clothes needed to be steam-cleaned; the buttons had fallen off; the crystal chandelier bit was broken... Each time it is moved, one has to get a special hook to be engineered to hang it, as it’s so heavy. That costs a lot of money and without someone wanting to keep it permanently, one has to eventually ask whether one should sell it or not?” she tendered.

By her account, “someone” had clearly not planned to keep *The Arch* permanently – and just happens to have made a killing in the art market! ■



Art exhibitionism. Letting it all hang out

AS THE RAIN BUCKETS DOWN FOR THE second week in a row and parents give up the battle to keep their children off devices, one has to spare a thought for the homeless (increasingly, there they are; scraggly bearded, mostly men) hovering on the periphery of our dinky-looking lives. More than 105,000 Australians are officially homeless. About 25% are Aboriginal, nearly 18,000 are children, and most have pets or “companion animals” which they often look after better than themselves. The biggest reason (accounting for about 31%) for homelessness is domestic violence.

Just when no one here believed it would come to pass – and ten years after they’d been incarcerated – eight of the Bali Nine drug smugglers were executed by firing squad in Indonesia. The nation grieved for the two Aussies, Andrew Chan and Myuran Sukumaran. Vigils were held across Australia for the rehabilitated men (one of whom was recently ordained as a priest, the other was a keen painter) and Australia recalled its ambassador from Indonesia, while the National Gallery took down a portrait photo of “strong man” Indonesian President Joko Widodo.

Speaking of the National Gallery, about 50 people took part in a naked after-hours gallery tour to view the works of American “light and space” artist James Turrell. The event – also regarded as art, a “conceptual work” – was the brainchild of Melbourne’s Stuart Ringholt, who delves into the “psychology of embarrassment and humiliation”. The guards remained firmly clothed.

So liberating was it for those who partook, that a woman did cartwheels across the gallery. “Without clothes,” wrote one participant, “people are reduced to a bowl of human fruit: colourful but lacking in pretension.” Being naked, says Ringholt, is a kind of



A typical tour at the National Gallery in Canberra

“reset” because humans are at their happiest naked, in the bath, or making love, for example.

Hard to believe it still exists, but Queensland’s “gay panic” homicide defence should be scrapped, says Brisbane’s Anglican archbishop. The archaic measure, known as “homosexual advance defence”, allows that a murder charge may be reduced to manslaughter if the defendant establishes that their victim “came on” to them and the killing was in self-defence.

On the Tony Abbott front, the PM, who has survived various attempts to oust him, sails defiantly on. There is, commented one journalist, “a sort of

normalisation of awfulness” with bad policies and embarrassing behaviour so routine that it’s almost passe. The latest affront has seen Abbott award AU\$4m in grants to climate contrarian Bjorn Lomborg of the Copenhagen Consensus Centre to set up a climate think tank at the University of West Australia. Meanwhile, Abbott is abolishing the respected Climate Change Commission – for budgetary reasons.

Lomborg has campaigned against the Kyoto Protocol and the use of carbon pricing to cut emissions. His centre’s methodology will be “cost benefit analysis” which was described by one academic as “not a methodology... (but) economics 101.” ■



Tickets! First class trip

WHEN YELLOW LEAVES, OR NONE OR few, do hang upon the bough - maybe it's time to soothe the melancholy of the dying year with a juicy thriller. Enough already of political glooms and endless TV disasters. A clever little escapist thriller might just revive flagging energies.

The Girl on the Train fits the bill. Author Paula Hawkins, born and bred in darkest Zimbabwe, casts a beadily perceptive eye on the seeming propriety of British suburban life, and then exposes the worm in the bud. Well a whole can of worms, actually. The ex-colonial's cool social observation is flavoured satisfyingly with raw whodunit excitement.

The movie *Rosemary's Baby* historically exploited the fears of nice middle class types, living in dread of demonic intrusions on hard-won respectability. *The Girl on the Train* similarly mines the ordinary to extract the extraordinary. It's been done before, but the formula is presented here by an extremely observant writer. The banalities of quotidian life are drawn calmly; nightmare interventions are dripped into daily life like slow poison.

Commuters are much given to musing on the lives glimpsed from railway carriage windows. And vice versa. Hawkins cunningly uses that mutual fascination to build convincing drama behind the facades. The commuter's voyeuristic glimpses of strangers' daily lives, of individuals unknowingly observed, sometimes for years, become a form of theatre.

But what happens when you join the cast and discover that the characters do not necessarily fit the sentimental clichés?

Which is where the shambolic, pathetically alcoholic protagonist totters into focus. And out of focus. She is a divorcee, an emotionally wounded woman who may, or may not, have witnessed foul play beside the railway line.

Is she simply a boozy, unreliable voyeur, or are her hectic suspicions justified? Sceptical police and patient and impatient friends are sorely tried by the ranting of our heroine. And, in her own way, she is

a hero, warring against her drowning self and fighting for her sanity

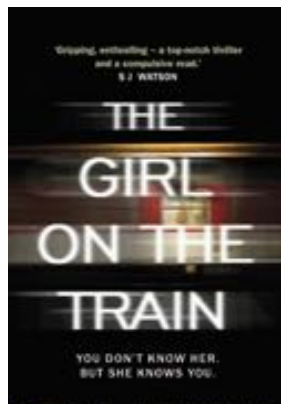
The choice of a pathetically alcoholic lead character is key to the success of the thriller. The hazy confusions arising from her condition, the clashes between reality and fantasy, should inspire lots of weird filmic fantasy blurs.

Unsurprisingly, *The Girl on the Train* has been optioned for film by prestigious Dreamworks. The starring eponymous character, given a decent script, is potentially a dream role for a not-so-young star. Gallantry forbids any suggestion of possible candidates.

Well, not really. Susan Sarandon and Rosamund Pike come to mind. Both exude the superficially disillusioned facade, with tender soul to be revealed as and when.

For film purposes, Paula Hawkins, by guess or by nous, has written a tale which can easily be translated to either American or British settings. Commuting is commuting, either side of the Atlantic. The respective national suburban variations would simply be a matter of choice. Either way, a half decent director could have enormous fun with the thriller elements. ■

THE GIRL ON THE TRAIN
by Paula Hawkins
(Doubleday)



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