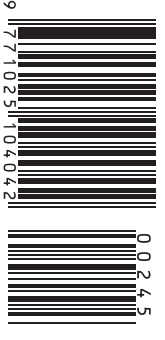


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Harold Strachan, Noseweek's much-loved columnist of 20 years, died in Durban on 7 February 2020, aged 94

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Letters

Letters to the editor should be sent by email to editor@noseweek.co.za

Unhealthy choice to steer NHI

DR SIBONGISENI DHLOMO, FORMER MEC in charge of scandal-ridden KZN department of health, is now the MP ushering the National Health Insurance Bill through Parliament [nose244].

Typical! The worse your performance, the higher you climb!

Ashleigh McErlean
Hampshire, UK

THE CORRUPT VULTURES ARE SEEING A huge opportunity to further enhance their bank accounts.

What a bloody circus!

Frank Jordaan
Bloemfontein

WE ARE DOOMED WITH THESE POLICIES OF promoting the inept.

Di Elkoniin
Nelson Mandela University

Why is Tshwane's forensic 'co-op report' gathering dust?

SO MUCH EVIDENCE FOR SO LONG (NOSE244) and still no one is prosecuted?

There is zero political will to act, no matter under whose administration Tshwane is.

Casper Badenhorst
Tshwane

Milnerton pollution protest

THANKS TO NOSEWEEK FOR HELPING PUT the Milnerton Lagoon issue squarely on the political agenda. I see Outa has rushed in after you to share the glory, but we know *Noseweek* did the spadework.

Bob B
Milnerton

Outa is to be welcomed: all troops are called to rally to arms! – Ed.

SOON TOURISTS WON'T COME HERE ANYMORE: first the crime wave that's out of control, now sewer-polluted rivers and beaches... disgusting!

Sandy Hagglund
Cape Town

WHEN THERE'S A SERIOUS OUTBREAK OF sickness, maybe then, only then, will something be done.

Maybe that will be too late.

Merle Miles
Cape Town

AND THIS IS THE CITY OF CAPE TOWN... where the DA is doing almost nothing to fix this mess.

Roger Smith
Cape Town

GOVERNMENT MUST PAY FOR TOILETS AND sanitation, proper infrastructure and education to stop the pollution of

our rivers, water, wetlands and nature reserves right away.

We have waited for 30 years and if not fixed immediately, the next plague is on its way.

Tunnel Tourz Matt
Cape Town

Cape Town mayor incommunicado

PROMPTED BY DR KAREN MORRIS'S OPEN letter to Cape Town Mayor Dan Plato (nose243), I wrote to the mayor on 16 January. I received an automated acknowledgement, undertaking to respond within seven days.

Having received no further communication from the mayor within the seven days, I responded to John Steenhuizen's promotional letter, attaching a copy of my email sent to the Mayor on 27 January. No luck there either, so today I telephoned the DA's parliamentary Media Liaison Officer, who proceeded to lecture me on why I should not expect a response from the DA Leader. I explained that just a response from the Media Liaison department would have been appreciated.

Could you find out whether Dr Morris, has had a response from the mayor yet?

Lionel Bunyard
Rivonia

Dr Morris confirms she has received no response to the letter she sent to the mayor. – Ed.

Synchronicity

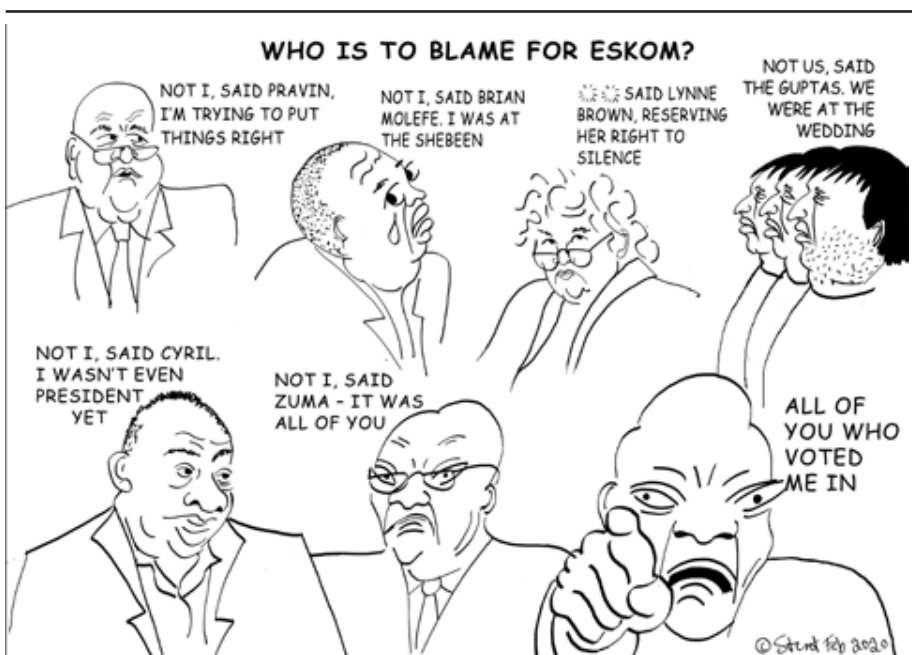
IS IT NOT AN EXTRAORDINARY COINCIDENCE that Julian Assange and Elon Musk, these two "computer brain-boxes" displaying great courage in the grand scheme of things, were born five days apart?! (Assange: 3 July 1971 and Musk: 28 June 1971.)

To show you that I am sold – and an avid reader of *Noseweek* – I followed up on "Free Assange" (nose243) and "Eureka!" (nose202) and read several books on them.

My little chip-in aphorism: "Unthinking respect for authority, is the death knell of the truth."

Robert McLaren
Howick

Stent



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Particulars of the R1m claim

Katz versus Welz and Noseweek goes to court

BY THE TIME YOU READ THIS, THE trial will already have begun – on Tuesday, 24 February – in the Western Cape High Court, Cape Town, in which attorney Leonard Katz, head of the insolvency department of ENSAfrica, previously Edward Nathan Sonnenbergs, is seeking R1 million in damages from me, Martin Welz, as First Defendant, and Chaucer Publications (Pty) Ltd, publisher of *Noseweek* as the second defendant.

He seeks these damages from us – plus costs which could easily exceed that amount should we lose – for allegedly having defamed him in an editorial and an article by me, published in *nose177* in July 2014, as well as on the cover of that issue, captioned “The man who stole justice”.

Katz, better known to *Noseweek* readers as “Lennie the Liquidator” describes himself in the summons as “a director of ENS and a senior attorney who has been in practice since 1987, has gained prominence and is well-known as a specialist in insolvency law – and is the national head of the ENS Insolvency, Business Rescue and Corporate Recoveries department.”

(On its masthead, ENS describes itself as “The largest law firm in Africa”.)

Katz simply describes me, the first defendant, as “an adult male journalist who is permanently resident in Rondebosch”. Also that I am the editor of “a monthly magazine known as *Noseweek*”; and that I am the sole director and “corporate controller” of Chaucer Publications, the owner and publisher of *Noseweek*.

Noseweek he (more flatteringly) describes as “a magazine that is widely distributed in the Republic and Namibia and is widely read by the general public. A large proportion of *Noseweek* readers are professional persons, including members of the legal profession.”

The *Noseweek* cover, the editorial headed “Lennie

the Liquidator makes a mockery of the law”, and the article in *nose177*, headed “And then there’s Brakspear”, Katz alleges in his particulars of claim, were defamatory of him and wrongful in that they *inter alia* were intended to mean that he acted to subvert the course of justice, was dishonest, and had conducted himself in an unlawful and unprofessional manner.

Various passages in the editorial were, he alleges, also meant to suggest that he was a dishonest person generally, was unfit to practise as an attorney, had subverted the course of justice, devised fraudulent schemes, is prepared to act unlawfully and/or unprofessionally on behalf of his clients in return for payment of money; that he acted without scruples and this has been a matter of public knowledge for years.

He further claims the *Noseweek* editorial and article meant to suggest he fraudulently manipulated court proceedings and charged unjustified and/or unconscionable fees.

According to his Particulars of Claim, the article contained much of the same, but in addition meant to suggest he had fraudulently manufactured a debt in order to liquidate a company.

Katz concludes: “As a result of the aforesaid defamation the Plaintiff has been greatly injured in his fair name, fame and reputation, and in his avocation as an attorney and has suffered damages in the amount of R1,000,000.”

In addition he asks for interest on this amount and costs.

The *Noseweek* cover, Editorial and article in *nose177* are attached to the summons and form part of the trial record. Readers will find them on *Noseweek*’s website, to read what it’s really all about.

In my “plea” [response] to the particulars of claim listed in Katz’s summons, I start by countering his claims to fame and status with some of my own:

“First Defendant is a senior journalist and



editor, having commenced his career in journalism in 1975 and having practised as such uninterruptedly since then. He has held senior positions on various news publications, including Pretoria bureau chief for the *Sunday Times*, Parliamentary correspondent for the *Sunday Express* and head of investigations at *Rapport*. He has been the editor of *Noseweek* since it was founded in 1993.

“He has acquired a national reputation as an ‘investigative journalist’ and in that capacity has been the recipient of various awards, including the Checkers Award for Consumer Journalism (twice), the Stellenbosch Farmers’ Winery Award for Enterprising Journalism (the pre-eminent journalism awards at the time), the South African Union of Journalists’ Pringle Award for advancing press freedom, the Mondi Premier Award for Business Journalism and an honorary award for promoting corporate governance through investigative journalism in the 2007 Sanlam Financial Journalist of the Year awards.

“Prior to commencing his journalism career, First Defendant was employed for two years in the Office of the Master of the Supreme Court in Pretoria, auditing deceased and insolvent estates, was employed for two years as Registrar to the Hon Mr Justice O Galgut, and completed three years of attorney’s articles while obtaining a B.Proc degree. He went into journalism immediately there-

after and has never practised as an attorney.

“I deny Katz’s claim that *Noseweek* is ‘widely read by the general public’ and in amplification of this denial, I plead that *Noseweek* is subscribed to and/or circulated within a niche market of sophisticated, well-educated, mature professional and business persons who are not insensitive to, and are familiar with the publication’s typically irreverent, humorously cheeky and occasionally provocative writing style, and accordingly understand and appreciate it as such.

“I plead further that the cover he complains of does not identify him by name and is therefore not *per se* defamatory of him. The provocative caption – “The man who stole justice” – is a teaser inviting the reader to buy the magazine and find out by reading the article who the subject is – and will also get the meaning from the full context provided by an extensive story.

“In the alternative, should the court find that the *Noseweek* cover and/or the editorial and/or the article complained of are *per se* [on the face of it] defamatory of the plaintiff [Katz], and/or were intended to and were understood to bear the meanings attributed to them by the Plaintiff, then the cover, editorial and article:

- contained matter that was substantially true, and was published in the public interest;
- amounted to fair comment, prem-

ised on substantially true facts;

- were published on a privileged occasion, in that the defendants had a moral or social duty to make the publication, which was made to people who had a right to receive the information, and/or

- were published reasonably in the circumstances, in that the reports... are substantially based on, or are a reasonable response to documents, statements and court records that are quoted in the *Noseweek* reports, said documents, statements and court records having been either generated by the Plaintiff himself, or with his knowledge, or at his behest, or being known to Plaintiff [Katz].

- In further amplification of First Defendant Welz’s claim to reasonableness, it should be noted that the Plaintiff has repeatedly in the past made it clear that he was not prepared to respond to material published in *Noseweek*, stating on occasion that ‘As regards the allegations relating to me, I find them too pathetic to warrant a response.’ And ‘I have featured in a number of *Noseweek* articles over the years... I have not responded as I have always been of the view that it was a waste of time to engage with *Noseweek*’.

“This occasion proves to have been the exception. In accordance with their commitment to freedom of speech, First and Second Defendants [Welz and *Noseweek*] published his *per se* defamatory responses immediately they came to our knowledge. By publishing his responses, First and Second Defendants did not concede the correctness thereof, except where specifically so stated, but as a reflection of their commitment to freedom of speech.

- In further amplification of the Defendant’s denial [that the words complained of were unlawfully defamatory], when reading the passages complained of, and all other material published in *Noseweek*, *Noseweek* readers would be familiar with, or quickly register the publication’s uniquely free, irreverent and occasionally entertainingly cheeky style of writing, a style that Katz has himself on occasion described as ‘satirical’.

And the Plea concludes: “Wherefor First Defendant prays that the Plaintiff’s claim be dismissed with costs.” – **The Editor**



“These dreams of yours wherein you find great tubs of money, Mr. Croy—can you describe the spot a little more exactly?”

'Incriminating' report kept from appeal court in demolition case

Findings of KZN internal probe 'contradicted advocate's argument'

AN ADVOCATE WHO SUCCESSFULLY represented eThekweni Municipality in an appeal to have a high court demolition order reversed, thus saving the city millions of rands in damages, could find himself being questioned about why he did not disclose a confidential city report that was "explosive", "highly incriminating" and contradicted the argument he presented to the Supreme Court of Appeal (SCA).

This is yet another twist in a nearly six-year-long saga involving the construction of a yet-to-be completed luxury apartment block on Durban's Berea. Nicknamed the Monster on the Berea, it has panoramic views of the city, the Port of Durban and the Indian ocean, while obliterating the views of neighbours (*noses*190, 212,230).

The boundary-to-boundary building at 317 Currie Road was ordered to be demolished in June 2015 by the High Court in Durban on the grounds of a flagrant disregard of due process and because the municipality was so compromised in the issue that it could not be trusted to fix its own mess without bias.

The developer, Serengeti Rise Industries (Pty) Ltd, which has since been liquidated, and the City then successfully had the order reversed by the SCA in June 2017.

But now advocate Tayob Aboobaker SC, who is personally affected by the development and who has been at the forefront of fighting it, has asked the president of the KwaZulu-Natal Legal Practice Council, Asif Essa, to call on advocate Max du Plessis SC who represented the eThekweni Municipality, alongside Gilbert Marcus SC, to explain why vital information disclosed in a municipal internal investigative report that may have materially changed the case, was not disclosed to the SCA.

"Counsel, by not placing the report before the court, withheld... evidence of bad faith, corruption or fraud on the

part of representatives of the municipality...

"If this type of conduct on the part of legal representatives is not checked, then the inevitable result will be that corruption in the municipality would flourish, aided and abetted by the compliant actions of their legal representatives," wrote Aboobaker to Essa.

Key to the SCA success was a claim by the eThekweni counsel that irregularities by the city were "of a far lower order of severity"; that there was "no evidence that the municipality had acted in a biased or fraudulent manner", and there was "no evidence of bad faith, fraud or corruption on the part of the administrative officials".

However, as *Noseweek* has previously reported, a leaked investigative report compiled by the eThekweni City Integrity and Investigation Unit (CIU) and finalised in December 2015 revealed that eThekweni was fully aware, when arguing before the SCA, that in fact it was not just one staff member's minor infraction but that at least six senior employees were involved and all had been found "in dereliction of duty" and to have failed to perform the functions of their office "in good faith, diligently, honestly and in a transparent manner".

"The contents of the CIU report are at odds with [*counsel's*] statements. If there was no evidence before the court of "bad faith, fraud or corruption" it was not there because the municipality and their counsel chose not to put it before the court," said Aboobaker in his letter, dated 3 December 2019.

He said it was likely that Du Plessis was in breach of the Rules of the General Council of the Bar of South Africa pertaining to "duty to the court", which requires counsel to "divulge to the court material facts of which he has knowledge ...by his overriding duty not to mislead the court".

"The spectre of corruption looms large on a reading of the CIU report. The municipality is not a private liti-

gant. If its very own investigative unit makes adverse findings resulting from an investigation, the court ought to know about it.

"Counsel is duty bound to disclose such a report to the court. In a constitutional dispensation the importance of that duty takes on a new dimension. The interest of the municipality is dictated by the interest of its citizens and not by municipal officials having their own agendas."

Aboobaker was also the complainant to the CIU. However, his repeated attempts to see the report were rejected, including his Promotion of Access to Information Act (PAIA) request.

Precisely, why this report was not made available to the SCA was a matter only advocate Du Plessis could explain. "Evidence of fraud or bad faith on the part of the municipality may well have materially influenced the course of action taken by the court." He said the contents of the CIU report "would have been known to counsel".

Aboobaker said he failed to understand how counsel acting for the city could "withhold an explosive and highly incriminating report from the court" dealing with the very matter being judged by the court.

In previous correspondence between Du Plessis and Aboobaker, attached to the letter to the Legal Practice Council, in which Aboobaker asked why the report was not disclosed, Du Plessis said it was "neither obligatory nor proper... to disclose confidential information pertaining to litigation".

Aboobaker said that, while Du Plessis was the junior member of the legal team, the KZN Legal Practice Council did not have jurisdiction over Johannesburg-based Gilbert Marcus SC, and Du Plessis had provided legal opinion to the city regarding Aboobaker's PAIA request.

The KZN Legal Practice Council has yet to take a decision on the matter. ■

Exposed: Zuma 'bodyguard' was link man in international fishing conspiracy

Noseweek's Susan Puren dives deep into the WikiLeaks Fishrot Files

IN MAY 2014 JACOB ZUMA APPOINTED Senzeni Zokwana as Minister of Agriculture, Forestry and Fisheries. But by July 2016 Zokwana and his department were faced with a court application to interdict them from fishing an exploratory permit worth between R80 million and R120m per year, renewable for up to 15 years. Until now nobody connected the dots, except maybe the man who later became the whistleblower in Namibia's Fishrot scandal.

The fishing industry is a murky business, a commonly connected mob that is littered with rogue operators, professional conmen and full-blown crooks. But to categorise them strictly along those lines or pick out the honest ones among them is a difficult exercise that depends on who you speak to or how you interpret the confidential emails that WikiLeaks splashed across the internet on Tuesday 12 November last year.

Much has since been written about the WikiLeaks Fishrot Files that

exposed corrupt politicians and officials in Namibia's fishing industry. In return for lucrative fishing rights in their country they received close to \$10m (R147m) in bribes from the Icelandic fishing conglomerate Samherji.

Two government ministers in Namibia resigned and are awaiting trial, together with another seven senior officials who were also caught with their hands in the cookie jar. In Iceland, Samherji's CEO has stepped down while the whistleblower, Icelandic citizen Jóhannes Stefánsson, is in hiding, fearing for his life.

But Samherji also actively tried to get into South Africa's fishing waters, wining and dining politicians and officials during secretive meetings as far back as 2014. It is all there to see in the WikiLeaks tranche of more than 30,000 leaked emails and confidential documents online. As many as 1,210 of these deal with an elaborate plan to capture a huge chunk of South Africa's fishing industry, specifically

horse mackerel, which earns in excess of R1.4 billion per annum. The tale unfolds mostly in emails written in 2016 between Stefánsson and Allie Baderoen. At the time Stefánsson was still Samherji's front man in Namibia, where he had bribed politicians and officials for many years.

Baderoen, a Cape Town businessman, was steering negotiations on behalf of a South African company called Global Pact Trading 193 (Pty) Ltd which controversially received an experimental fishing permit for horse mackerel from South Africa's Department of Agriculture, Forestry and Fisheries (DAFF) in December 2015. Global Pact obtained the permit, ostensibly by promoting the idea that horse mackerel was a cheap source of protein that could feed the poor. This, Global claimed, was not happening because the big players in the fishing industry do not bring their catch to our shores. Instead, tonnes of fish are block-frozen at sea, transshipped and exported to countries such as Angola, Zambia and the DRC without creating a single job on South African soil.

After unsuccessfully lobbying the suits at DAFF for several years, a permit was finally issued under the watch of the department's then minister Senzeni Zokwana. Granted under section 83 of the SA Marine Living Resources Act, which allows the minister to determine and authorise any scientific investigation or practical experiment, the permit allocated a massive 8,000 tonnes of the oily fish per annum to Global Pact, but without even mentioning details of the required experiment in the official permit conditions.

The quota was worth between R80m-R120m and, with the stroke of Zokwana's proverbial pen, this new entrant to the industry sneaked in through the transformation back door to become the second-largest horse mackerel rights holder in South Africa, without having to go through



Workers prepare fish

the application processes imposed on all other applicants. The permit also uniquely entitled Global Pact to fish on the West and South coasts of South Africa at any time they chose.

This raised eyebrows throughout the fishing industry. The South African Deep Sea Trawling Industry Association (Sadstia) and 21 other entities launched an appeal, saying such an allocation to a newcomer was unheard of and in conflict with the fishing capacity management regime, which was developed and implemented by the very same department that had granted Global Pact's so-called experimental permit.

Furthermore it was reported in the media that the horse mackerel sector was placed on the watchlist in 2015 as being potentially under threat. Due to the decline, only 12,433 tonnes of the 58,000-tonne allowable catch were fished in 2015. This resulted in the species being downgraded to "Orange" status on the South African Sustainable Seafood Initiative (Sassi) list compiled by the World Wildlife Fund (WWF).

None of this seemed to be a stumbling block for Baderoen and the people behind Global Pact who continued with negotiations to sell the allocation to Samherji, a foreign company with a foreign-registered vessel and no plans to feed or uplift South Africa's poor.

Stefánsson's emails show that he was very excited about the planned deal and was assured that the permit would be extended to ten or 15 years after the initial 12-month period.

But he must have realised that Global Pact's windfall was not above suspicion, because a few days later he sent an email with a copy of the permit and its conditions to Edmund Greiner, the lead maritime litigation specialist at Cape Town law firm Shepstone & Wylie, asking for legal advice about the negotiations with Global Pact.

"They have a very strong political backup and we have a common friend in Namibia," Stefánsson wrote. "We know they have a strong political backup, as nobody has what they received; the 8,000 tonnes of horse mackerel quota where you can also catch on the West Coast."

Noseweek asked Greiner what he understood when Stefánsson said Global Pact had a strong political backup? He responded that he was instructed on behalf of the Icelandic



Jóhannes Stefánsson, Unknown with glasses, Allie Baderoen, Senzeni Zokwana, Siphokazi Ndudane, Unknown, Samherji official, James Booi, Fryman Baatjies

Some scaly fish in the murky waters

JAMES BOOI MADE THE HEADLINES IN 2018 when Chaile Seretse, the CEO of an abalone processing company in Gansbaai, deposed an affidavit at the Lyttelton Police Station claiming that Booi, Fryman Baatjies and Siphokazi Ndudane stole money that was intended to bribe former president Jacob Zuma. Like Booi, Baatjies was a director of Global Pact Trading 193.

Senzeni Zokwana was about to be removed from the Cabinet and the money was to prevent Zuma from doing that. *City Press* reported that the reason the three of them wanted Zokwana to keep his job was because the minister's transformation agenda was going to be implemented through them. It was claimed that R30 million would make its way to the ANC through a fisheries project.

Siphokazi Ndudane was DAFF's deputy director general who, according to the Fishrot Files, was wined and dined by Samherji's representatives in Cape Town. Last year *City Press* reported that Ndudane, Zokwana and Cosatu president Sdumo Dlamini had each received R300,000 in bribes from Deon Larry, an abalone dealer. Larry later filed papers in court demanding R2.5m from Booi, Baatjies and advocate Shaheen Moolla. Larry claimed the money was meant to secure permits for a rock lobster venture that failed because the permits Booi and Moolla had promised him did not

materialise. Ndudane was dismissed in December last year after a disciplinary hearing found her guilty of theft of abalone worth more than R7m at a government storage facility in Paarden Eiland. She now heads the Eastern Cape department of Rural Development and Agrarian Reform.

Shaheen Moolla is a well-known and often-controversial figure in the fishing industry. Currently managing director of Feike Natural Resources Management, he was previously the head of Fisheries Management and Compliance at DAFF and chairperson of the 2013 Fishing Rights Allocation Process appeals committee.

Minister Zokwana re-appointed Moolla when Sadstia took the minister to court for the experimental fishing permit he had issued to Global Pact Trading 193, the company where Moolla acted as a legal advisor during its negotiations with Samherji.

Allie Baderoen is the president of the Cape Town Branch of the SA-China People's Friendship Association, whose aims are to improve mutual understanding and trust and promote exchange and cooperation between the people of South Africa and China. Launched in 2013, its honorary presidents are: former minister Nomvula Mokonyane, ANC Secretary General Ace Magashule and former Western Cape politician Marius Fransman, who is the honorary chairman. ■

group of companies to review a potential agreement wherein his client would supply a vessel to Global Pact. He said that his law firm was not involved in the permit the company had secured.

But the political backup was real because in another email Stefánsson informed a colleague about a planned meeting with Global Pact's owners and their connections, referring to them as the "main person" and "a former Minister in South Africa".

It is not clear which former minister but, according to company documents, Global Pact's "main person" was James Booï, its managing director, who is allegedly a former bodyguard and friend of Jacob Zuma.

In Cape Town Baderoen was just as thrilled with his connections and in April 2016 he wrote to Stefánsson about a meeting he was going to have with DAFF's deputy director general (DDG) Siphokazi Ndudane, referring to her as "the lady you met under the instruction of the minister".

A few weeks later Baderoen visited Samherji's headquarters in Iceland and on his return he sent an email to Stefánsson saying he had shared "the news with his principals in Johannesburg" and that they had a host of projects that will be "made available to us".

Global Pact needed a partner with access to a mid-water trawler as well as a market to sell the yet-to-be fished 8,000 tonnes of horse mackerel and Baderoen knew that Stefánsson held the key. Between the two of them, assisted by teams of lawyers and tax consultants in South Africa, Namibia, Cyprus and Iceland, it was decided that Global Pact would enter into a

joint venture (JV) with Esja Shipping, a subsidiary of Samherji in Limasol, Cyprus. Esja Shipping would hold 49% of the shares and Global Pact 51% in the JV-company.

The memorandum of understanding (MOU) stated that Esja would provide the operational and capital expenditure funding in order to "operationalise" the permit while Global Pact would exclusively make the permit available. Its directors would also supply their "expertise and know-

as well as Zokwana's Chief of Staff and "the Speaker." (Your guess is as good as ours who that could have been).

The follow-up emails between Baderoen and Stefánsson are cryptic but telling.

Baderoen: "The minister said he would support Samherji 100% to enter South Africa and his people would help Samherji take its first steps."

Stefánsson: "I assume it is best for us not to make an official letter to thank him for the meeting as it was not official or shall we [sic]?"

Baderoen: "They want to visit Samherji and Iceland. Invitation should be extended to Minister. For now the delegation to accompany the minister should be left for the minister to decide."

Advocate Shaheen Moolla, who acted as Global Pact's legal advisor during its negotiations with Samherji, said: "This dinner should immediately raise a red flag because third parties seeking a permit or any other authorisation from the department ought to ethically see the minister at his official offices.

"It certainly creates an impression of wrongdoing or ulterior motives, particularly because every other party involved in fishing is never afforded such privileges of wining and dining ministers."

With the questions about a licence for the foreign vessel out of the way the parties started discussing the fees for their venture. First up was the use of the valuable permit, which was established as R2,000 per tonne of fish landed and payable by the joint venture to Global Pact within seven days after landing. With a quota of 8,000 tonnes, this calculates to R16m

The 'main person' at Global Pact was James Booï, allegedly a former bodyguard and friend of Jacob Zuma

ledge" of government institutions and horse mackerel fishing in South African waters.

By law, foreign-flagged fishing vessels are not allowed to operate in South African waters. But why stress about this little detail if you have the decision-makers on speed dial?

Baderoen arranged for Stefánsson to meet the who's-who in the fisheries department and beyond to discuss such a permit over dinner in Cape Town and later gave feedback to Samherji's CEO in Iceland, saying Zokwana and Ndudane had attended



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for Global Pact for simply being connected to the right people.

Global Pact wanted 20% up front and after a personal meeting in Iceland with Samherji's CEO, Thorsteinn Mar Baldvinsson, Stefánsson reported back to Baderoen that "the big boss" had agreed to pay the 20%.

This meant Global Pact would receive R3.2m as the first payment once the licence for the foreign vessel, allegedly promised by minister Zokwana himself, was in place and before any fishing occurred.

There was another fee that Samherji was asked to cough up before any fishing took place. – ostensibly described as a socio-economic levy of 10%. Moolla asked Stefánsson in more than one email to urgently pay this levy via EFT to Global Pact's Standard Bank account in Hermanus.

Noseweek was unable to find any reference to such a levy in both the permit and its conditions in the Fishrot Files on the internet but Moolla assured us that the levy would have been utilised to get more horse mackerel processed and consumed locally. However he said he was not privy to Global Pact's detailed processing and local marketing obligations and commitments.

Baderoen and his lawyer Brendan O'Dowd explained that the levy was an additional sum over and above the usage fee, to assist Global Pact meet the local socio-economic investment obligations attached to its permit.

Noseweek asked senior executives in the local fishing industry about this so-called socio-economic levy and they were adamant that there has never been such a fee payable as part of a fishing permit.

Nevertheless, if based on 10% of the usage fee, the levy calculates to R1.6m

or 1.3%-2% of the projected value of the permit; literally, a drop in the ocean for South Africa's poor who need jobs and a cheap source of protein.

Then, inexplicably, after six months of wheeling and dealing at the highest level and with the JV in place, Global Pact suddenly walked away from the negotiations with Samherji. The move coincided with Stefánsson's resignation from his job as the bagman for the corrupt fishing company, Samherji. But nobody suspected in 2016 that he had downloaded 40 gigabytes of confidential documents, including those

South African officials were willing to make it easy for him, as a foreigner, to fish in our waters

that showed how South African politicians and officials were willing to make it easy for him as a foreigner to fish in our waters.

In South Africa, in the meantime, Sadstia had learned that their appeal against the minister's decision to grant Global Pact a fishing permit had been dismissed and they decided to take the case to court.

Dr Johann Augustyn, Sadstia's secretary and the former Chief Director of Fisheries Research at DAFF, said in his affidavit that the department had no record of decision other than the Global Pact

permit itself, and no valid reason was presented as to why the association's appeal was rejected.

"I submit that the most reasonable inference is that the decision was influenced by an undisclosed ulterior purpose or bias, as to the precise nature of which one can only speculate."

Three years later the WikiLeaks Fishrot Files proved this to be true.

Zokwana and his officials agreed to settle the case on 9 November 2016. The reason they gave was that Global Pact's permit had been due to expire the following month and that "any decision by a court will be moot and academic by the time judgement is granted".

Zokwana, the former chairman of the SA Communist Party, was replaced by Barbara Creecy in May 2019 and the department is now known as, Forestry, Fisheries and Environmental Affairs.

At the time of the media reports in *City Press*, all the allegations were denied by attorney Barnabas Xulu who acted for the DAFF.

Vukile Mathabela, who received the questions on behalf of Zuma, failed to respond.

Moolla, Baatjies and Booi dismissed the claims as "outlandish." Moolla told *Noseweek* that nothing had come from the Hawks' investigation into the allegations and that he had severed all ties with Booi and Global Pact, which he described as a rogue company, which had never paid him for his services.

James Booi did not respond to questions from *Noseweek*, while Ndudane denied the recent allegations in a media statement and said she would clear her name. – **By Susan Puren**

● *This investigation was partly funded by The Open Media Trust* ■

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NEWS YOU'RE NOT SUPPOSED TO KNOW

SA doubles down on double standards

The state was the biggest beneficiary from the collapse of the Tannenbaum Ponzi scheme

IRONICALLY, THE SOUTH AFRICAN government ended up being the biggest beneficiary from the collapse of Barry Tannenbaum's multi-billion-rand Ponzi fraud rather than the creditors.

Readers will recall how hundreds of wealthy South Africans were tempted with too-good-to-be-true quick profits to invest large sums – some individuals invested tens of millions of rand – supposedly to be used to fund the importation of the raw materials used to manufacture drugs for the treatment of HIV/Aids.

The documentation was faked and simply served as a cover for a cash pyramid or Ponzi scheme – essentially, an illegal form of gambling. Money invested by later players is used to pay profits to earlier players. Those who enter early stand to make huge profits, the bulk of players who buy in later will probably lose all they invest when the collapses – which it inevitably must when the scheme can no longer recruit larger and larger numbers of new investors.

Making matters worse for the numerous latecomers to the scheme – which was sold to them as a legitimate, though somewhat miraculous, investment – when it collapsed in 2009, SARS and the National Prosecuting Authority's (NPA) Asset Forfeiture Unit (AFU), between them grabbed over R91 million found in the operators' bank accounts.

A high court judge placed Tannenbaum's local estate into provisional liquidation in June 2009, and the order was made final in August of that year. In July 2009, the AFU provisionally froze three accounts held by Darryl Leigh, one of Tannenbaum's main accomplices.

NPA Gauteng spokesperson Phindile Mjonondwane said that the AFU had subsequently obtained four court orders against Leigh and another Tannenbaum accomplice, Dean Rees, which had garnered a

total of R58.4 million.

On August 18, 2010, the AFU obtained the first court order that saw R49.4 million in cash from Leigh's accounts handed over to the state.

"The money was paid into the Criminal Assets Recovery Accounts (CARA)," Mjonondwane said.

The CARA is a separate account in the National Revenue Fund in which monies and property get deposited following a judicial forfeiture or confiscation order. A Criminal Assets Recovery Committee, which usually consists of state ministers, decides how the CARA money is spent.

On March 31, 2011, the AFU went on to take possession of a Ferrari 599 GTB Fiorano that Rees had bought for R4 million.

The AFU sold the car at public auction for R2.08m and the money was paid to the CARA.

The third court order was handed down on June 12, 2013, and resulted in R30,000 in cash from a Stanlib account that belonged to Leigh, being handed over to the state.

The fourth court order resulted in the AFU's taking over a property in Camps Bay, Cape Town owned by Leigh. Leigh bought the house in November 2007 for his daughter, Laura Haude.

"The matter went to court but was eventually settled. In terms of the settlement, the property was sold for R13.85m. An amount of R6.95m was excluded from the forfeiture order (giving consideration to the renovations and improvements made by Laura Haude to the property). The balance of the proceeds of the sale, less curator fees, was paid into the CARA," Mjonondwane said.

Leigh bought the property for R8.8m for Haude and registered it in her name when she was a 25-year-old student. She is now an attorney and a director of Cape Town-based law firm Hofmeyr and Haude Inc.

When *Noseweek* contacted Haude she confirmed that she was Leigh's daughter but declined to comment further.

Mjonondwane said that the trustees of Tannenbaum's insolvent estate litigated against the AFU to have the R49m that was seized from Leigh handed back to them for distribution to investors who had lost out.

"However, the court ruled that the money was the proceeds of criminal activity and as such was tainted and could not be handed over to the insol-

Those who set up the scheme and those who contributed to it all committed criminal offences, said the NPA

vent estate... The insolvent estate filed a notice to appeal the judgment but later abandoned it," she said.

Both the people who set up the scheme and those who contributed to it all committed criminal offences, she added.

The Unfair Business Practices Act declared that the operation of or participation in a multiplication scheme, offering an effective annual interest rate of 20% and more, above the South African Reserve Bank's repo rate, to any participant was unlawful, Mjonondwane said.

"Therefore, all participants who invested in an unlawful multiplication scheme will have acted unlawfully. Investors who invest in such schemes must be aware that they are at risk of losing their investments,

not only by the orchestrators of the scheme but also to law enforcement agencies. It should serve as a further deterrent by the general public not to get involved in such schemes," she said.

The NPA's Special Commercial Crimes Unit (SCCU) has to date charged no one criminally nor arrested anyone concerning the Tannenbaum Ponzi scheme, despite the scheme's having been an obvious fraud, Mjonondwane said.

Tannenbaum fled to Australia in 2007 and his main agent/accomplice, attorney Dean Rees, absconded with his family to Switzerland in early 2009 in a Boeing they had hired for the purpose.

The NPA has never applied for the extradition of either of them back to South Africa, despite *Noseweek* having reported in November 2009 that "arrests are expected soon".

"At this stage, no one has been charged, and there has been no extradition process," Mjonondwane now admits. This is despite the fact that at the second creditors' meeting of the Tannenbaum estate on 16 March 2011, a note prepared ahead of the meeting by the trustees stated: "We have been informed by the NPA that they intend to apply for [Tannenbaum's] extradition.

"International warrants of arrest for Tannenbaum and Rees were issued but have not to date been executed," they added.

South Africa has an extradition treaty with Australia but not with Switzerland.

In the past, attempts to extradite South Africans from Australia have proven difficult. This is due to an Australian court ruling in December 2004 related to a certain Jacob de Bruyn.

Australian Minister of Justice and Customs Christopher Ellison approved De Bruyn's deportation back to South Africa. But an Australian court ruled against this because the state of South African prisons "would be oppressive or incompatible with humanitarian considerations because there is no

certainty that De Bruyn will not contract HIV/Aids if made to serve a sentence in a South African prison".

De Bruyn was wanted for defrauding First National Bank of R1.2m.

The Tannenbaum Ponzi scheme highlighted the weaknesses in the South African Insolvency Act of 1936, and it was in urgent need of being updated, mainly to allow for cross-border transactions, a source said.

SARS, by law, is a preferential



Barry Tannenbaum

creditor in any liquidation, which places it ahead of concurrent creditors, which in this case would have been mainly people who invested in the scheme, lost out and submitted claims to the trustees of the Tannenbaum insolvent estate.

The estate paid SARS R32.7m.

Lawyers involved with the estate were paid out a total of R33.3m, according to the first liquidation and distribution account.

Other parties to get significant income from the insolvent estate were forensic investigators, who got paid R13.3m, while the trustees' commission was R9.9m.

After these payments, the balance remaining in the estate for distri-

bution among 105 creditors – who had claims of almost R164m – was R10.8m, according to the first liquidation and distribution account.

Many wealthy people who put money into the scheme lost out. Several submitted claims that were rejected or they were paid out well short of the claimed amount.

The three joint trustees of Tannenbaum's insolvent estate are Gavin Gainsford, who at the time worked for KPMG and now works at GCW Administrators, Vincent Matsepe of Matsepe Inc and Shirish Kalianjee of Shirish Kalian Attorneys.

Noseweek sent Kalianjee several questions regarding the Tannenbaum estate, but he didn't respond.

Rees's local insolvent estate was in the care of three liquidators, Zeenath Kajee, Bert Surmany, and TP Mudzusi.

Shireen Velayadum, on behalf of the three Rees liquidators, said that the inquiry into the insolvent Rees estate ran for four days, during which time the trustees interrogated 15 witnesses, and the probe closed on 2 July 2018.

In contrast, the Tannenbaum insolvency inquiry ran for 40 days intermittently from April 2010 to November 2011, and more than 200 witnesses gave evidence.

The inquiry received substantial information including pages that numbered in the thousands, Velayadum said.

The trustees did not travel to Hong Kong to access Rees's bank accounts there, Velayadum said.

"We obtained bank statements of known bank accounts for the insolvent," she said. "The trustees of the Rees estate did not travel outside of South Africa in the course of administration of the estate."

By contrast, in October 2012, the Tannenbaum trustees organised an R5.5m trip to Australia to extract information from the Ponzi kingpin [nose 244].

SARS criticised this expenditure as mostly fruitless, but the trustees defended it as useful in tracking Tannenbaum's worldwide assets. They could at least say they had tried.

Before the trip, the three

Tannenbaum co-liquidators applied to the Federal Court of Australia in Brisbane to try to include Tannenbaum's Australian estate in the South African insolvent estate.

On 24 August 2012, Australian Judge Logan ruled that the court should aid the South Gauteng High Court in Johannesburg by making Tannenbaum submit a statement of his affairs to the three trustees.

However, the judge dismissed the application to include Tannenbaum's Australian estate in the South African insolvent estate and for the South African trustees to administer and realise all of Tannenbaum's assets in Australia.

A letter addressed to SARS officials in November 2011 by Brooks & Brand Attorneys Inc, known today as Brooks and Braatvedt Inc (B&B), showed that Tannenbaum transferred A\$15m (today worth over R150m) to his Bartan bank accounts in Australia between March 11, 2009, and April 17, 2009. A year later the money had gone elsewhere and Bartan was wound up.

In his ruling, Judge Logan put the total amount that Tannenbaum's scheme received from 2004 to 2009 at R3.3 billion. The three South African trustees estimated the amount at R3.6bn.

SARS found that for the 2004 to 2009 tax years of assessment, nearly R4bn flowed through Tannenbaum's South African bank accounts. However, these numbers excluded bank accounts Tannenbaum held outside South Africa – in Australia, Hong Kong and possibly elsewhere in the world.

Judge Logan said that by the time the trustees launched their application in Australia, Tannenbaum was no longer "habitually resident in South Africa", so his Australian estate could not accrue to the South African trustees of his insolvent South African estate.

"That country [*South Africa*] was once his place of habitual residence, but it is no longer. Neither he nor his family has lived in that country since 2007. (They emigrated to Sydney, Australia in March of that year.) That was well before he was made bankrupt in that jurisdiction."

"On the whole of the evidence, the conclusion which I reach is that, at the very least, if not already by 2009, he was habitually resident in Australia as at the time this application was filed," Judge Logan said.

Using this test of residency and other reasons, Logan dismissed the trustees' application to extend their powers to Tannenbaum's Australian estate.

In a letter addressed to Tannenbaum in 2010 by SARS, it identified Leigh and Rees as Tannenbaum's key agents, given the number of people they had signed up to the scheme.

Rees tried to claim R10m in



Tannenbaum accomplice Dean Rees

commission he alleged he was owed from the Tannenbaum estate, according to a requisition form dated 15 June 2009.

Given the number of people that they introduced to Tannenbaum's scheme, SARS initially also identified the following people as "agents": Jonathan Rosenberg, CEO of Renasa Insurance; Ben Jowitt; Andrew Armstrong, former OK Bazaars CEO; Mervyn Serebro; and Craig Delpert, a Cape Town attorney.

In perpetrating the fraud, Tannenbaum conned people into investing in his scheme by saying that his company, Frankel Chemicals, had won a significant tender from Aspen Pharmacare to supply the

ingredients for anti-retroviral drugs. Tannenbaum told people that Frankel was Aspen's sole and exclusive supplier in this regard.

However, Aspen produced an affidavit in 2009, from which it was clear that Tannenbaum forged numerous documents purporting to demonstrate the purchase of ingredients by Aspen and amounts owing by Aspen, trustee Kalianjee said in a note.

The investment period for these loans was eight to 12 weeks. Investors were offered a return of 10% to 30% (equivalent to an annual interest rate of between 65% and 195%).

While the news broke of the scheme's collapse in June 2009, in retrospect there are indications that things were unravelling several months earlier.

"Problems first arose toward the end of 2008 when repayments from Tannenbaum were not forthcoming, which Tannenbaum initially blamed on the banks," Judge Boissie Mbha wrote in his judgment of June 2014.

Mbha stated in his judgment that in an email exchange, possibly in 2009, between Rees and Tannenbaum, Tannenbaum said: "Thank God for [*two new investors*] otherwise the window [*to leap from*] will look tempting again!"

"It appears Tannenbaum was considering the possibility of suicide," Mbha wrote.

"The correspondence also confirms growing anxiety of Rees and Tannenbaum from about October 2008, when the global economic recession was biting. Tannenbaum expressed the sentiment; thus, 'Feels as if the rivers are slowing – know what I mean?', as the consequent difficulty of soliciting funds from new investors grew. They then joked with one another about committing suicide or being found 'floating in the lake, face down,'" Mbha wrote.

Rees indicated in a letter dated 23 March 2009 to Leroy Tulip, who had contributed R100,000 to the scheme, that the scheme was in trouble and that payouts were delayed.

"We... have no alternative but to implement an ...increase in length

of transactions with which you are involved,” Rees told Tulip, adding that Tulip’s payout would take place in May rather than April. However, the scheme then folded, so he was not paid at all.

In court documents from 2014, the three trustees wrote that Rees had emigrated to Switzerland in January 2009 where he continued to operate the scheme with Tannenbaum.

In the Mbha judgment, he says Rees admitted in an affidavit that he had received between R70m and R80m in so-called “commissions”.

“In some of the exchanges he had with Tannenbaum, Rees even referred to investors as “those idiots”, thus displaying his total and callous disregard for investors. Clearly, he never gave a second thought to the immorality of using monies entrusted to him, to bankroll his and his wife’s lavish lifestyle,” the judge said.

“Rees also acquiesced in Tannenbaum’s suggestion that certain information pertaining to the scheme’s offshore funds be withheld from the South African Reserve Bank,” Mbha wrote.

“Rees was struck from the roll of attorneys on 6 October 2001, on the grounds that he was no longer a fit and proper person to continue to



Former Pick n Pay CEO Sean Summers

practise as an attorney.”

The Law Society of the Northern Provinces filed an affidavit setting out 16 grounds in support of its application. These included maladministration of a trust account, involvement in a Ponzi scheme and document fraud.

“*[MD of Computer Forensic Services]* Steve Harcourt-Cooke’s report shows that Tannenbaum’s net liabilities increased exponentially from [R8.3m] as at February 2005 to [R311.4m] on 5 June 2009,” Mbha wrote.

A review of Rees’s bank statements prepared by Harcourt-Cookes showed that Rees used more than R170m of funds for himself and his wife.

“This money was spent by Rees on luxurious items such as gold, jewellery, first-class air travel, entertainment, liquor, renovations, and maintenance to his house, salaries to himself and so forth,” Judge Mbha noted.

“During the relevant period, Rees paid R1.29m to Tannenbaum from Centaur – Rees’s property-owning company – and instructed Tannenbaum to repay [R27.8m] into its bank account. Thus, Rees had a return, albeit illegally, of approximately 700% per annum from Tannenbaum,” Mbha wrote.

The first liquidation and distribution account issued in 2014 showed that the trustees had collected just R100.5m for the insolvent estate.

In a notice of motion in 2014, the three trustees state: “To date, the trustees have entered into settlement agreements and obtained judgments against defendants in the aggregate sum of approximately R260m.”

However, it is not clear how much of that R260m was collected.

People who put large sums of money into the scheme included: former Pick n Pay CEO Sean Summers; former Dimension Data CEO Jeremy Ord; accountant Howard Lowenthal; former JSE chair Norman Lowenthal; and former Bond Exchange CEO Tom Lawless.

The trustees issued the second liquidation and distribution account in late 2016, and the payout to concurrent creditors was R12.7m.

Legal fees for the second liquidation and distribution account



**Former CEO of Dimension Data
Jeremy Ord**

amounted to R5.176m, and the fee paid to the trustees was R1.3m.

However, by the time an amended second liquidation and distribution account, dated 15 August 2017, was issued there was a reduction in the award to concurrent creditors to R10.5m. It looks like just over R40m was paid back to creditors of the insolvent estate. The amended account also shows the trustees awarded Standard Bank just over R10m. In the case of all awards, it is not clear what was actually paid out.

Nedbank claimed R43.1m, was awarded R9.1m and was left with a shortfall of R34m.

Among the individual claimants was Christopher Leppan who brought the sequestration application against Tannenbaum’s estate in 2009, submitted a claim, and was awarded R606,066, which was short of his claim by R2.865m.

According to an amended second liquidation and distribution account dated 22 June 2017, below, are some of the claims and amounts awarded:

- Peter Beale was awarded R10.4m after having claimed R49.2m.
- Alan Agienz claimed R2.3m but was awarded R491,007.
- Richard Erling Foyne claimed R5.575m but was awarded R1.179m.

• JE Jowitt claimed R10.07m and was awarded R2.129m.

• Simon Cretney was awarded R9.343m after claiming R44.177m.

B&B was the Johannesburg law firm that got the lion's share of the legal fees paid out by the trustees of the Tannenbaum estate.

Lawyers received R30.3m, with about R29m going to B&B, according to a document dated 3 February 2016.

Included in the fees paid to B&B was R2.6m for work done in Australia.

The lawyers and accountants that got paid from the proceeds of the insolvent Tannenbaum estate included: B&B; Kramer Villion Norris; DLA Cliffe Dekker, which has become Cliffe Dekker Hofmeyr; Werksmans Attorneys; and Horwath Leveton Boner, which has become Crowe.

The trustees came under fire for the extremely high legal fees they paid primarily to B&B.

Elle-Sarah Rossato, a SARS manager, noted in court documents in 2014 that KPMG was involved in the Tannenbaum and Krion insolvent estates and in both cases, legal fees were very high.

The Krion Ponzi scheme operated in the Vaal Triangle between 1998 and 2002 where 14,000 investors lost R1.5bn, according to *The Citizen*.

"The first liquidation and distribution account in that matter... reflected a free residue in the

estate of R103.1m ...the legal costs amounted to [almost R74m]," Rossato said of the Krion insolvent estate.

Jeanette Venter, an attorney who specialises in the drafting of bills of costs and the taxation of legal fees, provided the following opinion on behalf of SARS in court papers:

"In my view ...the attorney

'the attorney charged more than ten times the prescribed tariff for work in this magistrate's court matter'

charged more than ten times the prescribed tariff for the work done in this magistrate's court matter. This seems to me to be excessive."

Venter is an attorney and member of Jeanette Venter Cost Consultants CC, which specialises in the drafting of bills of costs and the taxation of legal fees. Venter reviewed an invoice

from B&B dated 30 September 2013.

"It appears that the fees as charged were nearly three-and-a-half times more than prescribed tariffs. In other words, on the prescribed tariff a surcharge of more than 350% has been applied," she said.

"In my view, taking the amount of work in this matter into account, it was open for the applicants to have entered into an agreement for a much lower tariff... The trustees could, for instance, have come to some agreement with the attorneys to pay the prescribed tariff for the relevant work, together with, say, a 50% surcharge thereon," Venter said.

The trustees defended the amounts they had paid in legal fees and justified them for the following reasons:

• The insolvency inquiry ran for 40 days;

• The trustees instituted about 115 court actions;

• Particular court action against Rees, in which the estate obtained a judgment of R160m, ran for 13 court days;

• Substantial and very complicated court action against a debtor settled for R35m, in which the estate employed senior and junior counsel;

• Several consultations with various senior counsel to obtain opinions regarding extremely complex issues;

• The employment of attorneys and counsel in Australia at a substantial cost;

• And the seven-day trip to Australia.

On June 9, 2014, SARS lodged a formal objection with the Master against the first liquidation and distribution account.

SARS objected to the legal fees and called up the Master to direct that the legal fees be taxed, or reviewed, per provisions of Section 73 of the Insolvency Act.

Taxation of legal fees is the process of reviewing a law firm's costs.

Depending on the nature of an attorney's bill, the Law Society, the Bar Council or the Taxing Master of the High Court review the legal fees.

In July 2014, the trustees said that the "fees and disbursement... are... not subject to 'proper taxation' by the Law Society" – largely because they had struck a deal with B&B and other lawyers they used to allow such a situation.



Tannenbaum makes the Australian papers

On 28 August 2014, the Master upheld the objection and directed that the legal costs be taxed. The trustees brought a legal challenge against this.

The three Tannenbaum estate trustees opposed the taxing of the legal fees as follows:

“Our attorney has discussed the estimated costs of taxing ... with an independent cost consultant, Mr Willie Wandrag. Mr Wandrag is of the view that it would take approximately two years to prepare and tax the necessary bills of costs ... the costs of taxation would be approximately R4m... Clearly, these costs are substantial and would prejudice the concurrent creditors.”

On 1 October 2015, Judge CH Nicholls ruled on the matter. She set aside the Master’s ruling that the legal costs incurred by the trustees in the insolvent Tannenbaum estate, be reviewed in terms of Section 73 of the Insolvency Act.

Nicholls also confirmed the first liquidation and distribution account of the insolvent Tannenbaum estate.

SARS analysed Tannenbaum’s bank accounts and came up with noteworthy results.

Pieter Engelbrecht, a SARS coordinator for financial investigations at the time, said in court papers that the SARS investigation had reviewed 26 local bank accounts used by Tannenbaum.

Of the nearly R4bn that flowed through Tannenbaum’s bank accounts from the 2004 to 2009 tax years of assessment, Investec received deposits of R2.4bn, Rand Merchant Bank got deposits of R1.4bn and the rest of the money went via several other banks, Engelbrecht said.

SARS identified 390 investors in the scheme, per its bank statement analysis, of which SARS was able to match 378 investors to the information contained in the KPMG report, Engelbrecht said.

Trustee Kalianjee, on the other hand, said on 30 October 2009, that an analysis of Tannenbaum’s bank statements indicated that the total investments might amount to nearly 800.

“I have been contacted by creditors from overseas, such as Barwa

of Qatar, Concordia of the British Virgin Islands, and Meyer Levin of the United States of America,” Kalianjee added.

The Concordia API Fund claimed \$7.787m (or R60.4m) at a rate of 7.76 to the US dollar as of 27 July 2009.

Engelbrecht provided an analysis of how the money flowed into Tannenbaum’s bank accounts.

In 2004, the money started as a trickle in the millions, but by 2009 it was a flood in the billions before the whole scheme came unstuck.

Here is how the money flowed into Tannenbaum’s accounts: 2004 (R6.577m), 2005 (R22.735m), 2006 (R103.363m), 2007 (R297.448m), 2008 (R1.2368bn), and 2009 (R1.49bn).

When the first liquidation and distribution account was issued, claimant John Martin objected in a letter to the trustees to the fact that Leigh had only paid a net of R5.3m into the insolvent estate.


“I am concerned that this does not represent Leigh’s total assets,” Martin said.

In a letter dated 10 July 2014, written by Galloway on behalf of the joint trustees, and addressed to the Master of the South Gauteng High Court, said that Leigh’s profit from the scheme amounted to R114.2m.

A KPMG document dated 31 January 2014, shows that the Tannenbaum estate sold several Leigh assets. Boats and jetskis sold for R473,100 (all figures are gross sales before costs); a Lamborghini for R1.402m; the “Wedge property”, which was owned 50:50 with Tannenbaum, sold for R1.875m; and a Morningside, Johannesburg, property sold for R3m.

In 2009 *Noseweek* reported that Leigh had two Lamborghinis. However, it would appear the trustees sold only one of them to recoup money for the insolvent estate.

The KPMG document noted that the trustees had sold a Vespa for R28,500 as settlement related to a person referred to as “Muller”; another person called “Miller” settled for an amount of R217,303, which was raised by the sale of a property in the Caribbean, in terms of a settlement agreement with John Miller.



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The KPMG document noted that the trustees had sold a property owned by a person called “Rossen” and a settlement of R2.4m received.

The first liquidation and distribution account was made available as of 23 May 2014, and it shows that many people who contributed to the scheme settled with the trustees, as there are 14 pages of settlements where people paid their profits into the insolvent Tannenbaum estate.

In court documents of 2014, the trustees outlined the challenges they faced in unravelling the Tannenbaum scheme.

“There were no genuine records available to document the conduct of the scheme. Those that were available were false,” they added. “The trustees were completely in the dark in regard to the nature, extent and complexity of the scheme,” the trustees said.

“Given the dearth of information available to us, we were unable to administer the estate without enlisting the services of experienced

attorneys and forensic accountants to assist us. The task that lay before us in unravelling and reconstructing the scheme and Tannenbaum’s affairs over five years on a world-wide scale was monumental,” they added.

The trustees, attorneys, and forensic accountants were able to piece together the scheme and Tannenbaum’s affairs by using witness evidence, documents and bank statements.

“To illustrate the extent and complexity of this exercise, the final spreadsheet reflecting the flow of money through the Tannenbaum bank accounts, including these transactions with investors, comprised approximately 24,000 line items. Each line item required analysis and investigation,” the trustees said.

“The documentation that we acquired during the inquiry process... totalled approximately 75,000 pages,” they said. “In addition, the forensic reports... were contained in 25 lever-arch files (approximately 12,000 pages),” the

trustees added.

● As *Noseweek*, went to press we received the following statement from an NPA spokesperson: “Please note that the investigations into the matter are not yet finalised, amongst others, we are waiting for a forensic audit report from Deloitte. Upon receiving such a report, the NPA will be in a position to make an informed decision on whether or not criminal proceedings should be instituted.”

● Asked to comment on the forensic work it was commissioned to do by the NPA, Deloitte South Africa spokesperson Yolisa Tyantsi responded: “Deloitte is not able to comment due to its client confidentiality obligations. Inquiries on the matter should be referred to the client.”

Tyantsi didn’t answer questions about the nature of the forensic work and when the NPA commissioned it. She declined to say when Deloitte was likely to complete the job and produce a final forensic report. – **By Justin Brown** ■



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Wonderboom officials can run airport themselves, says judge

Court suspends consulting firm's appointment

THE VERY APPOINTMENT OF NTIYISO Consulting, be it for advisory and investigative purposes or the enabling of it to appoint external contractors, is unlawful – Judge J Ranchod.

The absurd decisions of the Tshwane Metro to disregard its own highly qualified, experienced officials to benefit private contracted service providers at the city's Wonderboom National Airport have finally been stopped in their tracks by the high court.

On 12 February Judge J Ranchod granted the Wonderboom Airport Interest Group (WAIG) an interim interdict against Tshwane, suspending the appointment of Ntiyiso Consulting (Pty) Ltd with immediate effect.

The judge also ordered the metro municipality to appoint, within 15 days, a properly qualified airport manager to run the entire operational function.

In August last year *Noseweek* revealed that Wonderboom was falling apart since the DA-led Tshwane municipality, licence holder of the airport, had appointed a private company, Professional Aviation Services (PAS) in 2017 to run the airport. The city's once-proud asset, previously managed perfectly well by its own employees, has since been downgraded as a result of mismanagement.

Despite PAS's disastrous management, Tshwane extended the company's one-year contract to run the airport by eight months, and then another six months, each time dispensing with normal procurement procedures. On top of it all, Tshwane raised PAS's fees from under R300,000 to more than R800,000 per month.

PAS resigned, to be replaced by Ntiyiso Consulting, which had no experience in aviation or running an airport. The appointment was announced at a news conference held by the now disgraced MMC Sheila Senkubuge and Tshwane mayor Stevens Mokgalapa who has since resigned.

It was reported that Ntiyiso would be paid around R2 million per month. The company took over at the end of December. By then WAIG had had enough and took legal action to try to save their businesses at the airport. True to its management style, the municipality repeatedly ignored all WAIG's correspondence and requests for meetings, leaving the tenants with

by Ntiyiso Consulting in January, told *Noseweek* after the judgment that he actually agreed with WAIG and with the court's findings. He said he had received great support from the knowledgeable but disempowered municipal officials stationed at Wonderboom.

"Hendrik Kleynhans, the municipal employee who had managed Wonderboom before the intervention began in 2017 did a great job. Not anyone can take an airport from a Category 2 to a Category 5 airport, which he did," Melamed said.

Under Kleynhans's management SA Airlink had instituted scheduled flights between Pretoria and Cape Town, only for them to be suspended a year later when Wonderboom started deteriorating to the point that even aviation fuel was no longer available.

Noseweek reported last year that aircraft owners had to order and then transport dangerous aviation fuel in bakkies and trailers from tankers parked in a dusty area on the side of the road some kilometres away from Wonderboom.

WAIG's chairman Christian Maiorana told *Noseweek* that the current situation was solely a result of political interference for personal interest and gain, which influenced senior managers to disregard proper procedures with the appointments of both PAS and Ntiyiso Consulting. Tshwane strongman Nava Pillay was instrumental in the unlawful appointments.

As *Noseweek* went to press, we learned that the Tshwane Metro is planning to take the court's interim order on appeal. – Susan Puren ■



no alternative but to ask the high court to rectify the disastrous and unsafe environment at Wonderboom.

The court agreed that WAIG had an urgent case to be heard and that the officials at Wonderboom were more than capable of managing the airport themselves. The interim order instructed the municipality to manage the airport without external service providers. They had to report back to the court within 15 days.

Ian Melamed, the current airport manager who was hastily appointed



‘Looming sewage catastrophe’

Effluent pumped into waterways poses ‘real danger’ to health, warns Dr Jo Barnes, dubbed the Erin Brockovich of South Africa

IN BETWEEN WORRYING ABOUT Eskom, junk status and David Mabuza, spare a thought for just one more thing: the state of the country’s rivers. In a word, it’s dire. South Africa’s rivers are being polluted on a massive scale, with billions of litres of sewage discharged into the rivers every day. This is largely due to the fact that close to 80% of the 825 municipal sewerage treatment works are dysfunctional and have been for a long time.

One person who’s been trying to do something about this for years is Dr Jo Barnes, an award-winning researcher into water pollution, sanitation and water-related diseases. For more than 20 years, she has been trying to get municipal and other authorities to take note of the growing crisis affecting our rivers and the potential public health risk this poses. But the former senior lecturer in Community Health at Stellenbosch University – now retired but still working as a water consultant – has had little luck and, through the years, has even faced active measures to shut her up.

“The municipalities, the City [of

Cape Town], the Department of Water Affairs – they’ve all tried to shut me up, but I’m an obstinate old bird,” Barnes told *Noseweek*, when we met in Somerset West, where she lives with a Maine Coon cat called Megabyte and a garden full of birds and squirrels. It was an unbearably hot day, even in the air-conditioning of Somerset West’s Lord Charles Hotel, where we met. We drank endless glasses of iced water. Asked to comment on the state of the country’s rivers, Barnes replied: “It’s sewage, sewage and sewage.

“I don’t have words to tell you how bad it is. Sewage is an unromantic and unpopular topic but it’s presenting a very real danger. People in the towns and cities don’t realise this, as it is taken away by the rivers.

“Every sewage treatment works is built close to a river because the effluent – which is meant to be clean – is returned to nature. That, by definition, is how they work all over the world. But, what is happening in many of these treatment works is that the poorly treated effluent is being pumped into the rivers.

“People think the environment is

something outside of town but the quality of the water we use affects everything from the quality of our food to our health and the economy. Many industrial processes just cannot happen with dirty water. And, of course, if our environment collapses, how do we get it back?”

“About 10%-15%” of South Africa’s sewerage works are doing well; a small few are functioning “reasonably”, but close to 80% are dysfunctional and spewing sewage into the natural environment.

“If more than half of 825 sewerage works are dysfunctional – that’s a massive amount of sewage.

“I don’t have words to tell you how important this issue is but it’s underestimated severely by the ordinary folk who understandably have other things to worry about at the moment. They don’t realise how South Africa’s poor economy will make things much worse, as there is not enough money to go around to pay all the rates and taxes so services will deteriorate. These things are interlinked.

“What I am really concerned about is massive outbreaks of disease [as

a result of filthy rivers]. Being in the field of community health, I am deeply worried about this. It could knock the economy, knock the health budget and our health system is already falling apart. The knock-on effects would be huge – and we are setting ourselves up for it.

“And, as we sit here sweltering and it becomes dryer and hotter, we desperately need all the water we can get our hands on, so how on earth can we be allowing our water to be polluted if we will have to spend billions on cleaning it up again to use it. It makes no economic, ecological or health sense.”

Barnes continued: “Nobody wants to worry about sanitation. Eskom and the arms deal are so much more glamorous, so nobody talks about this creeping disaster facing us.” No matter how unglamorous, stories about polluted rivers have been popping up increasingly in newspapers across the country.

● Last month *Noseweek* reported that the Milnerton Lagoon which was once “a little paradise” is a fetid cesspit as a result of effluent flowing into it from the Potsdam Wastewater Treatment Works (*nose244*).

● In February 2019, *Daily Maverick* ran a story – originally published by *GroundUp* – reporting that residents of Sandvlei, a rural community in Macassar near Somerset West, were being made ill by the nearby Zandvliet treatment plant. Residents listed a number of health ailments including E. coli infections, sores, stomach infections, skin rashes, boils and migraines, among others.

Scientists backed up the claims, saying the treatment plant was “in crisis” and that raw sewage was being discharged into the Kuils River upstream from Sandvlei.

GroundUp reporters described seeing “a steady stream of dark, murky wastewater with floating clumps of foam, flowing into the Kuils River, upstream from the settlement”. A sign warned residents about the “potentially polluted” water.

The Zandvliet Wastewater Treatment plant, which is about 30 years old and long overdue for an upgrade, despite the fact that it services the wastewater produced by nearly a million people, has been beset with complications arising from tender appeals. In mid-2019, the City of Cape Town announced that a R1.7 billion

upgrade was underway at Zandvliet Wastewater Treatment Works.

● In September last year, Eastern Cape businessman Nick Mlumbi made the news when he threw three 25-litre containers of raw sewage into the Amathole District Municipality’s offices in Fort Beaufort, about 120km from East London. Mlumbi, who has lived in Fort Beaufort for 20 years, said he was fed up with the municipality’s delay in dealing with the broken sewerage pipes near his house – and that he and his family had had enough of what municipal officials were putting them through.

Times Live quoted him: “I took the decision to dump this wastewater in their offices so that they can feel what I am feeling here for the past years.”

● In October 2018 President Cyril Ramaphosa declared the sewage problem in the Vaal River system a national crisis and authorised the



Dr Jo Barnes

South African National Defence Force to be deployed there to intervene, as the local municipality could not fix the problem. However the SANDF project was curtailed because of a lack of the funds needed – R1.1 billion.

● Raw sewage has been flowing into the river from pump stations in the Emfuleni Local Municipality on the Vaal River’s northern bank, affecting communities in Vereeniging, Sebokeng, Boipatong and Sharpeville in the southern regions of Gauteng, South Africa’s economic centre.

Residents described the Vaal River as a “giant cesspool”, saying “streets, homes, schools, offices and parks are awash with sewage” and complained that not one of the Emfuleni wastewater treatment plants was fully operational, resulting in over 100 million litres of raw sewage being pumped into the Vaal River System every day.

They said most of the 44 sewage pump stations designed to lift the sewage to the treatment works were “completely out of commission”, large sections of the 2,600km of wastewater pipes were broken and there were almost no qualified people, vehicles or equipment to fix the wastewater treatment plants, pump stations, and sewage pipes.

● On 22 January, 2020 the DA in the Ugu District Municipality called for the municipality to be placed under administration following numerous reports on an “almost decade-old sewage leak through the road into Mkholombe and the Merlewood Secondary School in Port Shepstone” which is “endangering the lives of pupils”.

● On 14 January, 2020, the DA in Mpumalanga called on the White River Local Municipality to urgently attend to the sewerage spillage from Uplands, Pine Lake and other surrounding areas streaming into White River for the past six weeks.

“The infrastructure is crumbling, it has old asbestos pipes which are not wide enough to handle the amount of sewage that flows into it. Currently, the sewer is contaminating the river which supplies water to residents, farmers on the river line and livestock – including to Primkop Dam and Crocodile River. Despite this, the 2020/2021 IDP shows no indication of the municipality prioritising the problem of sewage pouring into the White River. There is no budget approved for maintaining the sewer infrastructure,” said the DA’s Trudie Grovè-Morgan.

“It is unacceptable that a river which is a primary source of water for residents can be left in such a filthy state. The failure to maintain infrastructure is an infringement on a basic human right and serious health hazard.”

● In early January, more than 300 holidaymakers reported that they picked up a gastro bug after swimming at Umhlanga’s Bronze Beach in KwaZulu-Natal over this past festive

season. They blamed sewage leaks near the town's Bronze Beach and accused the authorities of failing to warn bathers.

Sandra Dickson, administrator of the Facebook group "Stop CoCT – Dear Cape Town" which has as its goal to "diligently keep the Metro City of Cape Town and its council accountable", posted recently: "Has Day Zero arrived for City of Cape Town owned sewage plants?"

For Jo Barnes, the interconnection between housing, sanitation and environmental pollution is a "creeping health disaster".

In the late 1990s, when environmental issues were far from top of mind for most people, Barnes – whilst working as a senior lecturer in Epidemiology and Community Health at Stellenbosch University, was asked to do a study of the water in the Plankenburg River which runs into the Eerste River near Kayamandi, outside Stellenbosch.

"I was looking at the sanitation in the then settlement of Kayamandi. I started taking samples of the river water from the Plankenburg, which runs past the settlement. What I saw shocked me so much. The river was an open sewer." She decided to turn this subject into her PhD.

Barnes wrote to the Stellenbosch municipal engineer about the state of ablution facilities in the settlement. "I was ignored, and when I persisted I was called hysterical and a liar and that I didn't know what I was talking about. That set it off. After that, I never looked back. I started looking at more and more rivers."

She recalls that, immediately after sounding her first warning to Stellenbosch Municipality, a campaign against her started. "They – as well as the then Department of Water Affairs – even complained to the university, my employer. Not long after that, I lost access to my dedicated water lab. They said they needed the space for something else. Six months later it was still standing empty. It didn't stop me – I started using commercial labs and paid out of my own pocket."

Barnes also recalls sitting in committee meetings over the years when she would raise the issues of river pollution, but the response was to "absolutely denigrate me" in committee. "They would say I was

lying, ignorant and didn't know what I was talking about. In the end I became the *persona non grata*."

She remembers begging a town councillor for more money for toilet facilities in dense settlements in a certain town. "He looked me straight in the eye and said, 'there are no votes for me in sewerage'."

Fast forward to 2013, when the Department of Water Affairs referred the case of the polluted Eerste River to the National Prosecuting Authority for contravening the National Water Act. At the time, a Water Affairs spokeswoman said the department had been forced to resort to prosecution because the sewage polluting the river was "not receiving the necessary attention from the Stellenbosch Municipality".

The department had received

**'If more than half of
825 sewerage works
are dysfunctional,
that's a massive
amount of sewage'**

numerous complaints from community members and farmers since 1993. The pollution was caused by Stellenbosch's overworked sewage plant which was spilling into the river, as well as the pollution of the Plankenburg River by untreated sewage as it flows past Kayamandi.

Dr Barnes holds degrees in Mathematics, Epidemiology and Community Health. Her major research interests are water-related diseases, water pollution, and sanitation. She is a recipient of the Order of the Disa of the Western Cape Province and numerous other awards, and is an associate of the Stellenbosch University Water Institute.

Barnes, whose father was a teacher who became a chief inspector of schools, was born in Malmesbury and raised in Piketberg, Sandveld and Worcester. She matriculated at

Goudini High School in Worcester and completed an Honours B.Sc Medical Sciences (Epidemiology) as well as a Master's degree, *cum laude*, at Stellenbosch University, before completing her PhD in Community Health at the same university in 2003. She worked as a technologist and researcher before taking up a post as senior lecturer in Epidemiology and Community Health at Stellenbosch University in 1996.

Barnes still lectures part-time in Epidemiology, Research Design and Water-related Health, as well as Disaster Management. She also consults on matters relating to water pollution, river contamination, sanitation, community health, urban housing, and disaster management.

She is currently monitoring the state of the Berg River for the Irrigation Board. "Europe and the UK are becoming very finicky about the quality of irrigation water used for exported fresh produce," she said. "I am so concerned about the state of this river."

When *Noseweek* asked her about her prizes, she deflected: "Don't ask me about awards, they just give them to you if they want to shut you up!"

Prof Steven Robins of the department of Sociology and Social Anthropology at Stellenbosch, who has been researching the politics of water in South Africa, described Barnes as a local Erin Brockovich.

(Brockovich is an US environmental activist who successfully took on the Pacific Gas and Electric Company in California in 1993 over their contamination of drinking water with hexavalent chromium in the town of Hinkley. Her lawsuit was the subject of the 2000 film *Erin Brockovich*, starring Julia Roberts.)

Prof Robins said: "Jo Barnes has been documenting the state of our rivers for years. She's a top environmental scientist but also an activist. I definitely put her up there with Brockovich."

Professor Lesley Green, deputy director of UCT's Environmental Humanities South and an outspoken critic on water issues in the City of Cape Town, describes Barnes as a real character and a superb scientist. "She once told me in her inimitable Stellenbosch lilt: 'The sea is like a great big magimix.' She is genuinely one of the most fair-minded, justice-

based scientists I know. She has also suffered because she doesn't accept the *de rigueur* shutdown of questions other scientists will accept, in order to stay in the contract-science game."

Through years of trying to engage with municipalities and other authorities, Barnes said she had identified a ploy that is used regularly: "The first level – when people start reporting problems to a municipality or government department – is blatant, crude denial. They accuse people of lying, of fake news..."

"After some time, when the evidence becomes obvious, they move on to level two, which is when a municipality will say: 'We admit we have a problem, however, it is the people's fault. They tip the blame on to the people who are complaining. For instance, they will accuse people of stuffing things down pipes. It is difficult to argue with that because some measure of this does take place but it's not what's causing the majority of the mess."

"Level three is now, when – easily ten years on – the municipality admits to a problem but the problem is now so big that they cannot do anything about it. That means they manufactured their own excuse simply by riding out the problem. They've got it down to a fine art. I see this over and over with different municipalities."

"Look at Cape Town, people have been streaming in since apartheid was abolished and the City still doesn't have a coherent housing policy for them as they are such a good scapegoat. They blame the informal settlements for all the mess in the environment but they don't do nearly enough about the informal settlements."

Another key issue, Barnes said, is that municipalities have evolved into little power structures. "The solid waste people don't talk to the roads people who have nothing to do with the people who look after the rivers. Because of these iron-clad divisions, they don't deal with the huge overarching issues. They limit the crisis that comes down on their heads by setting up rigid walls and by saying, 'I only operate inside this area.' There is very little coordination or cooperation between crucial departments. This is nationwide, in the municipalities that still sort of



Potsdam water treatment plant

function. In the others, well, they just couldn't care."

The most frightening thing of all, said Barnes, is that the national Department of Human Settlements, Water and Sanitation is virtually dysfunctional.

(A cursory glance at recent news reports will tell us that last year Minister Lindiwe Sisulu was filling her department with loyalists in a bid to build her political campaign to replace David Mabuza as ANC deputy president at the ANC's national general council meeting this year. She's reportedly plotting her moves based on the belief that Mabuza will be compromised by charges of corruption by the time the council sits. She is believed to be planning to run for the ANC presidency in 2022. Sisulu has also been accused of using the water budget to fund her campaign.)

Of course, all this does nothing to improve South Africa's rivers, nor to help people's access to water. It was recently reported that more than 21 million people – 5.3m households – do not have clean water.

Minister Sisulu, in her department's National Water and Sanitation Master Plan that was released a few months ago, said R898bn was needed to fix South Africa's water and sanitation infrastructure. It is common cause that corruption is rife in the numerous infrastructural projects around the country.

Says Barnes: "I just don't see any political will to turn this around. The ruling party underestimates the

goodwill they can buy by simply getting things to work."

Asked for her ideas on turning the situation around, Barnes said: "The most useful place to start is to take drastic measures to stop the loss of water already in the system that leaks away or is lost. While that buys a little time by gaining extra water, the medium term solutions of purifying used water, improving water and wastewater treatment systems, desalination, etc. can be properly planned and implemented."

"It is no use designing costly, grand new schemes and then pouring the water into decrepit, leaking distribution systems. This crisis will not change until all levels of officials are held legally accountable for their decisions, spending and implementation. They are simply trying to talk their way out of problems they behaved themselves into."

What is also needed, said Barnes, is for civil society to demand that civil servants do their jobs and fulfil the responsibilities for which they were appointed.

Why does she carry on fighting for clean water?

"I do it because I don't have children. I don't have anything to leave behind. If I can help fix some of these things, that's what I can leave behind."

"My personal philosophy, attributed to tennis player Arthur Ashe, is: 'Start where you stand, use what you have, do what you can.' That's what I live by."

By Sue Segar ■



Self-portrait as a younger man

Strachan: the final word

Harold Strachan, *Nosweek's* much-loved columnist of 20 years, died in Durban on 7 February 2020, aged 94

NOSEWEEK WAS SURPRISED AND delighted to discover that the life of Robert Harold Lundie "Jock" Strachan, our veteran "Last Word" columnist of 20 years, was celebrated with a marathon 2,500-word obituary in The Times (London), in which he is referred to as "one of the most remarkable figures in recent South African history." We could think of no better way to honour his memory than to republish it here – with The Times editor's kind permission – and slightly shortened.

JOCK STRACHAN WAS ONE OF THE most remarkable figures in recent South African history: a bomber and fighter pilot, art teacher, painter, explosives expert and guerrilla, fisherman, pic-

ture restorer, cartoonist, novelist, humourist and ultra-marathon runner. He is perhaps best remembered, however, for his dramatic exposé of the appalling jail conditions in which political prisoners were held under apartheid, which caused a storm, including a debate at the UN, and led to improvements for Nelson Mandela and others.

In 1960, when the South African government declared a state of emergency, Strachan and his second wife, Maggie, followed the tide of Africans who streamed out of the Cato Manor area of Durban to demand the release of their political leaders. The security forces used Saracen armoured vehicles to try to block their advance. When this did not work, the shooting began.

In Syringa Avenue, Strachan saw a young African, hurrying home from market with a packet of apples, shot dead; today Strachan's painting of the scene holds pride of place in the Durban Art Gallery. When the police warned that they would shoot the crowd if it did not disperse, the Strachans, gambling that they would not shoot white people, stood in front of the guns to the fury of the police, who judged the situation too explosive to manhandle them away.

Realising that the police would not take being thwarted lightly, the couple fled to Swaziland, then home to many other refugees from the South African left. It was a turning point for Strachan, who could not abide the white communists from Johannesburg who ruled the roost.

“They set up a politburo right away, began arrogating power to themselves and disciplining others. They were clearly just compensating for deficiencies in their own personalities” was Strachan’s verdict.

He and Maggie decided to slip back into South Africa and go to Port Elizabeth, well known as the African National Congress’s best organised bastion. “That was the volcano,” he recalled. “Everyone knew that Govan Mbeki and Raymond Mhlaba [local ANC leaders] ran one hell of a show. We were keen to work with them, but not with the Jo’burg lot.” Strachan began to play a key role in putting out the underground newspaper *New Age*.

In 1962 came the ANC’s decision to set up a guerrilla wing, Umkhonto we Sizwe, known as the MK. To his amusement Strachan was asked, on the basis of his wartime experience as a pilot in the South African Air Force (SAAF), to become the movement’s explosives expert, inventing and designing bombs. “We didn’t make our own bombs in the air force, man, we bought them from a bomb factory,” he recalled with a laugh.

He began reading school chemistry books and with the help of a black photographer friend, Joseph Jack, who was selected on account of his knowledge of photographic chemicals, began work. “So we go off and drink a certain amount of booze and have faith like anything and set-to with the chemicals,” Strachan said. Finally a demonstration was held on Schoonmaker’s Kop, a deserted beach, where they blew a lavatory sky-high, drawing the comment from one senior cadre: “Comrade, if we’re going to conquer all South Africa one shithouse at a time we’ll all be in the

grave before liberation.”

Joe Slovo, later to be the leader of the South African Communist Party (SACP), was impressed, shouting slogans and giving the clenched fist salute as the remnants fell into the sea, but Strachan and Jack did not trust him. “The agreement was no killing, but it was clear even then that Slovo was a man utterly

onment, with three years suspended. He served 11 months of his sentence in solitary confinement at Pretoria Central Prison, where all his teeth were removed.

On his release Strachan was accosted by Benjamin Pogrund, a journalist from the *Rand Daily Mail*, who wanted him to tell the truth about jail conditions. Strachan’s lawyer warned that this was a risky enterprise because the prison authorities would claim he was defaming them. Above all, Pogrund’s tapes must be destroyed because a disparity of even one word between them and the published version could be construed as a departure from the truth.

Strachan went ahead with the interview, hiding in a game reserve so that the police could not serve him with a writ to withhold publication. Several articles were published, to the fury of the authorities. However, Pogrund had decided that he would, after all, keep the tapes as a souvenir. The police pounced on them and they provided the key exhibit that sent Strachan back to jail for a second term, this time two and half years (reduced by one year on appeal) – and some serious vengeance from the authorities.

Many people would have taken revenge on Pogrund, but Strachan, typically, merely expressed

his contempt. He refused to bear grudges and always insisted that he had been lucky in life. However, the apartheid regime was certainly not above bearing a grudge and for more than a decade Strachan was placed under house arrest and prevented from gaining employment. Twice bands of armed men tried to kill him; the bullet holes could be seen in his old wood-and-iron house in Chapel Street, Durban. Unable to get a job, he taught himself to restore paintings and, thus self-employed, became



Harold cartoon and cover from September

without compassion or scruple. If we’d given him that, there’d soon have been killings, so we just gave him the formula for the incendiary bomb instead,” explained Strachan. “Later on, Slovo authorised all sorts of murderous atrocities, bombs in supermarkets and such like, and it was clear we’d done the right thing.”

None of which counted in Strachan’s favour when the bombs began to go off and he became the first MK activist to be detained. He was sentenced to six years’ impris-



Harold's art was a big favourite among our readers

a much sought-after picture restorer.

He found solace in his expertise as a fisherman, spending long illicit hours with Indian fishermen friends (he was forbidden to attend a meeting of three or more people). He liked to make his own fishing rods and tackle, just as he was an expert motorbike mechanic and had an immense knowledge of guns.

Meanwhile, although still a hero to the liberation movement, Strachan became alienated by its ruthlessness and authoritarianism — opinions he did not bother to hide, even though they were often dressed up in hilarious stories. Increasingly, he was treated with embarrassment and as a non-person. Nonetheless, when the ANC held its first conference back in South Africa, in Durban in 1992, Thabo Mbeki, the veteran of many years on Robben Island and second only to Nelson Mandela in the liberation movement, sought Strachan out and they fell on one another's shoulders like long lost brothers.

"You know, Govan, we were quite brave," Strachan said. "My God," said Mbeki. "We were f***ing brave, we really were." Both men wept.

Robert Harold Lundie Strachan, sometimes known by the nom de guerre Jock Lundie, was born in Durban in 1925, the son of a Scottish metalworker from the Clyde shipyards who had emigrated to South Africa in 1902. When he was three his mother, a teacher from an Afrikaner family, ran off with another Scotsman, Jimmy Brown, a former professional footballer who had been gassed in the First World War and invalidated to Pretoria.

Strachan greatly preferred Jimmy, who died four years later. "My father was a professional coward," he would say with a grin. "He got off both world wars on account of his weak heart, retired on grounds of ill health and then just sat round and suspected people for over 30 years. When he died aged 96 they more or less had to jump on his heart to stop it beating."

Educated at Maritzburg College, in Pietermaritzburg, Strachan never got over the school's brutal athleticism and racism, which, he believed, was inspired by the need to produce a white master race. He told how the school was decked with mementoes of the 1879 Anglo-Zulu war. He left to join the SAAF, later recalling his

first solo flight in a Tiger Moth at the age of 18 under an instructor called Bertie: “‘You drive this aeroplane like a shitcart,’ says Bertie. ‘I’m getting out. Taxi back to the fence here.’ At the fence I stop and he dumps his parachute pack on the grass, plants his fat bum upon it and lights a fag. I sit there in the Tiger and look at him. He waves me away soundlessly, telling me to *voetsak*. Which I do.” Before long he was flying solo, “and elegantly she sails up to a thousand feet as if she has just risen from the hand of Noah”.

Although too young to see active service, Strachan’s passion for aviation was lifelong. During his solitary confinement he spent hours every day devising how he would build an exact replica of a Tiger Moth, spar by spar, and when he got out he did just that. Although he had a romantic attraction to aircraft of the Second World War, his fascination with technology was such that he would spend much time in reading the latest developments in science and aviation and would sometimes startle those who knew him only as an old man by explaining in detail exactly how the latest laser-guided weapons worked.

His even greater love was painting and after the war he took a fine arts degree, then spent several years in London at Camberwell College of Arts, earning his keep as a manual labourer. He found the company of trade unionists highly congenial. “They were all like Peter Sellers as Fred Kite, a laugh a minute,” he said. In 1950 he married Jean Middleton, a teacher who was later jailed after allowing Nelson Mandela to use her flat.

On their return to South Africa he lectured in art and they both became founder members of the Liberal Party and, unusually, also members of the pro-communist Congress of Democrats. “People like Alan Paton [*one of the founders of the Liberal Party*] were high-minded and sanctimonious, but it was quite clear that you had to join the communists if you actually wanted to do something,” he said.

Before that Strachan had become a keen marathron runner and a participant in the Durban to Pietermaritzburg Comrades Marathon, one of the world’s



Former Noseweek assistant editor Jonathan Erasmus with Harold last year

toughest road races, undertaken by many thousands of runners over a hilly, 54-mile course. He ran for most of his life and once placed as high as sixth in the Comrades.

His marriage to Middleton turned out to be shortlived and in 1959 he married Maggie von Lier, his former student, who became an art teacher. They were long estranged and he is survived by their daughter, Susie, and their son, Joe. He also had another son, who was born in France; to Strachan’s sorrow he was never able to discover either his name or his whereabouts.

When universal suffrage arrived in 1994 Strachan voted for the liberal Democratic Party, not the ANC, which he came to loathe. In his seventies he took up writing with *Way Up, Way Out* (1998), a novelised autobiography that is sad, haunting and funny. To his indignation, the publishers cut a third of the manuscript because of its political incorrectness. A second volume, *Make a Skyf Man!*, was published in 2004. Since 1999 he had written a column for *Noseweek*, a monthly magazine.

Strachan, usually near-penniless, was endlessly generous and gave away much of what he had. He was seldom happier than in his later years in a tiny one-room flat over-

looking Durban, from where he would often go on 20-mile walks, always finding out fresh things about the city he knew so well. The flat, which he occupied until moving into a care home in September, was stuffed with the latest internet technology, pictures of grandchildren and friends, aircraft and early flying boats.

His friends regretted that he did not paint more, for it was his greatest talent. He hated the art world, but loved paintings and could talk for hours about exactly how this or that painter had worked – a particular favourite was Jackson Pollock. Yet he saw painting as something that had to dominate one’s every thought and waking hour, while his pursuits were multitudinous: walking on the beach at Trafalgar, Mozart, Mahler, the *Goon Show*, Arthur Daley and everything in between. Although a fluent Zulu and Afrikaans-speaker, he was emphatically proud of his European cultural heritage. A man for all seasons, Strachan always saw himself as of no particular significance.

Harold Strachan, author, artist and political activist, was born on 1 December 1925. He died from complications of liver disease on February 7, 2020, aged 94. ■



We are the Weather by Jonathan Safran Foer

IN JM COETZEE'S NOVEL/DISQUISITION *Elizabeth Costello*, his eponymous protagonist, a fiercely outspoken vegetarian, delivers a lecture in which she likens the mass slaughter of animals to the holocaust. A member of the audience, an elderly Jewish poet, is deeply offended by the comparison: "The inversion insults the memory of the dead. It also trades on the horrors of the camps in a cheap way."

Now Jonathan Safran Foer, the grandson of holocaust survivors and victims, having delivered an earlier broadside against factory farming called *Eating Animals*, has written a whole book largely based on an analogy between the holocaust and, not so much the slaughter of animals as the climate change that he sees as largely attributable to the factory farming of animals.

To sum up a complex argument, the contention (not only Foer's, but that of the vast majority of climate scientists), is that the raising of livestock has a double effect on climate: partly through the deforestation needed for grazing, and then the sheer volumes of methane produced by the animals. By Foer's analogy, we, that is all the inhabitants of a planet faced with mass extinction, are in the same position as the Jews who failed to realise until it was too late that the Nazis were intent upon their total annihilation. He contrasts his grandmother who, as a young woman, "walked more than twenty-five hundred miles, endured freezing temperatures, illness, and malnutrition, so that the Nazis wouldn't kill her", with her sister, who remained behind, and was executed along with most of her family.

"Facing climate change," Foer writes, "requires an entirely different kind of heroism, which is far less intimidating than escaping a genocidal army, or not knowing where your children's next meal will come from, but is perhaps every bit as difficult because the need for sacrifice is unobvious."

Foer returns repeatedly to the

story of one Jan Karski, a young Catholic, who in 1942 travelled from Nazi-occupied Poland to London and America to inform world leaders of what was happening in Poland and elsewhere. In the US he spoke to a Jewish Supreme Court Justice, Felix Frankfurter, and told him of the clearing of the Warsaw Ghetto and the extermination in the concentration camps. Frankfurter told Karski, "Mr Karski... I must say I am unable to believe you." When pressed by a colleague, Frankfurter said, "I didn't say that this young man is lying. My heart, my mind, they are made in such a way that I cannot accept it."

We would say that Frankfurter was in denial of a reality that was too horrendous for him to accept. Foer would say that we all, himself included, are in denial of a similar reality, because our hearts and minds cannot accept what is happening around us.

His book was written before the current devastation of Australia by rampant wildfire, but he could have found support for his contention there. Also, if the theory is correct that the corona virus owes its origins to the Chinese predilection for freshly-slaughtered ("warm") meat, the animals would seem to be having their revenge.

As Foer's title would have it, the cause of such "natural" disasters is not some quirk of nature: we are the weather, in that it is shaped largely by our eating habits: "Agriculture accounts for 24 per cent [of annual greenhouse gas emissions], mostly from animal agriculture". And that figure, according to an authoritative study, increases to 51% if we include the loss of "the Earth's photosynthetic capacity" owing to deforestation: "Vast tracts of forest are being denuded

to create grazing for the cattle that will be killed to feed our craving for meat." And, awkwardly for vegetarians who may be tempted to feel exempted, Foer shows that dairy and eggs are almost equally harmful to the environment: only a totally plant-based diet, in short veganism, can claim not to be harmful to the planet.

Foer admits that he himself finds a vegan diet difficult, indeed impossible. He guzzles the odd burger when under stress, and has not been able to give up cheese and eggs. And he realises that to expect people to give up meat and dairy altogether is futile.

So, as his subtitle suggests, he proposes a compromise: cut out meat and dairy not only at breakfast, but at lunch as well, and restrict your meat and dairy binges to dinner time. His argument is not as much a moral one, based on a humanitarian concern for animals, as a practical one, based on the amount of meat and dairy consumed by humans. Reduce that, he maintains, and you will slow down the climate change that is about to turn much of the planet into a dust bowl or a flood plain.

You will – or you may: "[A]lthough it may be a neo-liberal myth that individual decisions have ultimate power, it is a defeatist myth that individual decisions have no power at all. ...[I]t is unethical... to proclaim that because the large cannot be achieved, the small should not be attempted."

Foer's book, yes, is a harangue, and we don't like being harangued. But he is also a gifted novelist, and his harangue is eminently readable, ultimately even poetically moving. It is both a lament for what we have lost and a plea for the preservation of what we have left. ■



WE ARE THE WEATHER
by Jonathan Safran Foer
(Hamish Hamilton)



Letter from Umjindi

Sound the alarm on Roundup's cancer risks

TO POWERS THAT BE OF OUR esteemed Department of Agriculture, Land Reform and Rural Development I must ask: with all the nonstop re-configuration of how to deal with this enormous "land restitution" challenge, can you take a moment to communicate the threat posed by the widely used and popular herbicide Roundup?

Hey, I, myself, am already spreading the warning to my immediate community through my embryonic online newspaper, the *Barberton-Elukwatini Guardian*. But we black emerging farmers are growing in number and spread around the country, so it's important to communicate this threat to a community that I doubt makes a habit of keeping up with the news. In fact this threat should be communicated to all farmers, black emerging or others.

Producers of the popular glyphosate-based weed killer Roundup are said to be facing as many as 85,000 lawsuits which claim that the herbicide's main ingredient, glyphosate, causes cancer. The original manufacturer, Monsanto, was bought in 2018 by Bayer.

Reuters has reported that Bayer is considering a settlement provision in the lawsuits that would bar plaintiffs' lawyers involved in the litigation from advertising for new clients. Their report added that, while the bulk of the lawsuits are in America, there is also a wave of litigation in other countries, many of which have banned or moved to ban the herbicide.

In the first case, heard in San Francisco on 14 August 2019, the court found that Monsanto had acted with malice and negligence in failing to warn Dewayne Lee Johnson (46), a former school groundskeeper, about the cancer risks associated with Roundup. Johnson is now suffering from late-stage non-Hodgkin's lymphoma. The California court ordered the company to pay \$289 million (roughly R4 billion) in damages to Johnson.

The jury found enough scientific

evidence to connect Monsanto's Roundup herbicide to Johnson's cancer, and also found that Monsanto had acted with malice and negligence by refusing to warn people of the direct connection between glyphosate products, cancer, and a range of other illnesses, as evidenced by independent scientific studies.

US journalist Carey Gillam, Research Director for the consumer group US Right to Know, who has reported extensively on Roundup, said that, "like the tobacco companies, Roundup's makers have long been aware of these connections".

Gillam says, "This wasn't about banning glyphosate, it was about warning consumers about known risks and Monsanto didn't do any of that. They did the opposite. They tried to suppress that information, tried to hide it and tried to discredit scientists who raised those warning bells."

"They didn't want people to know about a ban in Europe on one of the key ingredients [*glyphosate*] in the Roundup products. The judge sided with them on that," said Gillam.

"They didn't want people to know that California had ordered companies to start putting warning labels on Roundup and other glyphosate products. The judge sided with them on that. A lot of information like that was kept from the jury and still, they came up with this huge verdict against Monsanto."

The jury also seemed moved by the fact that Johnson had called Monsanto himself and never received an answer, added Gillam.

"He'd been diagnosed with cancer and he was worried about whether or not he should continue his job, whether he should continue spraying these products and Monsanto never got back to him and they never warned him," Gillam says. "The jury really seemed to take issue with that."

Johnson's job as pest control manager of San Francisco Bay Area schools required him to spray gallons



Dewayne Johnson: died 21/01/2020

of Roundup and a similar weedkiller, Ranger Pro, up to 30 times a year. He said he was never warned of any potentially deadly effects and had particular trouble on windy days because the chemical would spray back in his face.

In another incident, a hose broke, leaving Johnson drenched in toxic liquid. He also developed a rash on his skin, reported Associated Press.

Gillam notes that the Johnson verdict is part of "a building of concern around the world about the health effects of glyphosate. Various cities and states across the US as well countries throughout the world have already taken steps to restrict or ban glyphosate products."

Asked for comment, Monsanto's new owner Bayer responded in part: "Bayer stands behind its glyphosate-based products and we are confident that the company will ultimately prevail in this litigation based on the extensive body of favourable science."

Meanwhile, the *Long View News Journal* of East Texas, his home town, reported that Mr Dewayne Lee Johnson died on 21 January 2020. He is said to have noted that he would die before seeing his windfall payout.

How many Dewayne Johnsons do we already have in South Africa and how many more are being created? Communicate the Roundup threat NOW! ■



When fair comment is foul

WHEN WAS THE LAST TIME YOU called your wife beautiful? All the time, right? I wonder why we lie like that. We can all agree that Marilyn Monroe, Charlize Theron and Beyoncé are examples of great beauty. Does your wife look like that? I'm sure if you had a few beers and she had some good lighting, she's worth a turn, but to go around calling all women beautiful is counterproductive. If everyone is "beautiful" no one is. The adjective is meant to portray physical attractiveness of an exceptional or higher standard. It's like getting a distinction in good-lookingness.

Most women score between 30% and 70%. They are average, in other words. It's an ungainly word as a descriptor, I know, but currently the vocabulary needed to label females accurately is either lacking or straining under the pressure of political correctness. Please do not inundate *Noseweek* with photographs of your wives, girlfriends or family. I know I have not met them and I don't need to. It is mathematically impossible for me to be incorrect about this most of the time.

Looking at a normal distribution of data, (aka the bell curve) it is pretty clear that most people are mediocre when measured on human characteristics including IQ, height, remuneration and, I would add, attractiveness.

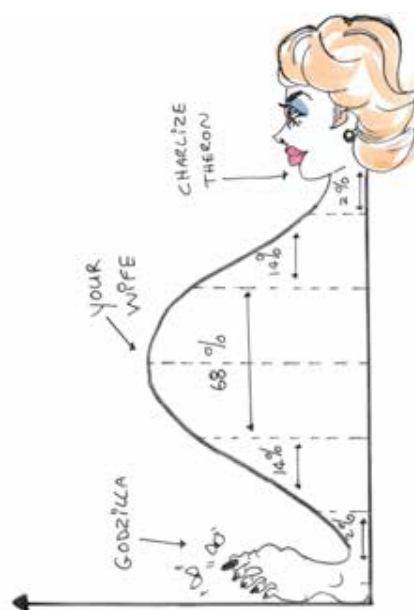
Interestingly, studies have shown that the vast majority of people believe they are more intelligent than they really are, as well as better looking.

In reality they are the *boep* in the bell curve – even your Old Lady. She should not feel bad about this. It's just science.

The concern here is that we are on a moral slippery slope when we start substituting candour with phrases of convenience because we don't wish to offend.

We already started creeping over the abyss when our Minister of Higher Education stated that the word "fail" may be "too strong" for students who garnered less than 30% in their matric exams. He suggested we rather use "insufficient achievement" to refer to their scores. It's a dangerous positioning. Yet, aren't we doing the same when we refer to our *bokkies* as "beautiful"?

It is time to have the tough conversations in this country. Let us be the change we want to see in the world, starting in our own households. It is normal to feel slightly apprehensive at



this stage, but stay true. Realise that you are doing your goose a favour by suggesting she slap on some make-up and do something about that muffin-top. It is a well established fact that increased attractiveness holds many evolutionary advantages; including better jobs and higher earnings. Good-looking people even report being

happier than others. You've hit the trifecta! That should be enough incentive to be frank.

Be wary of the "beauty in the eye of the beholder" argument, as it's a cop-out. Longitudinal investigations across cultures show that beauty is universal and conforms to specific ratios of facial symmetry and desirable body proportions. It is an objectively measurable variable.

You, therefore, have every reason to go for it... with caution.

Start by expanding your vocabulary, for instance: "My darling, you have a unique unmesmeric quality about you that is impervious to description."

Try being totally honest (with a proviso): "You are by far the most gorgeous, sexy and appealing creature to have ever graced my side at this very moment."

Another tactic could be to focus on the troublesome piece of clothing, avoiding having to mention the unfortunate body part directly. Thus, should you be asked whether her bottom looks big in those jeans, wink seductively and say: "It's not the jeans."

Internet experts advise steering clear away from any verbal responses to be totally safe. When asked whether she looks fat in a dress, it is not merely enough to gasp and appear shocked at the mere question. They propose you jump backwards if necessary.

This writing is not intended to be a How-To manual, rather to highlight the need for urgent redress so that we can move towards a more realistic future where people are encouraged to try harder. You experiment with your own schnookums and let us know how it goes.

A final thought; which should not interfere with the good work that you are about to do, is to remember that every time your better-half tells you that you are "brilliant" or "handsome" or "a sexy beast" – she is also lying.

And that is the ugly truth. ■

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PERSONAL

Wishing Martin Welz all the best for the upcoming court case. Your *Noseweek* readers are with you all the way. Here's to justice prevailing!!

Well done Martin! Please continue your fight against the corrupt bastards who cannot get away with it.



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