

**BUDGET  
ISSUE**

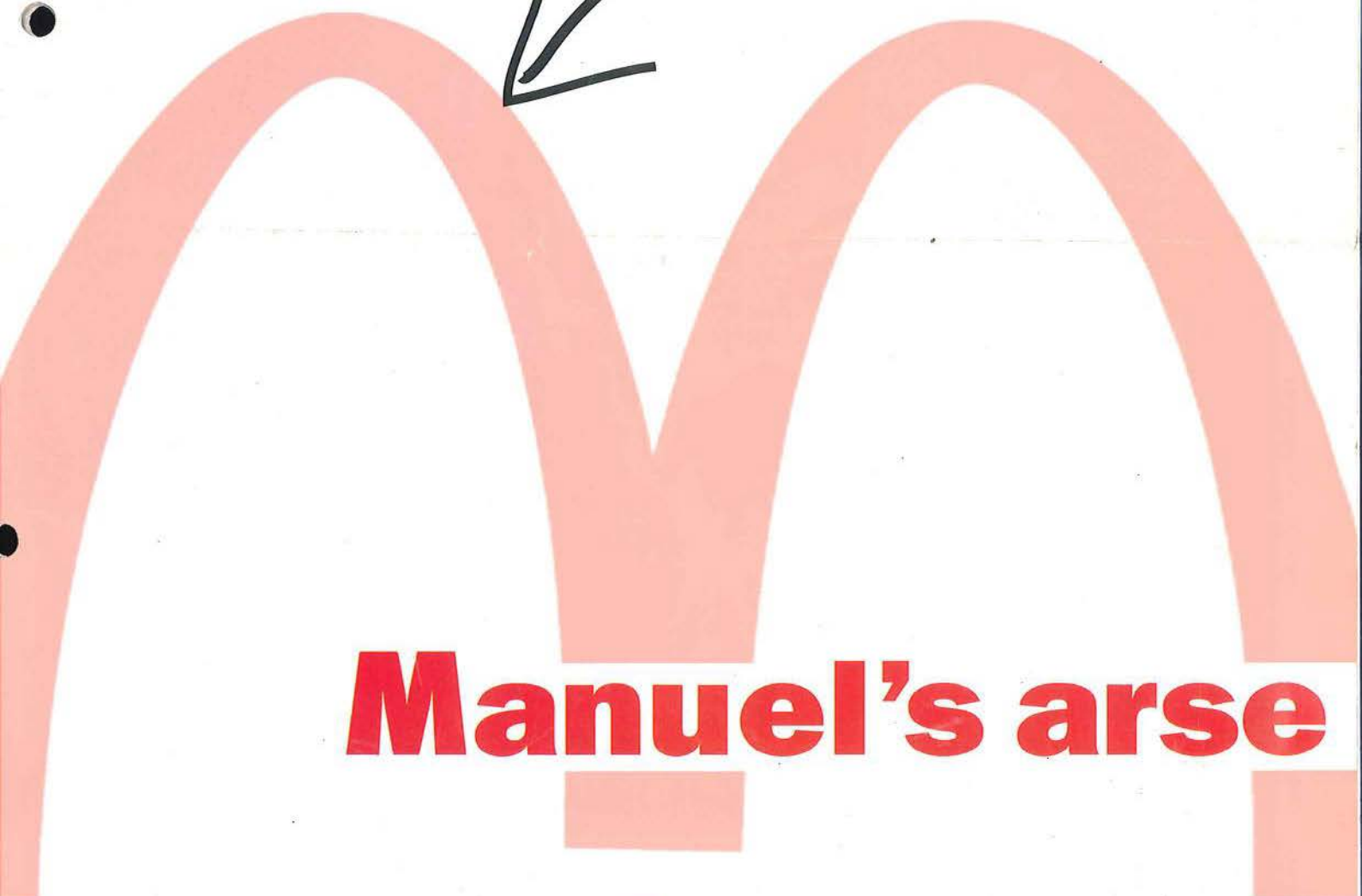
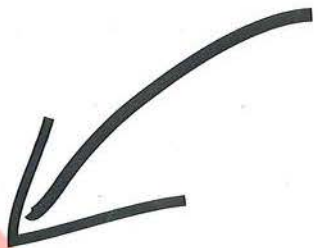
**Definitely not the Financial Mail**

# noseweek

**March 2003**

**Issue 44 R25 (inc VAT)**

*kiss here*



## **Manuel's arse**

**Stannic panic as cops close in ■ Hotline tipster fingers Gauteng housing boss ■ Banks prey on poor ■ Chinese bank burnt by Boere mafia ■ Don't be my Valentine ■ Stuff the Kalahari ■ Sasol stitched up in R7m con ■ Swersky's bald-faced cheek**





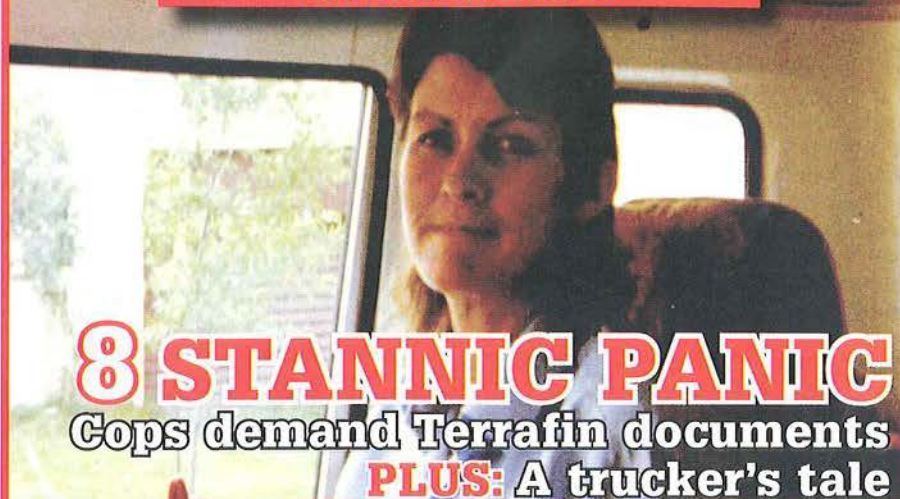
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NWWM 02



**Stannic scam**

I read with dismay about the role of Stannic in the Terrafin fleet credit card scam (*nose43*).

In time it would be nice to read a follow-up about some kind attorney who'd acted for the 60-odd drivers who've been defrauded, on a no-win, no-fee basis, and recovered their losses.

Clearly nothing whatsoever would be achieved by going after Terrafin, but Stannic might pay up rather than go through a long and well-reported court case.

**Hopeful**  
Durban

**Arms and the Manuel**

Britain's massive loan-for-arms to SA (*nose43*) explains why Ian Plenderleith – of the Bank of England – has been sprung upon us as deputy-governor of the SA Reserve Bank.

And it goes a long way to filling in the emerging picture of SA and Britain as new best friends.

A local illustration: the peace of our small town was broken in December by a Hercules cargo plane flying over the town day and night for three weeks, with burly boys parachuting all around.

The British SAS is training UK paratroopers in Oudtshoorn! They'll be doing it annually from now on, we're told.

**Justine Nofal**  
Oudtshoorn

■ Regarding Trev signing away South Africa: get with it! The ANC was given SA by the Anglo-Americans, simply because most big companies now list abroad. Did you really think they cared about apartheid? No, exchange controls meant they had problems raping SA. So the NP had to go. But thanks for pointing out how we've been sold out yet again.

**Tony Wilson**  
Claremont

**Sundowns blows it**

I could not agree more that Sundowns Football Club is run like a dagga store ("Management at soccer club is load of balls", *nose43*).

I've had the misfortune of litigating with this club on 15 occasions – in soccer tribunals, in private arbitrations and in the high court. I've not yet lost.

Sundowns MD, Natasha Tsihclas, has done huge damage to soccer. In one case, her evidence was thrown out as not credible and a string of Greek-speaking witnesses could not help her either.

So mining magnate Patrice Motsepe is buying Sundowns. That might bring sunshine to the people of Pretoria. Otherwise they might need something more potent to blow away the blues.

**Mafika Sihlali**  
Rosebank, Jo'burg

*All the dagga stores we've known have been well-run, profitable businesses. – Ed.*

**Chinese whispers**

Of all the articles in *nose43*, "Got any gifts for me, my China" made me most angry, because the behaviour of officials at Johannesburg airport reflects on me.

Your articles about low life in high places are fascinating, but I am removed from the action.

When visitors to SA are fleeced, that's different. Overwhelmingly, South Africans are open, hospitable people, and it's to our discredit that our public service doesn't reflect that.

**William Thomas**  
Newlands

■ I read with great interest your story about the appalling treatment of Chinese nationals at SA's airports. I would like to corroborate this. I returned from a trip to Hong Kong in January, and when I got to customs a well-dressed Chinese man was being verbally abused by a burly (white) official.

The businessman had obviously not filled in the customs form correctly. The official said: "You stupid Chinese think you can get away with anything." The businessman retorted that he did not understand the questions on the form.

The official then said, "You want to do business in this country, then you must learn the blerry language." His bags had clearly been inspected and his personal possessions were strewn over the table.

At a time when SA is desperate for foreign trade, such behaviour must be strongly condemned.

**Iona Minton**  
Johannesburg

**Nose out of joint**

Your forte is investigating and reporting on fraud and corruption. Congratulations. Now how about looking at yourselves? I've done the homework for you.

In *nose43* you announce under the heading "The price of liberty and

truth" that the price of a subscription to *noseweek* is to increase from R150 to R195 from 1 March. This is a 30% increase.

Your issues have always had 28 pages. *Nose43* had only 24 – a 14.23% reduction.

It appears that, to push your production to an issue a month – and in the absence of suitable copy – you then fill four pages with drivel such as "Alive and kicking" and "Last word". Those pages constitute 16.66% of issue 43.

I'm sure you agree your subscribers are being screwed out of sight. Perhaps I should commend you for being a fast learner!


**Tino Ruppung**  
Parow

*Yes, we are proud of our reputation for producing the best investigative journalism. So let's get the facts straight: 1. The number of pages in each issue has varied from 16 to 32 (quality comes before quantity). 2. Noseweek has never been exposés cover to cover. Too much can be, well, too much. You need pages that allow you to pause, think, or laugh to regain perspective. For that reason, we have always included cartoons and original, analytical think pieces. Naomi Klein and Harold Strachan "drivel"? You must be joking! 3. At the increased price you are simply paying what it costs us to produce. Where's the fiddle in that?*

*We note you've renewed your subscription, so despite the talk, you clearly still know a bargain when you see one – Ed*

**Thumbs up**

*Noseweek* was great in 2002. I wish you and your team success for the future.

**Nathaniel Schemla**  
Paris, France 



*Don't see this as an interrogation – rather see me as your biographer*



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## Manuel's arse!

**A**nother great budget! Once again, the rich and the employed are asking in delighted wonder: How can Mbeki and Manuel dare to continue neglecting the poor masses who elected them?

Sure, "we" are happy at the R13.3 billion income tax cut, the dividend exemption worth R227 million, the R200 million cut in stamp duty on insurance policies, the R435 million cut in property transfer duties, and the R1.85 billion cut in tax on retirement savings. Oh, and the R243 million cut in duties on cheaper imported cars. An extra R16 billion to spend next year!

But what about "them", the 80% who don't have a good job, a car, a house or an insurance policy – who certainly don't have a retirement annuity – and therefore don't get to benefit from any of this?

That cheerful dinner party question expresses a subliminal anxiety, that social sense that alerts us to the dangers of injustice.

We periodically have a robbery or hijacking in our neighbourhoods, but what about them? Every day they face the monotonous certainty of unemployment, homelessness, disease and starvation – yes, to death. And the despair of helplessness.

Education could open some options. But the increase in the education budget that Manuel proposes for the next three years is less than the current inflation rate. Strip away the spin, and there's no gain.

This year, grants for needy children will be extended to seven- and eight-year-olds, at a cost of R1.1 billion. (If they can reach 10 on their own, well, maybe by then they'll be old enough to survive on petty pilfering.)

Couldn't we have done with a billion or two less in tax cuts to feed those children until they're 12 or 13?

Hey, relax, says Trevor: pension and disability grants are to increase by R60, to R700 a month! But then last year the price of a 50kg bag of mealie meal more than doubled from R55 to R136.82. The cost of the most basic food available to feed the poorest family for a month rose by R81 – R11 more than Trevor's "increase".

It's not the budget so much as the transparent cynicism of Thabo Mbeki and Trevor Manuel that calls for comment.

In the midst of the shamelessly immoral ostentation by the country's political and business elites (Hullo, Mr Yengeni! Hullo Mr Woerfel!); in the midst of their cynical materialism, the mass of South Africans are, in fact, as conservative as only a long-subject people can be. Those millions in huts and shacks on the other side of the highway live in a fatalistic torpor. They have no will for change, which their history has taught them is unlikely to improve their lives. They do not question the system or revolt against their leaders. All the talk of freedom, equality and ubuntu, they know, is mere rhetoric.

Mbeki and Manuel have clearly not only perceived this – they are relying on it. Maybe Mbeki is inspired by Stalin's view of the irrelevance of individual suffering; Manuel might have the Darwinian indifference generally attributed to the high capitalists at the IMF. The effect is the same.

Trevor's indifference is apparent elsewhere as well. He has, for instance, just blown R5 billion of taxpayers' money picking up the tab for the collapse of Saambou. He had to: his department failed to carry out the supervision required by law. He should have been fired for that alone.

The national lottery is not only a tax on the poor: it is a tax on the despair of those who believe that only blind chance can save them. The very least the government could do is to immediately spend this indecently levied tax on the pressing needs of the poor. Instead, more than half of the money is held "in reserve" in someone's bank account, while charities such as Child Welfare, Santa and dozens of others have shrunk to shadows of their former selves for lack of funding.

Hundreds of millions of rands voted by parliament for education and poverty relief are simply not spent through inefficiency and lack of commitment.

So what about the amnesty to bring back the money you secretly stashed offshore? Don't. You could end up bringing it onshore just in time for the revolution. Unless of course you've left it offshore in the hands of Ansbachers, in which case you might as well bring it home and take your chances here.

And, when next you see those arches, think: Trevor's arse! You might want to kiss it; I'd prefer to kick it.

**The Editor**





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# Shyster lawyer stitches up Sasol

Oil giant falls for embarrassing R7.2m diesel-for-Zimbabwe con –  
on eve of planned listing on New York Stock Exchange

**L**ong-suffering citizens of Robert Mugabe's fuel-starved Zimbabwe were delighted when tanker trucks trundled over the border from SA bearing thousands of tons of much-needed diesel. It now emerges the diesel was plundered in an audacious fiddle from fuel and chemical giant Sasol.

Sasol Oil is investigating the loss of some 4 million litres of Zimbabwe-bound diesel, worth R7.2m. The fuel was driven from SA to Zimbabwe in more than 100 34-ton tanker loads over a period of months in 2001.

JSE-listed Sasol (fiscal 2002 revenue R61.5 billion; operating profits R14.9 billion) is understandably marked. The thought that the "free" consignments of diesel might be seen as a gift by Sasol to President Mugabe could be particularly embarrassing: in April Sasol lists on the New York Stock Exchange.

According to an affidavit held by Sasol lawyers, the racket's mastermind is 37-year-old Pietermaritzburg attorney-turned-businessman Andrew Power.

*Noseweek* readers will not be surprised to learn that the same Andrew Power assisted the equally shady directors of Terrafin Ltd to cover their tracks in a R15m Stannic petrol card fraud pulled at the expense of 60 Zulu truck drivers (see *nose43*).

Now in the Sasol case, inquiries are focusing on the affairs of Jersey-based company Chateau Technologies, whose offshore convenience was used for the fuel rip-off.

Sasol attorney Armin Kluth holds an affidavit sworn by Durban millionaire Albert Goswell, which details the Great Diesel Rip-off. It describes how Durban-based cross-border carriers Wardens drove the diesel to Zimbabwe, ignorant it hadn't been paid for.

Goswell tells *noseweek* that the Sasol diesel run to Zimbabwe started legally enough: he, acting as funder, stumped up R200,000 to buy diesel from Sasol, and three tanker loads of the stuff were sent to Zimbabwe.

He then fell out with Power. But

this didn't stop Power, who, thanks to inside information from a Sasol employee, discovered a loophole in the company's operating system.

"Power worked out you could fool the system and take large quantities of diesel without paying real money," Goswell tells *noseweek*.

"We fell out over moral issues, how you behave in business. I felt Power was sailing too close to the wind."

There might be more reasons for the fallout. In 2000, Power and Goswell were caught in a police trap allegedly attempting to buy unwrought gold. Three kilogrammes of gold that had allegedly been smuggled from Zimbabwe was also found in Power's Mercedes. In a plea bargain Power pleaded guilty to the attempt and was fined R50,000. Goswell pleaded not guilty, but two years later has still not been brought to trial. And in the Maritzburg

**Power quickly worked out you could keep taking fuel without paying real money**

high court, the two are defending a claim by BoE Bank for repayment of a R10m loan that went astray.

Many of Power's schemes date from when he was a partner of the Maritzburg law firm Randles Davis & Wood. Last year he told the Law Society he was no longer a practising attorney – a good way to pre-empt any plans to have him struck off the roll. While at Randles he acted for Goswell when the millionaire sold his aluminium company for a reputed R25.5m.

A regular at The Office pub in Kloof, Power is also no stranger to that tax haven for millionaires and rogues which is the Channel Islands. Around 1998, he registered four companies in Jersey. One was Chateau Technologies. We now know what that was for. (We wait with bated breath to learn what he had in mind for the other three.)

Wardens, a reputable firm of liquid

bulk carriers, confirms that in 2001 it moved large quantities of diesel from SA to Zimbabwe for Chateau. "We took up quite a bit of fuel," says operations manager Neville Naidoo. "There were two guys involved, named Andrew and Martin. They operated only from cell-phones. We sent our bills to Zimbabwe and didn't ever get paid. They owe us about R400,000 to R500,000."

Says Kluth: "We're having an internal investigation. Sasol wants to be seen as a company that won't stand for fraud and/or theft. I have to meet the expectations of the chief executive [Pieter Cox] and the duties of directors in curtailing such conduct."

**K**luth, a former regional court prosecutor, says that rather than "waste the police's time", he's doing the investigation himself. "Then I plan to place it before the appropriate authority, like the senior prosecutor from the Commercial Crimes Court.

"What Sasol doesn't want is to pursue this in either a criminal or civil forum and then it's a hopeless disaster. That I can't risk.

"As far as successfully retrieving monies owed to us, I've advised management that the chances are pretty slim of us getting anything back."

Kluth says that more than a year ago he met Power and his colleague, Martin Simmons, at Durban airport. "Initially the meeting was very courteous," recalls Kluth. "But later when I called Power on the phone it became acrimonious. Ever since, we've been trying to take a decision whether we will pursue it in the civil or criminal courts. The evidence is difficult to come by; they operate in all sorts of shelf companies."

Cynics may speculate that this drawn-out internal probe indicates that Sasol's real hope was to bury the mess quietly. When you're a global player at a critical stage, who wants bad publicity over a measly R7.2m? No doubt Power shares this view. ■



# Stannic panic

## COPS DEMAND TERRAFIN DOCUMENTS

It was fraud to the left and fraud to the right – and fraud you didn't even know existed until it was too late. That's the story of Terrafin, the transport management company that a group of smart but shady KwaZulu-Natal operators had listed on the JSE in 1998.

In last month's issue we reported on just one of the Terrafin frauds: the R15m petrol card scam its directors pulled, with Stannic's collaboration, on scores of truck drivers employed on contracts managed by the company. As a result of the scam, most of the drivers lost their trucks – and their livelihoods.

Indicative of Stannic's hand in covering up the scam: the first the driv-

ers knew about Stannic's role in their ruin was when they read about it, two years later, in *noseweek*. They did not know – and Stannic did not tell them – that Stannic had issued fuel cards in their names, and had handed the cards to Terrafin's directors to use with gay and fraudulent abandon. They did not know that the seizure and sale of their trucks was part of a scheme devised by Terrafin and Stannic to hide the fraud.

### The police issued a notice to Stannic to supply documents within 30 days or face prosecution

Last month, the Sunday newspaper *Rapport* asked Stannic to comment on the story in *nose43*. Standard Bank's deputy CEO, Myles Ruck (all other bank officials received a notice forbidding them to speak to the press) refused to respond to any of the allegations in the *noseweek* story involving Stannic. According to *Rapport*, Ruck did, however, deny that Stannic had only volunteered to assist the police after the *noseweek* article appeared. He claimed that Stannic had been assisting the police in their investi-

gation of Terrafin "for a considerable time". We were intrigued by the latter claim, because we had been reliably informed that the police commercial branch in Durban first approached Stannic for information and documentation regarding allegedly fraudulent vehicle financing transactions with Terrafin, in June last year. (The police, too, only learned of the petrol card frauds in *noseweek*.) When by the end of the year, the police had still had no positive response, they issued a formal notice to Stannic to supply the documents within 30 days or face prosecution.

The first indication the police had that Stannic might at last be taking

their request seriously was two days after the *noseweek* article appeared last month. A senior Stannic official called to ask the police exactly which documents they were looking for.

We asked Mr Ruck why he had apparently misled *Rapport* on the subject of Stannic's alleged collaboration with the police. His reply: "I did not tell them that we were 'collaborating' with the police. I did not use that word. I said we had been in discussion with the police for a considerable time." Of course!

Anyway, since *noseweek* got onto the story, Standard Bank's internal audit team at head office has been put onto the job. High on their agenda has been to find out exactly how much *noseweek* knows. All we're prepared to tell them is that we know more than they would hope – and we'll be tracking them all of the way.

Here's just a tidbit to set them on their way: at the time the coverup of the fuel card scheme was being

devised, an explanation had to be found or concocted for all the card transactions that were demonstrably not for fuel supplied by Terrafin. The story they came up with – with the approval of Stannic's Durban office – was that while it was irregular for Terrafin to have swiped the Stannic cards through their card terminal without having supplied any diesel, it was not actually theft. Because, they then claimed, it was simply a way of reimbursing themselves for money Terrafin had advanced to the drivers to purchase fuel on the road.

Well, that's easily enough verified: ask the drivers. But that is the one thing that Stannic's men most assiduously did not do. Why make bad friends on the golf course?

Had they done so – as *noseweek* did – they would immediately have had to face the fact that every reasonable person might have suspected: it was all a fraud. With only a few exceptions, the drivers did not need cash for diesel on the road. They were all part of BP's Fuelmaster scheme.

They filled up at BP service stations, and the cost was automatically charged to their account with BP. At the end of each month each driver had the amount he owed to BP deducted from his contract fees – but then, instead of paying BP, the directors of Terrafin pocketed most of that money too.

Unlike Stannic and some other major corporations that we shall get to in due course, BP accepted that it had been defrauded by Terrafin, and not by the drivers. BP has honestly taken the knock, has sued Terrafin, has laid charges with the police, and has reinstated all the drivers still on the road as clients in good standing. Which, as we all know, Mr Ruck, is the right thing to do.

■ As this issue of *noseweek* went to press, Stannic delivered scores of documents to the police. ■

To be continued



## A TRUCK DRIVER'S TALE

Among the 200-odd truck drivers who at one time or another were recruited to participate in Terrafin's owner-driver scheme, there was just one woman, Cecilia Anderson. She was Toyota's truck driver of the year in 1994 and in 2001 she won Firestone's Golden Wheels Award.

She told *noseweek* her story:

In the middle of 1999 [Terrafin directors] Derek van Rooyen and Graeme Inggs started telling the 120 or so truck drivers they employed about their new idea: each driver was going to go independent, become his own master, own his own company, own his own truck. Terrafin would help them get transport contracts, arrange finance for their trucks, and help them manage their new businesses. A monthly fee of R2000 for keeping the books of each driver was mooted.

The idea was enthusiastically received. Cecilia Anderson immediately started shopping around for the ideal truck. Within a month she had found just what she wanted: a Mercedes Actros 26/48 at Renscos, the Mercedes agents in Port Shepstone. The price they quoted – in writing – was R640,000, with a possible discount still to be negotiated.

Mrs Anderson gave Terrafin all the details, as they had undertaken to arrange the finance with Stannic.

On Saturday 16 October 1999 she was summoned to Terrafin's offices in Camperdown to sign all the necessary documents. Other drivers did the same in the weeks before and after, as they stopped in at Camperdown between trips.

At the meeting were Terrafin executives Craig Moralee and Andrew Muir, the company's legal advisor, Neville Hollis – and Stannic's representative, Lennie Subbiah. Cecilia was given two thick bundles of documents to sign: one for Terrafin, the other for Stannic. When she wanted to read the documents, they com-



plained vehemently. "They were in a hurry to get back to their game of golf," she recalls.

To speed up matters they had stuck yellow stickers at all the places she was required to sign.

"We were told we would get a copy of the contracts to keep, once everything was sorted out," she says.

She did just manage a peek at the Stannic finance contract for her truck – and was startled to notice that the purchase price was recorded as R801,776. This was R160,000 more than she had been quoted. She immediately pointed this out to Stannic's Mr Subbiah. "He assured me that, if there was a problem, he'd sort it out," she says.

He never did. He also for the following eight months refused to give her a copy of the Stannic contract.

The reason is obvious: if he had, she would immediately have known that Terrafin's directors had done an illegal double financing deal, using a fictitious company, a fictitious invoice – and Mr Subbiah's help. **W**

To be continued

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# Loan sharks in bankers' clothing

You think Trevor should have reduced interest rates? Count yourself lucky if you're getting away with just 17% on your loan. Some big banks are locking their jaws on small borrowers and charging them up to 123%.

**N**edbank doesn't give personal loans to its clients. But if you are employed, in good standing and need R5000 for that unexpected expenditure, the bank will generally be happy to give you an overdraft at prime (17%) per annum. Over 12 months the facility will cost you just R850 – or R170 per R1000 borrowed.

At Nedcor's subsidiary Peoples Bank, which caters for lower wage-earners, the picture is somewhat different. For a personal loan of R1000 repayable over 12 months, the total payment – capital, interest, admin fee and life insurance – come to a whopping R2238. Which is more than 123% over the year.

What costs the Nedbank client R170 on overdraft, costs the small borrower R1238.

If you'd like to spread repayments for that R1000 loan over 36 months, you'll end up paying Peoples Bank R4496.

This form of daylight robbery is done in the name of upliftment. "Peoples Bank is under pressure from various stakeholders, like government and social structures, to provide lending to the previously under-banked market," says the bank. "Peoples Bank is doing this under a strict regulatory environment as determined by the Usury Act and the Micro Finance Regulatory Council (MFRC)." Which sounds brilliant but means little in practice.

If you want to borrow more than R10,000 from anyone, be it an institution registered with the MFRC or an illegal loan shark – the Usury Act says the interest rate must not exceed 26% per annum.

For microlenders offering loans of



under R10,000 the interest rate must not exceed 29% per annum.

Which, you might think, should give a measure of protection against the loan sharks. However, an exemption under the Usury Act allows microlenders to charge whatever interest they like on loans under R10,000, as long as the lender is registered with MFRC.

Exactly why this should be is not so clear to us. The argument appears to be: if the guys in the informal sector can get extortionate returns, then

the formal sector wants in.

Unregistered loan sharks, whether township tsotsis or unscrupulous white operators, are flagrantly ignoring the 29% per annum limit. Rates

of 50% per month are common regardless of the law.

It is apparently in an attempt to compete with these sharks that the MFRC allows its registered lenders to name their own price for under-R10,000 loans – trusting them to be "reasonable".

"The history of this lending space is pretty unsavory," says Peoples Bank CEO Lot Ndlovu. "A lot of it's been in the so-called cash lending business: loans of R1000 and below. These are typically very short-term, from street corner guys whose rates can be 30% to 100% per month."

Ndlovu declines to give precise figures, but says the value of his micro-loan book is well over R200m, with thousands of customers.

The most the bank will advance on a personal loan is R8500. Which keeps it in the free-for-all territory created by the Usury Act.

*Noseweek* visited the Randburg branch of Peoples Bank as a potential loan seeker. All efforts to get an idea of repayment rates were unsuccessful. "Fill in the application, we'll send it to head office and they'll come back with how much a loan will cost you," said an official. Pressed, he said the loan would cost between 30% and 40% per annum.

But at our meeting with Ndlovu, Nick Moore, general manager in charge of Peoples microlending business, admits that for existing Peoples Bank customers the average total cost of credit is over 60% per annum. "For new customers it's near 100%."

The 123% annual cost we quote on R1000 over a year was given in a table of amounts and repayments sent out by the bank in a mail shot letter last June. Moore agrees the figures in the table are still representative. "The rates have gone down for the best customers and gone up for more risky ones," he says.

**If the guy in the informal sector can get extortionate returns, then the formal sector wants in**



In other words, if you're "risky" you'll now be paying even more than 123% per annum for your R1000.

Peoples Bank prefers not to talk interest rates, but lumps interest, admin fee and life insurance into one total monthly repayment package. Moore says the admin fee ranges from R600 on small loans to R1200 for one of R8500. Insurance is R9 for every R1000 advanced.

Says Ndlovu: "We are trying to come into this market in a responsible fashion, to cover our costs and the risks, make some profit but enable the industry to grow and people to survive."

Peoples Bank will only lend to the employed who have a bank account. Applicants are required to produce ID, latest payslip and bank statements for the two previous months.

"The people we lend to in this market have cash flow in terms of their salary," says Ndlovu. "But they have no collateral as security. You've got to be creative how you sell loans to people who have no security."

"As a bank, we really would like to bring the rates down. But from the risk point of view we're not able to, as much as we would like to."

Competitor African Bank says its personal loan rates vary between 45% and 100% per annum. "Critics say that's outrageous, but borrowers are used to paying at least that per month," says spokesman Nick Cairns. "And we don't go out and shoot them through the legs if they don't pay."

African Bank's microloan book stands at around R5bn, with 1.6m customers. Says Cairns: "We bought Saambou's R2.8bn loan book for R1bn. They'd already written off R1.8bn of loans. That shows the level of losses in this business." [It doesn't. It shows the level of Trevor Manuel's generosity. African Bank have already collected R200m of the written-off loans - profit for jam. - Ed]

In the case of Saambou, the microloan book is overstated not just because of irrecoverable loans, but also partly because - like the Saambou mortgage loans book - it includes amounts illegally charged to client's accounts.

Take the case of Ms Brilliant Nkosi from Durban. Ms Nkosi - a teacher with the KwaZulu department of education - borrowed R13,500 from Saambou on 12 May 2000. On the

same day an additional amount of R9100 was debited to her account. The only indication as to what the extra R9100 might be for was a "credit life insurance" notation on her account printout. (Compare to Peoples Bank R9 insurance charge per R1000 borrowed.)

Ms Nkosi was mystified by the deduction. She had not been informed of the charge in advance or agreed to it. But she received no meaningful response from Saambou to her

repeated enquiries. After a couple of years of monthly payments, she decided to approach the Empangeni branch of Legal Wise for help. Fortunately, her Legal Wise consultant, Celia Machado, had heard of the Bellville-based interest recalcuator Emerald van Zyl, who has done so much to bring misconduct at Saambou to light, and referred Ms Nkosi's account to him for analysis.

Van Zyl found that Saambou was charging Ms Nkosi a higher rate of interest than allowed under the Usury Act, and that various features of the purported insurance policy were illegal under the Usury Act.

But more importantly, as Van Zyl

states in his report: "Section 48 of the Long-term Insurance Act determined that the insurer would deliver a certificate to the insured within 60 days. Ms Nkosi did not receive such a certificate. I am convinced that there is no policy in place and that the R9 100 was never paid over by Saambou Bank to an insurer."

If the money was never paid over by Saambou to an insurer, then it was effectively stolen from Ms Nkosi. Van Zyl has examined hundreds of similar cases

where, he says, the *modus operandi* was exactly the same.

As a teacher Ms Nkosi is better equipped than most to deal with the situation. Still, she faces an uphill battle. Her monthly payments to Saambou are still being deducted from her salary by the KwaZulu Natal department of education. But Legal Wise has decided that she has a strong case against Saambou, and will be applying on her behalf for a court order to stop the payments, or to have them reduced, depending on further analysis by Van Zyl.

Ms Nkosi has repeatedly approached the Department of Trade and Industry

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**'We don't go out and shoot them through the legs if they don't pay'**

— Nick Cairns, African Bank

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# Lawyers create unhealthy racket over R77

In 1998 Claire Stubbs joined the Sandton Health and Racquet as part of a corporate membership offer by her employers at the time. At a mere R77 a month, who could let that one go? After two months on the treadmill, she did let it go – and cancelled her membership.

In March 1999 she joined the Cresta Health and Racquet, and sweated there for nearly eight months, at the same fee deducted from her account using that pesky debit order system. That contract was also cancelled, with one month's notice in writing, as stipulated by Health and Racquet.

And that was that. Well, not according to JM Attorneys of Randburg. They seemed to be one of the many executors (or is it executioners) of the Estate Late Health and Racquet (affectionately known as Leisurenets).

Every outstanding R77 will be hunted down, brought to trial and overcharged.

Claire Stubbs had an outstanding R77 from March 1999, or so they

claimed. Not so, says Claire, who was only informed of this outstanding amount in October 2002. (By which time the debt would have been prescribed, anyway.)

In that month she received three letters from the now frantic JM Attorneys, dated August and September of that year. They claim they've been sending letters of demand to her for the R77 since February 14, 2001. (Really chaps, on Valentine's Day – what passion killers you are!)

Claire never received any of them, and of course our dear attorneys couldn't prove delivery or supply copies of the letters either. The chicken bone that really wedged itself sideways in her throat was that the R77 was now R565.96.

One asks oneself – Claire more intelligently asked JM Attorneys – who the hell have they been sending all these "we'll attach your furniture and grandmother" letters to? If JM Attorneys are to be believed, it seems Health and Racquet did a phenom-

enally bad job of entering the details of her address in their records. No flat number; street name incorrect; and complex name written as part of the street name.

One can only assume JM Attorneys did not have a return address on their envelopes and so never knew that the address they had for Claire Stubbs did not actually exist.

After battling the typing and filing pool at JM Attorneys for weeks, Claire finally obtained clarification as to how the amount was made up. The bulk was for their "instruction fee", part for a "letter of demand" (note the singular – which suggests that they sent her only one and not several letters as later claimed), the original debt of R77 plus interest, and the balance for fees paid to tracing agents.

Claire Stubbs' R77 had grown more than 5 times and JM Attorneys cannot prove a thing. Maybe that's what's to be expected of those who have been chosen to lay the Leisurenets coffin to rest. ☐

# Showtime for Investec in smash-and-grab case

In our last instalment on the dispute between Investec bank and Justin Lewis, the former owner of Midtown Building Systems (nose41), we said Lewis had applied to the master of the high court in Cape Town for an enquiry into Midtown's liquidation.

The master has now given the go-ahead for an insolvency inquiry, which will be held in Stellenbosch at the end of March.

The outcome is sure to have a significant bearing on Lewis' R800m damages suit against Investec, and on the downward trend in the bank's share price.

Readers will recall that the bank was most unwilling to provide Lewis with detailed accounts for Midtown, and did so only after he threatened a high court injunction.

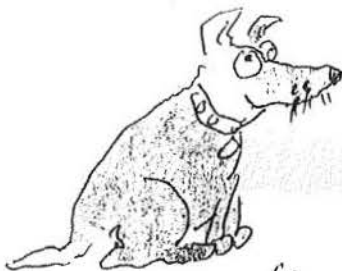
The accounts showed that, apart from numerous contractual breaches, Midtown's financial problems were due to overpayments, and improper and unauthorised transfers and deductions, made by Investec.

Investec was unsuccessful in an attempt to sue Lewis for sureties he

had issued for Midtown, because the bank was unable to persuade the judge that the liquidation had been kosher, particularly in light of what emerged in the bank records.

## CANINE METAPHYSICS

MASTER	RETSMA
CUR	RUC
BANK	KRAB
CAT	TAC
COLLAR	BALLOO
DOG	GOD!!



noseweek 44, March 2003

The insolvency inquiry will allow for the interrogation of Investec executives. Among those already summonsed are Laetitia Peyper, the head of the Cape property finance division of Investec when the loans were negotiated with Lewis, and Robert Gottlieb, who replaced Peyper after it became apparent that something was very wrong in the division.

The inquiry promises to provide some of the best free entertainment in town. For those unable to make it to the show, watch this space.

■ And have you heard the one about the fund manager who sold his personal investment in Citadel to unit trust holders in the Investec Opportunity Fund – for R20m! This "investment" by the fund was made more than three years back. When we last looked it was still there. And what's it worth today? Never mind that it's against the Unit Trust Control Act for a unit trust to hold unlisted investments. Unbelievable what some people get away with – look what its value has dropped to. ☐



## Loan sharks in banker's clothing

From page 11

and the MFRC for help. Neither has provided any. About a year ago, Machado told *noseweek*, the MFRC said they were busy with the case, and needed another month. Since then she's heard nothing further. Van Zyl says that the DTI has totally abdicated its statutorily mandated duty to inspect the banks, to ensure compliance with the Usury Act, and to protect people like Ms Nkosi.

Other signs from the MFRC are not encouraging, says Van Zyl. For example, First National Bank's microlending subsidiary, Direct Access, is soliciting and issuing microloans over the phone. That's a fundamental breach of the Usury Act, and of Regulation 713 that exempts loans under R10,000 from the act. But the MFRC seems unwilling to act on it.

A recent decision of the portfolio committee on trade and industry gave the MFRC joint responsibility, with the DTI, to do inspections of micro-

**The banks that control the microloan market will be responsible for inspection**

lenders. In practice this may simply allow both parties to pass the buck.

The banks themselves are strongly represented on the directorate of the MFRC, which also includes representatives from government and consumer bodies. The MFRC is purportedly self-funding through membership fees. So, under this ingenious proposal, the banks that control 80% of the microloan market will be responsible for funding the inspection of their microlending practices, and enforces compliance with the act. Is this going to lead to the kind of rigorous standards and compliance which is so badly needed?

Issues of compliance apart, there's another serious question: of the whole approach of the banking industry to microloans for the less well-off at exorbitant rates. As a professional service banking should involve a degree of financial advice and trust. But Peoples Bank, for example, advertises their microloans as a good way to finance the purchase of a TV. From a financial point of view, that's terrible advice for everybody except the bank. **W**

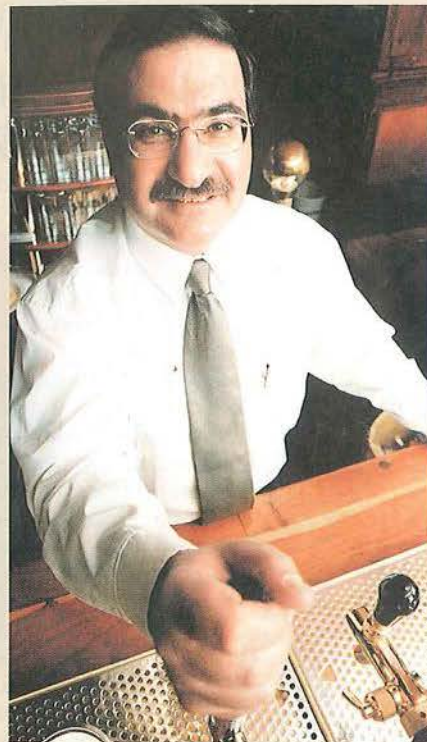
## The scoundrel who organised a ripoff in a brewery

**Noseweek has written extensively about an episode in which South African Breweries cheated a group of independent beer distributors (mostly black) out of millions of rands in equity they had built up in their businesses.**

**The head of SAB's beer division at the time of the nasty shilenter was Norman Adami (right). In fact one of the independents, Geo Louw, told noseweek that it was shortly after Adami took over the beer division that the positive and cooperative relationship between the independent distributors and the breweries turned hostile.**

**Adami, known as a cost-saving specialist, oversaw a campaign to take over the independents that included intimidation, ignoring a court order, perjury at the arbitration hearings and specific instructions to auditors PriceWaterhouse-Coopers that inevitably resulted in the the distributors' businesses being undervalued.**

**Cheating folk out of their businesses is no small matter. But Adami's dishonesty is no problem, it seems,**



Picture: Financial Mail

**for the fine fellows at SABMiller.**

**The scoundrel has just been promoted to chief executive of SAB-owned Miller Brewing in the US. **W****

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# Don't be my Valentine

Most people have a minister at their wedding, but when one statuesque blonde was on the brink of divorce she called on two ministers and assorted other political figures for help.

**T**he full might of two cabinet members, the chief of staff at the Ministry of Justice and the president of the United Cricket Board was marshalled into a task force to come to the aid of Marina Valentine, a thirty-something statuesque blonde with shoulder-length hair and a formidable presence, who works as a typist for Sports Minister Ngconde Balfour.

A whizz Percy Sonn may be at matters pertaining to cricket, but the UCB president – a lawyer by profession – gave the typist disastrous advice which may have contributed to her losing a costly court application for interim custody of her seven-year-old son.

She and the attorney recommended to her by the Justice Department now face legal costs of up to R20,000 between them.

To make it worse, the final case of Valentine v Valentine took place on February 13 – the eve of supposedly romantic Valentine's Day.

Marina Valentine, currently employed as a senior ministerial typist in Cape Town, is estranged from her husband Cedric, a warrant officer in the South African Defence Force based in Gauteng. Their son lives with Mr Valentine. A divorce is pending.

The extraordinary tale of how Mrs Valentine gathered her top level support team is told in an affidavit recently filed by her in the Pretoria high court.

**Move 1:** On January 26 this year, during a telephone call with Sonn (who she describes as an advocate and "at some stage an acting judge"), Valentine read the UCB president a letter from her estranged husband informing her that the boy could not be taken to Cape Town without his permission.

"Mr Sonn's advice was simply that I should eventually seek counsel from an attorney or advocate and in the interim there is no impediment to take [the child] to Cape Town," reads her affidavit.

The following day she went to the Office of the Family Advocate, where she was advised to launch an application to the high court under Rule 43 (which provides for interim relief in cases where a divorce action is pending).

**Move 2:** Valentine calls Sonn with this news. "Advocate Percy Sonn informed me that he is not au fait with Family Law procedures and reiterated, that as mother of

her office.

**Move 3:** That morning, at a staff meeting with Balfour, Marina Valentine gave this news to the minister. "Minister Balfour informed me that he would call upon Minister Maduna, the minister of justice and constitutional development, to assist me and give me further guidance," reads her affidavit.

Maduna was on a flight to Johannesburg at the time, but Balfour, who was also scheduled to fly to Johannesburg that day, met Maduna in Pretoria "to discuss assisting me in the matter brought by the applicant."

**Move 4:** At 9.30 that night, states Valentine, Balfour phoned and informed her that after a cabinet meeting scheduled for the following morning, Maduna would discuss the matter with the chief of staff at the ministry of justice, Mr Labuschagne.

After the cabinet meeting Balfour dutifully phoned her with Labuschagne's telephone number.



Picture: Sunday Times

**UCB president Percy Sonn gave the minister's typist disastrous advice**

the minor child, he can see no reason why I should not take [the child] to Cape Town."

So she did just that. On January 30 Cedric Valentine found an SMS message on his cellphone: "Don't worry about [the child] and I. We're on our way 2 Cape Town."

Five days later, on February 4, notice of an urgent application by the warrant officer for custody of their son pending divorce litigation was faxed to

she was unable to take his calls "as I was attending the dress rehearsals of the opening ceremony of the Cricket World Cup".

**Move 5:** The following day, February 6, she finally got hold of Labuschagne and told him she didn't have funds to oppose her husband's urgent application. The chief of staff told her he would contact the Legal Aid Board.

After doing so, he instructed Valentine to attend the offices of the Legal

**F**or the rest of that day, the chief of staff tried to return the typist's messages "to contact me urgently", but Valentine states



Aid Board in Cape Town. Unfortunately for her, power politics was to no effect here: She was informed that she did not qualify for legal aid.

Move 6: Notified of this decision, Labuschagne told her he would "attempt to pull some strings". But his string-pulling, records Valentine's affidavit, was to no avail.

The affidavit goes on to describe the typist's life of style at the parliamentary village, in Cape Town's Acacia Park, where the only residents are "members of parliament and parliamentary support staff like myself." She said her residence in the village was "fit for a minister".

**H**er job with the Sports Minister, runs her affidavit, entails attending sports events and functions. When in Cape Town her son was "overjoyed" to meet the South African cricket team. The child was "also no stranger" to Minister Balfour and Defence Minister Lekota.

"Minister Balfour has a policy that family comes first and therefore I have no qualms to call on him or his personnel to accommodate me should it be necessary to be at [her son's] side."

When she informed the Minister of her husband's urgent application, Balfour granted her leave and flight tickets [*Paid for by? - Ed*] to attend court. "There were simply no questions asked or reservations from the Minister," says the affidavit.

On February 7, Mr Valentine was awarded interim custody and control of the child by Judge Patel in Johannesburg High Court.

Undeterred, Mrs Valentine then brought her own urgent Rule 43 application to have Judge Patel's decision reconsidered.

Which is where she finally came unstuck. Rule 43 applications are meant to bring quick, short-term relief to abandoned spouses. Costs are set at a maximum of R520. The papers filed at court must be short and to the point – and ordinarily do not exceed 10 to 15 pages.

Valentine's volume, with all the details about her hotline to Cabinet Ministers and the glories of life in Parliamentary Village, came to 118 pages.

When her application came before Judge Bertelsmann in the Pretoria high court on February 13, he was not

amused at this great mass of paper used to recount her discussions with prominent people. "As bona fide or as interesting as this may be, what does it have to do with a Rule 43 application?" he asked her advocate.

The judge was even less amused by the performance of Mrs Valentine's attorney, who had assisted her in drafting the bundle and had filed it at court – a "serious abuse of the proc-

ess of this court", the judge called it. He said that after the tea adjournment he intended to strike the application off the roll and order her attorney (Gavin Joynt) to pay the costs of both sides out of his own pocket – and to disallow him from charging Marina Valentine a fee for his work.

Attorney Joynt, who was not in court, was hastily summoned. And during the tea break a settlement was agreed whereby Joynt and Mrs Valentine will share the costs between

with him." Why did she go to UCB president Sonn for legal advice in the first place? "I happen to know him," replied Marina Valentine. "He was on a call and I asked, "Can I pick your brain quickly?" I asked him for advice and that was it." **W**

Several days after the case, *noseweek* spoke to Marina Valentine, who was in Pretoria recovering from her courtroom defeat. We discovered that Balfour and Maduna were not amused to find their names featuring in a brief report of her application in the *Pretoria News*. "It gives the impression that I tried to use the influence of the ministers and they want to know why their names have been mentioned," she said.

## 'Minister Balfour has a policy that family comes first' – Marina Valentine



Picture: Sunday Times

ess of this court", the judge called it. He said that after the tea adjournment he intended to strike the application off the roll and order her attorney (Gavin Joynt) to pay the costs of both sides out of his own pocket – and to disallow him from charging Marina Valentine a fee for his work.

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## THE ART DIRECTOR

# Brian Searle-Tripp

I met Roger when I joined the company De Villiers and Schonfeld. I thought: "He's a clever bugger," but I didn't instinctively think we could work together. We were very different. Then they put us together on a project and it was amazing. Within ten minutes, it was just magical. After that, we became an item for 14 years.

He was an academic and worked from the head, far more left-brain than me, and I was the guttersnipe, I worked from the gut, from the right brain. And we put them together. It was a rare partnership. I was spoilt really, because for all those years I knew when I got a piece of Roger's copy, I didn't have to check it. It was going to be right.

### 'Roger was a great raconteur at dinner parties. And he danced up a storm'

Roger was a great craftsman, just so quick ... a razor-sharp mind. It got to the point where we hardly had to talk, because we both knew what the other was thinking.

Some people felt uncomfortable about Roger's stammer. I didn't, because it was as if I saw through it. I know Roger hated to be helped. If he couldn't get a word out, the worst thing you could do was fill it in for him, so I would sit back and wait for it to come.

I always knew he didn't think that what I had to say was silly. If you feel self-conscious in advertising about making a fool of yourself, you run the risk of blocking ideas. So when we had a problem to solve, I would let it all come out, I would vomit on the table, so to speak, and among the peas and carrots, Roger might find a little gold nugget and say, "Look at that."

Roger was a man of routine. We would draw names out of a hat, and you would have to buy a Christmas present for that person. Roger got a clock with its face covered up and it said: eight o' clock read paper,

then work, then lunch, then work, drink, screw. Screw was at about 10 o' clock.

He would hate any spelling errors or people being late. It really got to him. He had a working cardigan that he always wore. The first one was red - that wore out, and was folded and framed in the pub. As soon as Roger had a few glasses of wine his stutter disappeared. He was a great raconteur at dinner parties. And he danced up a storm.

There was never friction. I don't think we had words once. Roger never got possessive. He is a very grown-up man. He was incorruptible. I am an emotional person and at a time, my private life was a mess, and Roger's loyalty to me then is something I can

never thank him enough for. It was a privilege to work with him. Roger has great integrity.

Roger was never wholly into the job the way I am. I brought an intensity to the partnership that might not have been there otherwise. We were focused on the good of the company, but we never lived in each other's pockets.

He's not married. His hobby is going to Pringle Bay, flying kites, shooting tins with catapults, crayfishing and collecting strandloper beads. He is a self-contained man. He could go sit in his cottage, out on the point, alone, for a week.

We worked together on a wonderful Old Mutual TV commercial. We modified the existing strap line to: "We would like to help you make the most of your life, every step of the way." The commercial elicited letters from people, and there was one from a woman, saying "my husband

To page 18



## THE PAIR

Copywriter Roger Makin  
Brian Searle-Tripp were  
partnership in the adverti  
Rightford, Searle-Tripp &  
close working relationshi  
advertisements which m  
the most successful in A  
Edmunds about the



## THE COPYWRITER Roger Makin



behind) and art director  
an enduring creative  
ng firm Ogilvy & Mather,  
Makin. For 15 years their  
inspired award-winning  
de their agency one of  
ca. They talk to Marion  
close relationship.

I went to an agency called De Villiers and Schonfeld as a copywriter in about 1973 and three months later this strange guy arrived, and I thought: "Jesus, he must be creative." He was wearing jeans with a wonderful buckle like a steamboat. I was wearing a suit and tie at that stage. That was Brian, the art director.

The first joint project was a wine campaign. We called the wine Bacchus, and the strapline was "Break out the Bacchus and have yourself a ball!" The whole thing was built around a Roman orgy. I did the copy, and Brian designed the label of a Roman orgy, with the guys feeling up the girls. We had fun then.

After that, we went after the I &

lonely and stressful business and to write is a hell of a lonely business. To have somebody playing a game of table tennis across the desk with you, so to speak, and to pass on developing an idea – you end up having such fun.

Brian is an extrovert. He's also a Gemini, so he's either up here or down there. We are absolutely different in personality. But we have become best mates. If you can crack a concept with a person and realise you have this chemistry, you automatically like that person. We never had words. Brian and Bob would go head to head, and I was kind of glue in the partnership, I made the peace.

What happened, usually, is that

### 'Brian wanted stairs made of Perspex so he could stand underneath and watch girls go up'

J account. Brian wanted to call everything "jolly good". So they didn't make plump green peas, they made "jolly good" plump green peas. We did some nice radio spots which won an international award.

Then our friend Bob Rightford left to become MD of a small agency in Cape Town. He persuaded us to join

him for no more than we were earning. In those days, I was known as a "hired gun" and I would go over for as much money as they

were prepared to pay me.

If it hadn't been for Brian, I would have carried on being a hired gun, highly paid, but wouldn't have been half as successful. In the early days, we went around calling each other "dear boy", so everybody thought we were gay.

Brian advertised from his heart, gut-feel. He could make you cry. Eventually, I could make him cry. It's so comforting having that relationship, because advertising is a

we would get the brief from the client, and if he touched on a particular angle, Brian would catch my eye and we would have a germ of an idea there, without actually even speaking about it.

Brian's work was his life. There was not energy left for his private life. He's an artist. God is in the detail with Brian, he is never satisfied, I would say when we had won an award: "Aren't we great! Wasn't that a great campaign!" He would say: "Roger, perhaps if we had tweaked it a bit...".

He had a sense of fun. He wanted to have the stairs here made out of Perspex so he could stand underneath and watch the girls go up. Late at night, he would announce over the intercom: "So and So has a very small wrinkle!" And he would chuckle. Everybody would get a bit hysterical late at night. Anchor Yeast wanted to use hot-cross buns to advertise yeast, so I came up with the headline "Jesus Christ! It's risen again!" Of course, it never ran.

Brian helped me with my stam-

To page 18



## Brian Searle-Tripp

quoted the script to our daughter as a way for her to handle her life.”

One Christmas, we made a Volkswagen commercial which was cuts of various commercials. And a divorcee wrote to VW and said, “This is the first Christmas I have been alone, and I was actually wanting to end it all, and then I saw your commercial and I thought that life was worth living.” When somebody writes that sort of letter, you know it’s not simply advertising, you are touching a raw nerve.

We tried to uncover the deeper nobility in every product and then communicate it to the target market. And that helped to transcend advertising.

Roger is an intelligent man, an all-round man, a good listener. You know people often bandy the word love around. Roger has, on a few occasions, said to me, I love you Brian, I mean it. I love him too. **7**

## Roger Makin

mer because he made light of it. He would say he’d better read the copy because otherwise we’d still be here in three hours time, which lightened the whole atmosphere. Everybody else pretended I didn’t stammer.

If Brian said that something was rubbish, he was usually right. He had a built-in bullshit detector. He hated insincerity. We hated people who ran other people down just because they had an inferiority complex.

I was pretty much in control, but Brian gets quite emotional, and we have had times when we both have been crying on each other’s shoulders, which sounds a bit wet, but that’s the relationship we had.

I would just say he’s my best friend and confidant. We just liked each other. We were joined at the hip. Somebody offered me a job once, but I laughed it off because I had found my home, as it were, I had found my family.

You have to have that synergy. There are very few Titans in the industry who can produce ideas and write copy and do pictures. Every Roger needs a Brian. **7**

# FIRST THEY SAID ‘STUFF THE BUSHMEN’, NOW IT’S STUFF THE KALAHARI

**Botswana’s government has shafted the Gana and Gwi Bushmen. Now it looks like they’re ready to do the same to the game reserve these people inhabited.**

In the wake of the bad press the Botswana government has received over the forced removal of Bushmen from the Central Kalahari Game Reserve, the country’s appeal court has given a brisk slap in the face to the state and its officials.

The court ordered the country’s high court on January 23 to hear the case of 242 Bushmen who are fighting for the right to return to their ancestral lands.

Last April a high court judge threw out the Bushmen’s application on a series of technicalities raised by the government.

In defence of its case, the government had rolled out its permanent secretary in the ministry of minerals, energy and water affairs, Dr Akolang Russia Tombale, to deny that diamonds had anything to do with the removal of the Bushmen. Strange, since the Bushmen’s lawyers had never mentioned the gems. They were just defending the Gwi and Gana people’s right to live on lands they had occupied for thousands of years.

Just why Tombale – who apart from being in government is also deputy chairman of Debswana (the mining company owned 50/50 by De Beers and the government) – might have been so preoccupied with diamonds will become clear in due course.

Chennels Albertyn Attorneys, who are representing the Bushmen, argued that the removal of their

clients from the Central Kalahari is unlawful and unconstitutional, as is the government’s refusal to issue them with special hunting licences.

The Bushmen are dependent on small-scale hunting for subsistence, so the denial of their right to hunt is the removal of their means of livelihood. The government has also cut off their water supply to “persuade” them to move.

The government cites “national importance” as its reason for the

removals. According to the affidavit of another state official Eric Molale: “Government has always encour-

aged and persuaded its citizens to relocate where there is evidence of incompatibility of land use amongst competing users or in straightforward cases where citizens have to give way for developments of national importance.”

This is the first we hear of “developments of national importance” in the Kalahari reserve. (Take a look at the maps on the page opposite and ask yourself: “What might these developments be?”).

And could this be the same Eric Molale who told the BBC last year that nobody was being forced to move? And that an attempt to perpetuate a “a nomadic prehistoric way of living is outrageous”?

Perhaps it is the outrageous life-style of the Bushmen that has led

**Their ‘prehistoric way of living is outrageous’**

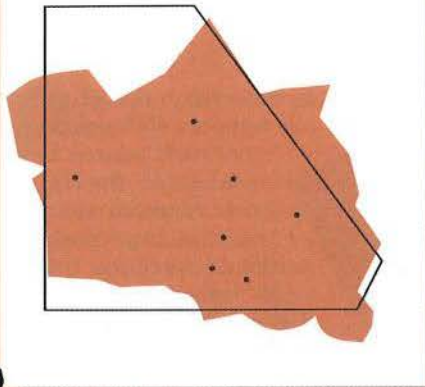
– Eric Molale, permanent secretary in the ministry of local government



# THE SCAMBLE FOR DIAMONDS IS ON

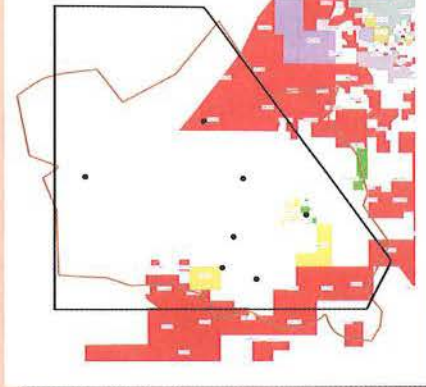
The Botswana government says the removal of Bushmen from the Central Kalahari Game Reserve has nothing to do with minerals.

1. Bushman ancestral lands



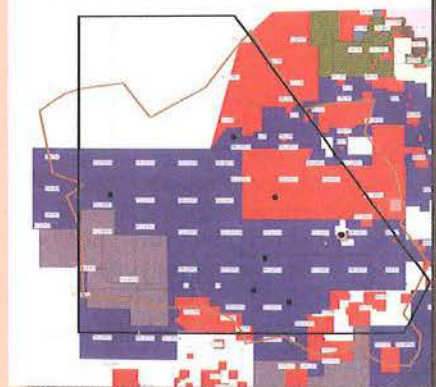
The Central Kalahari Game Reserve shown in outline with the ancestral lands of the Gana and Gwi Bushmen indicated in brown.

2. Diamond concessions: March 2001



Diamond concessions granted to De Beers (red) before the removals began in earnest.

3. Diamond concessions: November 2002



Concessions late last year, after most Bushmen had been removed. Red indicates De Beers' concessions and blue those granted to BHP Billiton. The mauve areas have been granted to Canadian company Motapa.

government officials to torture them on a number of occasions, including an incident in which one man was castrated. In another incident, in August 2000, wildlife officials and police in Rakops, in the Central Kalahari Game Reserve, worked over 20 men and four women for six days for "overhunting". Perhaps it was the righteous indignation of the officials at the Bushmen's prehistoric way of life that spurred them to tie the Bushmen to a Land Rover for two days.

According to one of the Bushmen: "They told us to line up naked in front of the Land Rovers. We were tied upside down and handcuffed to the Land Rovers with our feet tied to the bushbars until 10pm. For the first two days we slept tied to the bushbars."

"This land belonged to our great-great-great-grandfathers. The game and wild fruits are important to us. We grow melons on this land and we hunt animals like gemsbok. This land is important to us."

Thirteen of the Bushmen were charged with overhunting. In January the charges were dropped after the authorities failed to produce any witnesses.

While all this has been going on, the Botswana government has been parceling up the Central Kalahari Game Reserve into diamond concessions divided between De Beers, Australian-based BHP Billiton and Canadian outfit Motapa Diamonds Inc. By November last year virtually the entire game reserve, bar a small bite-sized chunk in the northwest, had been dished out.

Yet last year Tombale told the world: "We are not aware of any diamond mining prospect in the Central Kalahari Game Reserve other than the uneconomic Gope. You cannot

**'This land belonged to our great-great-great-grandfathers'**

show there is mining in the [game reserve], nor that there is any likelihood of any mining anywhere in the Central Kalahari Game Reserve."

President Festus Mogae concurs. "There is neither any actual mining nor any plan for future mining inside the reserve," he said in November.

So, either the government has pulled off a fat scam by selling dud concessions to three unsuspecting multinationals – or it's fibbing.

The World Bank clearly isn't tak-

ing Mogae or Tombale's ramblings too seriously. Last month it awarded US\$2m to Kalahari Diamonds Limited, formed at the initiative of, and partly owned by, BHP Billiton to explore for diamonds in the Central Kalahari Game Reserve.

Despite World Bank requirements that indigenous communities should be informed participants in the development of such a project, no Bushmen communities were consulted over the plans.

Bushmen aside, if BHP's track record on the environment is anything to go by, it's time to start praying for the Central Kalahari Game Reserve as well.

In 2000, the World Bank called on BHP to shut down a copper and gold mine in Papua New Guinea, after pollution from the workings had rendered 70km of the Ok Tedi river biologically dead. The social cost was also enormous, with 30,000 people living downstream from the mine losing their ability to live off their land.

This isn't the first time BHP has been implicated in environmental destruction. In 1998 a US court had to force it to clean up messes left behind at mine sites in Arizona and Quebec. **W**



# Kisch my ass

The trademark attorneys who couldn't see the wood for the chips.



**R**emember our story about entrepreneur Justin Nurse and the T-shirts he was selling taking the piss out of the logos and advertising of various SA corporations?

Nurse received various heavy-handed missives in response, one from patent attorneys DM Kisch Inc on behalf of their client Pfizer, owners of the Viagra trademark. The letter contained the following ludicrous statement: "Under the depiction of the trademark Viagra appear the words 'Hard times never felt so good' which wording is disparaging to our client's Viagra trademark and product."

We thought Nurse's punchy line was simply fair comment.

Now Kisch's attempt to give Nurse a hard time with Viagra has prompted *noseweek* reader John Skliros to tell us about an equally absurd run-in with DM Kisch over another trademark.

Back in 1999, Skliros started a timber company with a rather snappy appellation – Simba Timba. A few months after he opened for business, he received a letter from AK van der Merwe, a director of DM Kisch Inc.

The letter is headed "Possible objection to registration of Close Corporation name Simba Tmba [sic] by Simba (Pty) Ltd", and is written in typical pidgen gobbledegook

**Do they think we might take to snacking on planks instead of crisps?**

"Our client Simba (Pty) Ltd," wrote Van Der Merwe, "is the registered proprietor of various trademarks registered at the SA Trademarks Office for their name and trademark Simba.

"Simba has used and promoted their name and trademark Simba extensively in South Africa and has thereby acquired a repute or reputation and hence the goodwill in and to the name and trademark Simba under the common law. There is a likelihood that members of the public may be confused or deceived [by] ... Your use of a

name which includes the name and trademark Simba, therefore amounts to an infringement of both our client's registered and common law rights, and also a dilution of our client's rights." [In other words, *we might take to snacking on planks instead of potato chips. Or are they telling us something about Simba chips we hadn't suspected?* – Ed].

"We have been instructed to demand from you that you immediately cease the use of our client's name and trademark Simba, and remove it from your close corporation name.

"Failure or neglect by you to comply fully and timeously with our client's aforementioned demand, will leave us with no alternative but to consider appropriate legal action against you," the letter huffed in conclusion.

Skliros was unimpressed: With tongue firmly in armpit, he sent this reply to Kisch: "We are in receipt of your registered letter and have noted the contents. Not being attorneys, it is all just a bit intimidating for us.

"However we do have one or two observations before considering what course of action to adopt.

"The word 'Simba' means 'lion' in one of our official languages. It is a word

in everyday use. In fact it appears to be popular the world over. A brief search of the Internet revealed no less than 71,112 company names, product names and websites containing the word 'Simba'. It is a popular name, and there seems to be no shortage of potential future litigation ahead for yourselves.

"We presume that the purpose of having the name 'Simba Timba' published in the Government Gazette was to enable your client or yourselves to object to the name within the prescribed period, which you and your client failed to do," continued Skliros. "In the absence of any objections, we proceeded with the design and printing of stationery, logos, websites etc. For you to now demand that we immediately chuck all that work, effort and expense and blithely start all over again seems a bit harsh.

"In sub-paragraph (b) of your letter you state that we may not use 'any similar name in future'. Perhaps you would be kind enough to explain – clearly and definitively – what you mean by that statement. I have a friend at the Lion Match Company. Perhaps I should give him a call."

"Towards the latter part of your letter you refer to an 'interdict including a claim for damages and legal costs'. Please be so kind as to give us some idea of the financial catastrophe you have in mind for us.

"Considering that the deadline of 14 days from the date of your letter has already passed, kindly give this grave matter your urgent attention."

The letter was dated August 26 1999. Three and a half years later Skliros has yet to hear anything further from Van Der Merwe or DM Kisch Inc. **TL**



# Detente with China gets knackered

Heard the one about Van der Merwe, the Boere mafia and the Polokwane abattoir con?

President Mbeki's high hopes that China and South Africa would develop a fruitful business relationship have been soured by a run-in with local organised crime. That distant nation's third largest bank, state-owned China Construction Bank, is dismayed and angry at the outcome of one of its investments – a R30m-plus facility to refurbish an abattoir in Northern Province.

For the Polokwane (Pietersburg) slaughterhouse, it has emerged, was the venture of a notorious conman named Danie van der Merwe. Already 20 years ago he was known in Afrikaner organised crime circles (the so-called Boere Mafia) as Slim Danie – Smart Danie.

Van der Merwe, 60, is a former



**'Slim' Danie van der Merwe was struck off the roll of advocates because of his shady dealings**

lecturer in law at the University of Pretoria. In the early 1980s he was struck off the roll of advocates and left the university in disgrace because of his shady business dealings. When the Chinese bank got involved, he was a director of the abattoir's operating company, National Meat Property Holding (Pty). So also was his 32-year-old son Danie jnr. They had acquired the business in a liquidator's sale in April 2000.

For China Construction Bank the penny began to drop last year, when the abattoir failed to perform as it had hoped. On August 21 the bank took cession of all the National Meat shares (Danie jnr held 60% of the stock).

That month, the bank had been shocked to learn, both Van der Merwe were arrested by the Scorpions on charges relating to a R16m fraud. It is alleged they took money for truck sales to the previously disadvantaged, but failed to deliver the trucks. Senior is presently on bail of R50,000; junior's bail was set at R30,000. Their

next court appearance is on May 30.

At February 19, China Construction Bank calculated that the debt on its ill-judged investment stood at R38.5m.

The story of the bank's investment is told in court papers filed in a Johannesburg high court action brought by one of "Slim" Danie's friends from Boere Mafia days, one At Shepherd. Shepherd has an equally colourful past as a country conman, and has spent time in prison for a cattle-ranching fraud. He claims he loaned National Meat R870,000 in an oral agreement in January 2001. He is seeking repayment, plus 15.5% interest. The bank believes this "loan" to be a fabrication.

An affidavit by a director of the bank, Lawrence Thorn,

states: "Investigations have revealed that monies in excess of R3m have been misappropriated and the Van der Merwes are being investigated for such transactions."

The bank's attorney, David Singer, now confirms: "Actions against both the Van der Merwes will certainly be instituted."

Sources say the bank is also mulling over money it advanced to National Meat to upgrade the abattoir's refrigeration plant. It is claimed that R550,000 of it was diverted to buy 116 hectares of grazing land to fatten up doomed cattle prior to slaughter. The venture was called Snowy Owl. A valuation was then procured putting the land's value at R2.8m and this was offered to China Construction Bank as security for the bank's investment.

Says Singer: "The bank will also hold an inquiry into the Snowy Owl affair and, if appropriate, criminal charges will be laid."

Last November China Construction Bank removed the Van der Merwes as directors and took over control of the abattoir in terms of a pledge and cession of shares and loan accounts. The abattoir employs 250 people and is the largest slaughterhouse in Limpopo Province. Losses, which last year were running at R1m a month, were reduced to a R197,000 deficit for last December. The bank believes that under proper management the business can be a success. Danie snr expresses outrage at the bank's actions. "They came and just took over the abattoir; they took over the whole spiel there," he says. ■

## Beijing bank opens for business in SA

**China Construction Bank in SA is headed by Joseph Yan. In October 2000 the bank (total assets \$304bn with 27,000 branches in China), opened its doors here, announcing it would offer wholesale, merchant and investment banking to local medium and large businesses.**

**At the official launch of its Sandton branch four months later its Beijing-based CEO, Xuebing Wang, handed President Thabo Mbeki a cheque for R1m for his Crossroads Education Fund. A grateful Mbeki said the branch's opening would add "enormously" to what the two countries could do for themselves.**

**SA is China's largest African trading partner. Two-way trade volumes between SA and China reached R7.9bn last year – of which R3.8bn was imports.**

**There are other Chinese investment projects on the cards – leading brewer Tsingtoa has been thinking about investing R300m in a brewery here. ■**



## Too good to be true

When a bank manager lent credibility to a scheme to realise a 60% return on R1 million, an unsuspecting investor jumped at the chance. After all, a bank manager would never mislead a client— would he?

**H**ow marvelous it all sounded to Johannesburg retired businessman Phillip Smith: invest R1m and get a 60% return – no risk! Smith was on the lookout for good investments. Co-founder of car wheel producer Smiths Wheels, he had realised about R20m when his company was sold to Dorbyl in 1997.

The punters of the investment told him his R1m wouldn't leave an Absa bank account. The money would just be collateral to persuade overseas investors to put up \$200m for various projects that included a diamond mine, a cheese factory – and forex dealing.

Smith is now suing Absa for his missing million plus interest. Papers filed in Pretoria high court recount how Smith, in October 1999, accompanied by a man named Albert van Heerden, arrived at the office of Tony Goslin, a foreign exchange manager at Absa's plush branch in Sandton City, and turned over a Standard Bank cheque for R1m, drawn in favour of Absa Bank. After which the R1m vanished.

The oral agreement, claims Smith, was that Goslin would deposit the cheque into a medium-term investment account that he would open for Smith. Goslin signed a deposit slip for Smith, but the slip does not bear the bank's stamp.

The account was never opened. In his affidavit resisting summary judgment (sworn in March 2002, 19 months after Van Heerden had died of a heart attack), Goslin recalls the meeting with Smith: "He was accompanied by a certain Albert van Heerden, who advised me that he was the applicant's investment broker. I knew Van Heerden from previous business dealings.... The applicant wished to invest in dollars or in a company that dealt in dollars."

The amount was over the limit for

a foreign investment, Goslin states, and the two men did not have the necessary documentation, but "either Van Heerden or the applicant asked me whether the cheque could be left with me."

Goslin says he agreed and completed a deposit slip as a receipt. "The giving of this deposit slip was only to signify that I had received the cheque for safekeeping, not for collection.

"The following day Van Heerden returned on his own and advised me that he could not obtain the requisite tax clearance certificates. I accordingly advised him that I could not proceed with the transaction and returned the cheque to him. I assumed that Van Heerden, acting as the applicant's agent and broker, was empowered to receive it."

Smith's attorney Neels Redelinghuys disputes this. "Phillip Smith and Albert van Heerden went to a coffee shop. While there Van Heerden got a call from Goslin. Everything was apparently back on track. They went back to Goslin's office, handed over the cheque and Goslin said: 'I'll open the account and you will be advised in due course.'"

Redelinghuys says that Van Heerden was never Smith's agent and that if Goslin handed the cheque back to him, he should not have done so and Absa is liable for its loss.

So where did Smith's million end up?

A clue: out of the blue, in April 2000 Smith received a letter from a company called Global Finance (Pty) Ltd of Pretoria. "Kindly note," it declared, "that the total amount payable in terms of the P Smith investment to

the amount of R1,750,000 ... will be paid, being investment capital and returns, as well as all commissions to the amount of R250,000 ... and interest payable."

The letter was signed by one GR Venter, group executive director. Not too consoling: GR Venter has been arrested on fraud charges unrelated to this story.

Investigators have established that Smith's money languished a while in a Pretoria bank account with Absa in the name of Rassie Elardus Duvenhage T/A Rassie Duvenhage Brokers.

Many large sums of money passed through the Duvenhage account.

For an amount of R495,787 withdrawn from the account in July 2000, the withdrawal form appears to have been signed by none other than Absa foreign exchange manager Tony Goslin. At the same time, R495,901.25 was transferred to the account of an off-

shore entity named "Buiteland Corp UIT". Nobody knows where or what that is.

Adriaan Smit, a Free State farmer, tells a curiously similar tale. In an affidavit, Smit says that around December 1999 (just a month or so after Philip Smith's R1m fateful punt), Van Heerden made him an investment offer.

He, too, was told his money would remain with Absa. "I, however, insisted on meeting with an Absa manager to discuss the investment." That manager was Tony Goslin.

Smit's son-in-law Alf Niewoudt says in his own affidavit that Smit handed two cheques in the amount of R750,000 to Goslin, and that the

**Smith is now suing Absa for his missing million plus interest**



banker handed back two deposit slips. In addition, Niewoudt recollects: "As we got up to leave, Mr Van Heerden handed Goslin a thick roll of money.... Van Heerden told us the money he gave to Goslin was commission for a previous transaction."

Smit now tells *noseweek* that he discovered his R750,000, less a rather large "commission", was paid in dollars into an American institution named Fleet Bank, to the account of one J Jenkins. This despite a letter he had received, dated December 15, 1999, and written on the letterhead of a purportedly American entity

named Deakin Consultants, which informed him that the funds would remain in the account at Absa, though they would be utilised as collateral for other investments and generate "the return offered on the scheme." The letter referred any queries to Goslin.

Johannesburg businessman Jean Hanou describes a similar adventure. "I handed [R250,000 in a Standard Bank cheque] to Mr Goslin under Mr Van Heerden's instructions and Goslin gave me a deposit slip....

"I was instructed to request that [the money] be transferred to Standard Bank in Botswana, into the account of Financial Acceptances & Securities [FAS]."

That was his R250,000 gone. Of Albert van Heerden, Hanou says: "He used to carry serious money in the boot of his car. In 1998, just before Christmas, he came to my house from the bank. Some thugs followed him and held him up here and there was a shootout. I got a ricochet across my chest."

Attorney Redelinghuys reports complaining about Phillip Smith's loss to Absa's group chief executive Nallic Bosman. Goslin appeared before an internal disciplinary hearing. In February 2003, Smith's action against Absa was postponed indefinitely in the Pretoria high court after the bank failed to produce a transcript of the disciplinary hearing.

Following the complaint to Bosman, an investigation was conducted by Absa's in-house forensic department. Investigator Kent Kruger says they

are unaware of the allegations made in Adriaan Smit's affidavit. He promises to "investigate any allegations of concern to the bank".

Regarding the R495,787 withdrawn from the Duvenhage account, Kruger says: "Absa has no specific knowledge of the actual transfer referred to and the circumstances surrounding same. The transfer will nevertheless be investigated to establish whether it took place, and if so, why."

A small complication: Goslin left Absa and joined Standard Bank in mid-2002.

From Standard Bank's head office in Johannesburg, Goslin declares: "Look, I'm not in a position to say anything. If you want any information you'll have to work through the Absa lawyers."

It was illegal for Van Heerden to take deposits without a banking licence. The Reserve Bank has asked PriceWaterhouseCoopers to conduct an investigation. Marcus Meyer, manager of PWC's forensic services, says he cannot disclose any information pertaining to the investigation without the consent of the reserve bank.

Main victim Phillip Smith says, "I wouldn't like this to get into the papers," and refuses to repeat his version of the visit to Tony Goslin at Absa.

Van Heerden's son Willie says that the scheme attracted about 10 to 15 investors besides Phillip Smith. The others put in between R70,000 and R200,000 apiece, for a total of around R6m. He says his father, in certified transactions, passed most of the investment money to FAS.

The funds were to be part of joint venture agreements, with the main funding coming from overseas. "When my dad passed away no funder had come to the party.

"There was also some small print in the contract that says if they don't come up with a suitable funder the investors forfeit their funds.

"I knew there was a guy in Absa and I know that my dad and Dirk [Coetzer] handed money to him," says Van Heerden. "I know my dad did some of the transfers himself.


**It was illegal for Van Heerden to take deposits without a banking licence**

"My father was a building contractor all his life, but he lost his business; that's why he started to do these types of transactions. He was rehabilitated about six months before he passed away. Now everyone's trying to dump the blame on him."

Van Heerden jnr is the executor of his father's insolvent estate. "Dad had a heart attack because he couldn't handle all the stress any more.... I spoke to Julian Rosy, the main guy at FAS, just two months ago and he told me I mustn't worry. My dad's commission was safe with them, he said, and if they get a suitable funder and if the project runs, everybody will get paid out and the whole story will be sorted out. But I don't believe in it any more.

"I only found out afterwards that they were actually breaking the law, because you're not allowed to take money from individuals and offer them a return on their investments if you're not a registered bank."

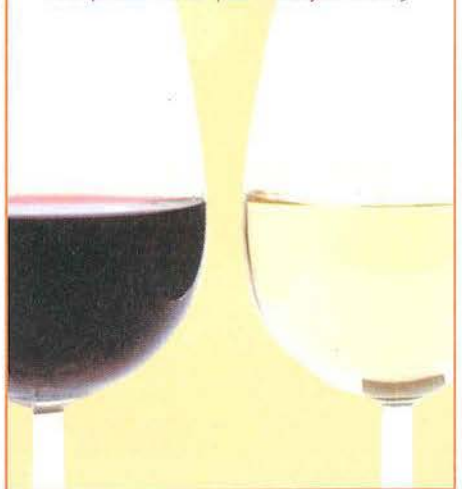
All efforts to contact FAS and its representative Julian Rosy, Deakin Consultants, and Dirk Coetzer, were unsuccessful.

The South African National Police Johannesburg commercial branch say they are investigating. 

**CONGRATULATIONS!**  
*This month's wine pack*  
**WINNERS are:**

Mr SC Cillers (Sub no. 4758), Florida 1710  
Robert Stoy (11346), Milnerton 7441  
Mrs DW Hutt (11435), Uitenhage 6230  
Mony Isserow (11373), Lyndhurst 2106  
S & R Spiegel (11416), Grant Park 2051

Your prizes will be posted to you shortly





# Heat is on over corruption hotline

After a whistleblower in Gauteng housing fingered the boss, the authorities spent months sniffing around all the wrong places.

Last December Paul Mashatile, MEC for housing in Gauteng, issued a media statement on the findings of an investigation into corruption and maladministration within the department. It followed a lengthy (and costly) investigation by the Pretoria security firm of former top cop George Fivaz of George Fivaz & Associates, which had been retained by Mashatile.

One of more than 20 projects probed by the Fivaz heavies was an agreement between the housing department and colourful developer Alf Levin to build 2400 homes in Soweto's Protea Glen, and an alleged overpayment of R40.1m to Levin's Township Realtors.

Implicated in "irregularities" at Protea Glen, said the media statement, was an unnamed senior official who had been suspended.

The senior official is Pieter van der Heever, who held the position of director (formal housing) in the department.

In terms of an agreement with the Public Sector Bargaining Council, anyone suspended must be formally charged within 30 days. Van der Heever was suspended on August 22 last year. More than six months later, he's still waiting to be charged.

Van der Heever, 54, has worked as a civil servant for 27 years. He's an awkward mutt, resentful of anyone meddling in what he sees as his preserve. He took great offence when three of Fivaz's ex-police investigators – one announcing himself with the rank of general – marched into his office and started interrogating him. So much so that he forbade any of the 32 staff in his directorate to speak to the sleuths without him being present.

But although Van der Heever's prickly style may have infuriated the general and his fellow investigators, colleagues declare that he is straight as a die. In the five months that the director has been suspended (on full

pay) his marriage has collapsed and he's had to sell his caravan to pay the costs of his attorney.

After a plethora of investigations into the department's projects since 1999, Gauteng housing department officials are demoralized and fed up.

First came the Heath investigating unit, followed by the auditor-general, then a parliamentary probe – and finally Fivaz.

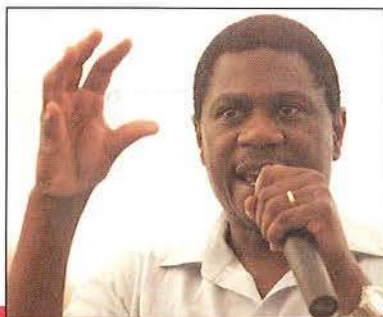
MEC Mashatile concluded in his media statement last December that Fivaz had uncovered corruption and maladministration resulting in a loss to the department of R42,916,014 "which we are in the process of recovering from the implicated parties".

As a result of Fivaz's investigation into the 20-plus projects, Mashatile said that 117 crimi-

with some tasty allegations about Buthelezi.

The "whistleblowers act" (Protected Disclosures Act of 2000) was designed to offer protection to employees who report irregular or criminal practices within their organisations. A wicked rumour circulating in the Gauteng housing department has it that the GSSC hotline operators took the Engelbrecht tape straight to Buthelezi. Not so, says the department's spokesman Dumisani Zuma. "No tape of any conversation was played to the HOD (head of department). It can also be confirmed that the HOD did not have any idea of the complainant or the source of the allegations.

"There has been correspondence between the GSSC and the MEC concerning the com-



**Housing MEC Paul Mashatile said 117 criminal cases had been registered with the police**

nal cases had been registered with the police. (The 117 cases do not involve department members. They concern people like local council staff, individuals who allegedly accepted bribes for RDP houses, people who allegedly sold them illegally etc.)

Instead of pursuing Van der Heever, some housing officials believe the Fivaz team might have concentrated its attentions on their head of department, deputy director-general Sibusiso Buthelezi.

In fact, one of the department's chief directors, an attorney, struggle veteran and ANC firebrand named Karien Engelbrecht, has gone as far as to phone a fraud hotline operated by Gauteng Shared Services (GSSC)

plaints received by the hotline. But the MEC has kept the correspondence and identity of complainants confidential as required by law. [It was an admission that the GSSC revealed Engelbrecht's identity to at least the MEC.]

"The MEC did confront the HOD about the substance of the allegations without revealing the identity of the complainant."

At the time of writing, Engelbrecht was still at her desk, although she has told friends that she fears her telephone is tapped. Of her whistleblowing call, she says: "It's very much an internal process that's currently underway and it would be very inappropriate for me to be speaking to you at this stage."



The hotline procedure, she says, is "You speak to someone on the other end and they ask you to leave your name and details. It's an option." For her call, Engelbrecht says she dutifully gave her name.

"It's now an ongoing investigation and it really would be inappropriate for me at this stage to jump up and down," she says. "I phoned the people and I believe that they've taken it seriously and that they're taking it forward."

So what does Engelbrecht have on Buthelezi? She's not saying. And the great investigator George Fivaz says he knows nothing about her hotline call. "Our investigators never received any complaint on tape or otherwise from the lady," he says. "We have no access to the tapes of the so-called fraud hotline."

Sources close to the department have suggested to *noseweek* that the hotline call concerned Buthelezi's alleged involvement in an abortive deal whereby developer Alf Levin would have sold 5200 additional stands at Protea Glen to an empowerment company, in a deal worth more than R400m.

A Brazilian businessman named Carlos Lima, it was hoped, would be part of the venture. But sadly it all

fell through.

The housing department assures us: "No departmental action has been taken against Ms Karien Engelbrecht and none is intended or contemplated in the future. The department subscribes to the values, policies and

principles underlying the protection of whistleblowers."

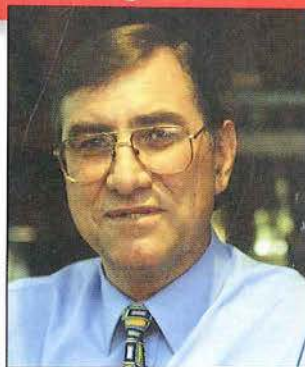
With long-suspended director Pieter van der Heever, the department takes a tougher line. "The possibility exists that he may have assisted the [Protea Glen] developer in avoiding the repayment of funds due to the government, be it intentionally or negligently," it tells us.

"The HOD [Buthelezi] has appointed an investigating official from Gauteng Shared Services to investigate the allegations and present him with a full report, whereafter he will take a final decision concerning whether

there should be a disciplinary hearing or not. The allegations are of a very serious nature and the investigation of the matter is very complicated.

"The issue concerning the duration of the suspension is the subject of arbitration proceedings and therefore

## Investigator George Fivaz says that he knows absolutely nothing about a hotline call



sub judice."

The department says it has cancelled the project-linked subsidy scheme contract for Protea Glen that it had with Township Realtors. "In our view there were fraudulent claims, fraudulent attempts to conceal overpayments from the province, wilful breach of contract, gross underperformance, breach of duties of good faith, connivance and assistance to falsify records, and the lack of intention to perform in terms of the contract."

Phew! Sounds like Mr Levin certainly pissed off somebody in the department! ☑

### THE MEDIA

## 'Magic' Johnson makes Harber's column disappear

Last year Sandra Gordon, tall, tough former head of Primedia Publishing and one-time CEO of Sasani, decided to become her own media mogul and launched several new niche magazines, amongst them *The Media*.

In promos and in its first issue, former *Mail & Guardian* editor and now Wits journalism professor Anton Harber was introduced as *The Media's* regular columnist on media matters.

Harber's first column in the first issue appeared with the headline "Do We Really Want to Dine with the Multinationals?" In it he took a look at what foreign investment has brought to SA's media industry.

It is worth noting that issue one of *The Media* contained no advertising from Independent Newspapers.

Soon after, there was talk in *The*

*Media* circles that when Independent were approached to advertise in the second issue of the new magazine, they refused, pointing to various things in Harber's first column that had made them unhappy.

We have no idea what in Harber's piece peeved the Johnson-Fallon supper club so. It was generally complimentary and when critical was only mildly so. He did refer to the continuing budget cuts at Independent newspapers "that have put a squeeze on the journalism being produced by these publications." He did also speculate that the cuts at Independent Newspapers were "probably driven by the weakness of the rand in a company where returns are measured in Irish pounds". What's new?

But the result was that when Harber's second column arrived on Ms

Gordon's desk, she immediately – and without Harber's consent – referred it to Independent's bosses for their comment and approval before publishing it. Shaun Johnson responded by telling her she shouldn't expect any Indie advertising if she published it.

So next day Sandra phoned Harber to tell him she had "just made some small cuts" to his column "as requested by the Indie people". The professor went berserk. He demanded she publish it as he had written it, or their deal was off. The deal was off. Harber's column did not appear in issue two or ever again. What did appear in issue three was a large ad from Independent.

We can only assume that every news publication that advertises in *The Media* wishes the world to know that it subscribes to the same "code of conduct". ☑





Get naked in Phuket, yell at a slow old man, disparage the king and say some stuff about the treatment of elephants, suggests **Sarah Ruden**.

## *The Thais are your parents after they gave up*

**T**hailand. Down in Phuket, the most touristed region of this land that is touristed to a sweet, pleasant pulp, you are living on a yacht called, let's say, Voetsek, and other South African yachts are scattered around you in the bay.

Phuket is a pretty good place to be. You can leave your camera on a busy pier and find it untouched the next morning. You can, at this early date, already buy a knockoff of *The Two Towers*. And no one will bat an eyelid if you cruise around on a motorbike with a teenage girl who does not look like your daughter or little sister.

Even if it's culturally offensive according to the guidebooks, you can go ahead with it, if you're outside an

actual temple complex. Get naked, yell at a slow old man, disparage the king, say some stuff about the treatment of elephants. The Thais are your parents after they gave up. They've got 2500 years of agriculture and trade and religion and art and war and authoritarian government behind them, they've seen it all, and they can certainly survive you. Besides, they're Buddhists: they tolerate and endure.

But you are not thinking about this. You are too busy at a market stall, arguing a piece of raw silk down below thirty rand – and you can! This isn't Greenmarket Square or Rosebank

Mall, but the place of origin of most of the goods on offer in those places so, hey, you've cut out a middleman or two.

In other ways as well, this is elsewhere. The vendor smiles and puts her hands together and bows to you as if you're a prancing elephant god and seems grateful that you place in her hands the money with which to live and feed others and buy gold leaf and stick it onto statues to earn merit for the next life. She is a little like your maid back in Milnerton or Parkview, who gives a little curtsy when she's paid. Ah, but here you have no need to feel guilty about how little you pay. Nobody in Thailand is starving, everybody is gainfully employed, if only at hauling crates or tourists on tricycles.



You might as well have something nice to eat right now, and eat it out in the open, unashamed. Buy it from one of the food stalls located almost every 10m. Most of the Thais don't have kitchens at home, they just eat all day long wherever they happen to be, in a great tropical storm of fresh fruit and curries and pastry and fried bugs.

One problem: they don't feed the stray animals much. Twisted, mangy dogs, serving karmic hard time for behaving like dogs during past human lives, hang out near every eatery, and it's up to you to give them a little rice or a sausage, but this is the best part of the whole scene: the proof



that you are more compassionate than the Thais. Do you have to go home? Maybe you don't. Some stay, or proceed to Perth or Auckland.

Stay if you can, open a scuba school or give charter boat tours or whatever, because you will be at peace in Thailand. There are no issues here. It has all been decided. There is no corruption anybody pays any heed to. If you get caught speeding or smuggling consumer goods, just pay a bribe and go on about your business. (But don't try it with illegal drugs; that's where Thai tolerance ends.)

Poverty? Most people are poor, but so what? They aren't complaining. The environment – the deforestation, the air pollution through which you can't see the sun in Bangkok, the plant and

The Thai government would have no trouble making a multi-billion dollar arms deal. No one in Thailand would even notice

animal species disappearing as quick as gunfire – why bother bringing it up? What do you think all these people are eating, if not the environment?

There are no politics at all in Thailand, apparently. You never hear what the locals think the coming war has to do with them, if anything. When you find an English-language newspaper, one article is about the question – at the national government level only, it seems, not down here – of the education of monks. Other articles are encouraging or admonishing about industry, crafts, health and so on. They are not written for anybody to pay attention to, just to supply some newsprint for bored English-speakers to buy before deciding that they're not that bored.

As far as you can see, the Thai government would have no trouble making a multi-billion-dollar arms deal, buying, say, a half a million ceremonial swords, ten nukes, a hundred metric tons of anthrax and a bunch of those cherry bombs that are banned in the West because they blow children's fingers off. No one in Thailand would even notice.

Culture here is not controversial, thank God. Nobody waggles their oppression in front of you, through art exhibits depicting mutilated bodies. At

the vegetarian festival, the parading men mutilate themselves for ancient religious reasons you can't get your mind around and don't have to. You don't have choices to make, except among the comfortable array of Western media piracy. The Thais have no intention of teaching you, persuading you, including you in anything they really care about. Cool.

You might go to Fantasea, the theme park wherein lies the Palace of the Elephants, but there you will learn only that Thais like elephants (to the point of cramming 14 onto a stage), and can train birds, goats and water buffalo choreographically, and have a legend about a boy and an elephant rescuing

a girl. Afterwards, you can get your picture taken with a live tiger. The tiger's captivity makes you indignant, but you convince yourself that one picture more or less among all this is not going to make any difference.

Heck: even prostitution, homosexuality and sex-change, as part of a tidily modernised traditional culture, is available to you in digestible morsels. The transsexual lady-boys, a long-term resident remarks, fit right in. Poor families have always banked on their daughters' bodies, and have sometimes raised boys as girls for the same purpose. With surgery, the substitution can be complete.

There's no outrage here, no marches, no scandals, no murders, no really great parties to which you aren't invited because you're straight and unaltered. The lady-boys are like gorgeous Western-style models, a perfect combination of tall (Thai women are usually so short) and small-boned (even Thai men have small bones). They are dressed in exquisite but not too provocative disco clothes, and they dance on a table, decorously taking turns.

You can have your photo taken with one and decide for yourself how much you will pay for the privilege. If you want more, you can no doubt arrange it, and it will be almost as simple as the photo.

Strangely, however, you are drinking like a fish, a litre of the local rum or brandy at a sitting sometimes, way more than you drank in South Africa, where you had all that stress. It isn't loneliness – there are lots of other South Africans around. Of course, they are drinking quite a bit too, so it must be their influence.

On New Year's Eve, at a lookout point where you have gone to see the fireworks, you shuffle away by yourself to take a leak and fall off a cliff. You manage to grab a tree root part of the way down and to climb back, but you are wrenched and ripped and bruised and abraded, and not feeling particularly lucky.

Your wife, who has stayed on the boat this time (she stays there more and more), patches you up later. As much as you admire how the Thais run things, you are reluctant to sample the local hospital with its "Heart and Brain Specialities."

You lie on the deck of your boat the next day, sore and hung over, and realise that, in more ways than one, you have come to the end of the earth. ■





# Honest Abe painted into a corner

South Africa's favourite divorce lawyer has gone too far this time, seeking to benefit to the tune of R3.5m from his own unprofessional conduct

Everyone knows South Africa's favourite divorce lawyer, Abe Swersky, is very, very, very clever. But now he's gone and painted himself into a corner by being a bit too clever.

*Noseweek* readers know that Abe and his shady millionaire divorce client, Jan Walter de Witte, pulled an amazing shlenter on ex-Mrs de Witte the Third, Maria van Waasbergen. They have managed with promises and legal procedures to keep the lady impoverished and at bay for nine years.

In 1996 Jan de Witte, advised and represented by our Abe, agreed to secure his debt to Maria by having a second bond for R3.5m registered in her favour over Constantia Heights – his R15m mansion on the upper slopes of Table Mountain. Maria's then attorney, Allan Potash (since deceased) and Abe were entrusted (by the high court) with the job of ensur-

ing that the bond was legally kosher and acceptable.

Meanwhile, unknown to Maria, Swersky and De Witte had for some time been hiding and squandering the millions that were owed her in terms of the original divorce settlement concluded way back in 1994.

was originally agreed would be paid to Maria.

What honest Abe omitted to mention in his application is that it is absolutely clear that the divorce settlement contemplated a surety bond, not a covering bond, and that it was his professional duty to have ensured

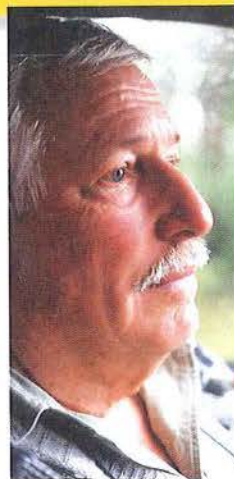
Jan de Witte (below) and Abe had for some time been hiding and squandering the millions owed to De Witte's ex-wife in terms of a divorce settlement

In the process, Abe himself ended up the proud owner of all the shares in the De Witte company that owns Constantia Heights.

In November last year, our Abe launched an application to the Cape high court to have Maria's second bond declared invalid and to have it cancelled. He even wants Maria to pay his costs in securing the cancellation of her bond.

In support of his application, he points out that the company which owns the property (now his company) never formally passed a resolution authorising registration of the bond – a legal requirement. He also points out that the bond that was registered is a "covering bond", which only secures a debt which the company itself – not its then shareholder and director, Mr De Witte – might owe Maria van Waasbergen, and that the company in fact owes her nothing.

Mr Swersky is absolutely correct on all these points. A bonus: if he can get the bond cancelled, he ends up pocketing the R3.5 million that it

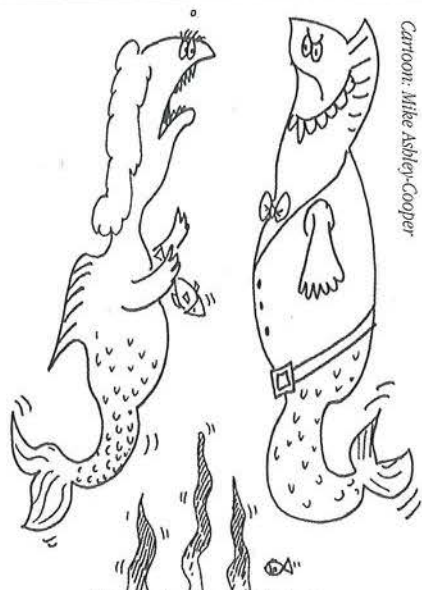


that the correct bond was registered and that the company had passed the appropriate resolutions at the time to make it a valid security. Still worse, he appears to wish to benefit personally from his own unprofessional conduct.

Abe is yet to have the case set down for hearing, but the Law Society need not wait to witness such bald cheek before taking the appropriate action. Mr Swersky's scandalous conduct is there for all to

see in the affidavits and documents filed in case 9075/2002. All that remains to be seen is whether there is a member of the Cape Town bar prepared to appear in court to plead Abe's case.

■ Abe, with Pam Golding's help, has found a tenant-buyer for Constantia Heights: the baroness Maltzahn. Knowing Abe, there's lots of room for fiddle here, too. We note the German baroness has already commenced with major renovations to the mansion, although she is technically still only a tenant. Watch this space. ■



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