Whistleblower out on NZX conflict of interest claim

Max Rashbrooke

A regulator who clashed with NZX was ushered out of his job despite his complaints being upheld, leaked documents show.

John Mulry, the head of market supervision at the Securities Commission, clashed with NZX, which runs the stock market, after he claimed it had been too lenient toward one firm during the global financial crisis.

NZX gave broking firm McDouall Stuart several so-called waivers of capital adequacy – orders that effectively allowed it to trade despite not having enough funds to protect investors if it incurred major losses.

In a draft 2009 review of NZX, Mr Mulry claimed its chief executive Mark Weldon, who was in charge of McDouall Stuart's supervision, suffered a conflict of interest because he ran the stock market but was also supposed to regulate it.

That claim was subsequently removed after NZX objected to it, Mr Mulry said.

MARK WELDON: Called Hugh Rennie's report 'utter and absolute balderdash'

Mr Mulry also tried to find out what was being done with McDouall Stuart but NZX responded with repeated "lack of candour" and "challenges to the commission's jurisdiction," he claimed in a written statement at the time.

NZX chairman Andrew Harmos and board member Chris Moller complained about Mr Mulry in March 2010, claiming he had made their relationship "unworkable" by trying to interfere with the supervision of McDouall Stuart.

In a letter to Securities Commission chairwoman Jane Diplock, they wrote, "Jane, you will appreciate what a big step it is" for a complaint to be made, but a "fundamental attitudinal shift" was needed from Mr Mulry.

Payback for Crafar farms deal?

The NZ Superannuation Fund may get more licence to invest in China.

The People's Republic this week made inviting sounds aimed at encouraging more investment from sovereign wealth and pension funds from around the world.

At present China keeps investment from such funds tightly constrained.

The NZ Superannuation Fund held less than 1% of its $19.4 billion of assets in China but was keen to extend that, the fund's general manager of investments Matt Whineray said.

A greater opportunity for New Zealand sovereign wealth funds to invest in China would help the government sugar-coat the unpopular political pill of Chinese investment in New Zealand farms, with the recent imbroglio over the Crafar Farms deal being the most prominent recent example.

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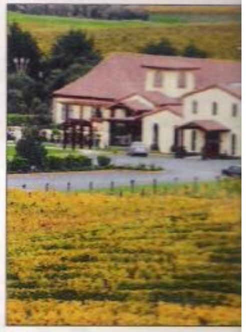

WINERIES FOR SALE: Matakana's A

Marlborou

Chris Hutching

Two vineyards owned by Marl ough Lines company chair and Blenheim mayoral hop David Dew will be auction early June.

A lawyer and district c cillor of 25-odd years, Mr D 61, has been winding down business for some time by se stock before placing River V Vineyard into liquidation PricewaterhouseCoopers.

He has paid local unsec creditors but secured credi BNZ, PGG Wrightson, and Va

Austerity, growth or irresp

The big debate now in Europe is how to combine both growth with austerity, according to columnist Neville Bennett.

Voters are encouraging irresponsible parties that discourage austerity, he writes, citing the Greek Syriza Party, which wants the spending to continue, even though Greece will soon run out of money.

While Europeans pay the price of high unemployment, Mr Bennett notes how bankers helped fuel the crisis by bribing

NZ takes 30 pieces of Putin P15

Something has to give in Europe P16

"We know that central ba were caught in a stupid doctr of perfect markets and belie the former Federal Reserve c Alan Greenspan that mark would be self-correcting.

"They had no idea that cra es could occur and if you loo their pathetic research outp

Watchdog manager made redundant

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Mr Mulry's concerns, saying NZX had been "at least as concerned to retain [McDouall Stuart] as a market participant as to apply the market rules ... and in turn impose consequences for breach of rules."

Failed to inform

The report, commissioned by Ms Diplock from Wellington QC Hugh Rennie, also found NZX failed to keep the Securities Commission adequately informed of the action it was taking, McDouall Stuart's financial position or the risks involved in letting the firm keep trading.

NZX also tried to restrict the commission's attempts to interview an NZX staff member, Cassandra Crowley, Mr Rennie found.

Overall, Mr Mulry had "understandably ... lost confidence that NZX would make open and full disclosure of all relevant matters".

McDouall Stuart subsequently resigned as a trading firm in March 2010 and was fined $83,000 for breaching market rules by the stock market's disciplinary tribunal in December 2010.

HUGH RENNIE: Vindicated Mr Mulry

> **"The report also found NZX failed to keep the Securities Commission adequately informed of the action it was taking, McDouall Stuart's financial position or the risks involved in letting the firm keep trading**

JANE DIPLOCK: Commissioned independent report

However, even though Mr Mulry's concerns were upheld, he was made redundant in late 2010.

The Securities Commission's 2011 annual report notes a payment of $128,333 "to one employee as compensation for cessation of employment," believed to be Mr Mulry.

The Rennie report was not published nor was the issue raised in the Securities Commission's annual report.

Mr Weldon, who stepped down last week as NZX chief executive, said the Rennie report's conclusions were "utter and absolute balderdash."

NZX had "dedicated enormous resources to in effect managing the company to exit the market, so that not a single dollar invested in that firm was lost [and] there was no disruption to the market."

Mr Weldon said he had "not ever" believed there was a conflict of interest between running the stock market and regulating it, because NZX "didn't make any money" from the regulatory side.

Repeated pattern of failure

But Mr Mulry said Mr Rennie's report "highlights a repeated pattern of failure by NZX to provide open and full disclosure, as required by law, to the Securities Commission.

"This report should cause both Kiwi and global investors to have significant concerns as to the integrity of the New Zealand financial markets."

Mr Mulry said he was raising the issue now "because I believe that the transition to the new management at NZX will potentially conceal regulatory failures in the New Zealand securities market."

The NZ Markets Disciplinary Tribunal was originally proposed to be removed to the FMA to ensure any perception of conflict was removed but in the end was left out.

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