

FINANCIAL REVIEW

The battle for Rivkin's will

Author: Shraga Elam in Zurich and Neil Chenoweth
Date: 10/09/2005
Words: 1773
Source: AFR

Publication: The Financial Review
Section: Perspective
Page: 22

A scribbled note promising \$500,000 to his former driver and confidant, George Freris, could turn Rene Rivkin's estate into a Pandora's box.

The estate of the late stockbroker Rene Rivkin has become a legal minefield after the discovery of a secret will that Rivkin drew up in Switzerland shortly after a \$53 million insurance payout in 1994.

The Swiss document was signed at the height of an angry dispute between Rivkin's former driver, Gordon Wood, and tattooist George Freris over payouts of up to \$1 million from Rivkin's secret account at Bank Leumi le-Israel (Switzerland).

Rivkin instructed Bank Leumi le-Israel not to disclose to his family a \$500,000 payment he left to Freris, four weeks after his Offset Alpine Printing Group received a \$53.2 million insurance payout for printing presses destroyed in a fire on Christmas Eve 1993.

Swiss lawyers have told the Weekend AFR that the document, which Rivkin wrote by hand on Bank Leumi internal notepaper in the office of Leumi private client manager Ernst Imfeld on August 8, 1994, has the legal status of a will under Swiss law, though it may be subject to legal challenge.

The Weekend AFR has obtained a copy of the document, in which Rivkin wrote: "Re George Freris. I wish to leave George Freris \$500,000 (five hundred thousand dollars) Australian currency in the event of my death. I do not wish any member of my family to know about this bequest."

According to Swiss sources, Rivkin set up a new Bank Leumi account for Freris in which he deposited shares, and was about to execute a similar deal for Wood when Freris complained. It is believed Rivkin instead set up an account for Wood at EBC Zurich.

Until his death last May, Rivkin vehemently denied providing any financial support for Wood after dismissing him in February 1996. But the Swiss links paint a picture of the financial pressures that were building on Wood just before the death of his fiancée, model Caroline Byrne, in 1995.

The NSW Director of Public Prosecutions office last month said it was close to advising police whether to charge Wood with Byrne's murder.

Byrne's body was found at the foot of Sydney's South Head on the night of June 7, 1995, a day after Rivkin and Wood were questioned by the Australian Securities Commission about a \$26 million Swiss shareholding in Offset Alpine Printing Group.

Seven years later, Rivkin told Zurich District Attorney Nathan Landshut that the shares were owned by himself, former Labor cabinet minister Graham Richardson and businessman Trevor Kennedy.

Neither Wood nor Freris attended Rivkin's funeral.

While probate has not yet been granted on Rivkin's estate, his Australian executor, who has not been identified, appealed to the Swiss Federal Court in July, together with Richardson and Kennedy, to block the release of Rivkin's bank account details and other documents to the Australian Securities and Investments Commission.

The Swiss Federal Court, which is the final avenue for appeal after the Zurich High Court rejected an appeal in June, is not expected to decide on the case before November.

Freris had worked in construction companies and as a Kings Cross bouncer before becoming Rivkin's personal assistant and driver in the early 1990s.

In September 1993, Wood took over as Rivkin's driver, after Freris left to open a tattoo shop in Kings Cross (which Rivkin funded) in partnership with a New Zealander, Gary Redding.

But Freris remained close to Rivkin and in mid-1994, Caroline Byrne told her father, Tony Byrne, that Wood saw Freris as a threat to his own position. Caroline Byrne had her own theory why.

"Rene has set George up in business and showered him with gifts," she said. "It is all for sex of course. Gordon is jealous."

But exhaustive police investigations into the Offset Alpine fire in 1993 and Caroline Byrne's murder in June 1995 have ruled out any suggestion of a sexual relationship between Rivkin and Freris or Wood.

It is not known why Rivkin wished to leave Freris \$500,000, but Rivkin's Swiss account details suggest that he was more concerned with commercial matters, immediately after the insurance payout.

Rivkin had been under financial pressure in the early 1990s, but he experienced a dramatic turnaround in his fortunes after a fire on Christmas Eve 1993 destroyed old presses worth \$3 million in Offset Alpine's accounts.

Early in 1994, Wood told Tony Byrne and later an unnamed businessman that the fire was a "set-up" and that the insurance companies had agreed to pay up.

However, an ongoing police inquiry into the fire this year has found nothing to suggest the fire was not accidental, confirming the initial fire report that it had begun in a waste container which held the remains of a staff barbecue as well as several combustible liquids used in the printing process.

According to Tony Byrne's diary notes, Wood's jealousy of Freris reached a peak in mid-1994 when he learned that Rivkin was going overseas alone with Freris.

Caroline Byrne told her father, "Guess what. Rene and George have gone on a world trip together. His wife doesn't know. She thinks he has gone on a business trip on his own."

On June 17, 1994, Offset Alpine announced that its insurers had agreed to pay \$53.2 million for new presses and to cover losses from business disruption. At the time, Rivkin secretly controlled 59 per cent of Offset Alpine shares through his Australian and Swiss holdings, which made him the chief beneficiary of the insurance payout.

The final insurance cheque was due to be paid to Offset Alpine in early July 1994. While the money had to be spent on new presses and did not benefit Rivkin directly, the Offset Alpine share price surged due to the windfall, which allowed Rivkin to borrow more from Bank Leumi in Zurich, which he planned to visit in early August accompanied by both Wood and Freris.

Rivkin used the windfall to make three major financial moves in 15 days.

In the first move, on Tuesday, August 2, Rivkin made a telegraphic transfer of \$935,040 out of his Stilton account with Bank Leumi to a mystery UBS account.

It was the second-largest cash transfer Rivkin ever made through his Bank Leumi accounts (the largest was a \$2 million payment in December 1996 which coincided with his purchase of his boat, Dajoshadita). It is not known who owned the UBS account, or why Rivkin made the payment.

The second move was six days later on August 8, when Rivkin was in Zurich with Freris and Wood, signing the \$500,000 bequest in Ernst Infeld's office in the Bank Leumi building in Claridenstrasse.

Rivkin was persuaded to use another bank, thought to be EBC Zurich, for Wood's account. It is believed that Rivkin wrote a similar bequest for Wood, which he later cancelled.

In the third move on August 17, 1994, Rivkin, who was now back in Sydney, sold 250,000 Offset Alpine shares that he held in Australia for \$400,000.

However, the shares didn't go far. The buyer was Rivkin himself, who bought them through his Bank Leumi account.

The effect of this strange deal was to launder money to Australia from Zurich, one of a string of similar share trades Rivkin did between his Swiss and Australian accounts to finance his lifestyle in the early 1990s.

On August 18, Rivkin was reported sharing a cup of coffee with Graham Richardson at Joe's Cafe in Darlinghurst.

The next day, Paul Obeid, 27-year-old son of Labor right powerbroker Eddie Obeid, resigned as an Offset Alpine director.

Eddie Obeid later told The Sydney Morning Herald that he had helped arrange the acquisition of the Offset Alpine business by Rivkin's public company in 1992 but had not had sufficient funds to exercise an undeclared option he had to buy 25 per cent of the business for \$2 million.

According to Tony Byrne's diary notes, Caroline told him in late 1994: "You know Daddy, Gordon expects that Rene will look after him the way he looks after George with gifts and bonuses."

Tony Byrne said that Wood had spoken repeatedly to him in 1995 about huge bonuses and gifts that Wood was to receive from Rivkin. But in early 1995, Tony Byrne said Wood became frantic after a falling out with Rivkin when he believed he was about to be dismissed by his employer.

Wood eventually managed to win his way back into Rivkin's favour.

Neither Rivkin nor Freris responded to written questions from the Weekend AFR about the bequest in April before Rivkin's death. Wood left Australia in 1998.

The Rivkin family declined to comment. Last year, Rivkin's estranged wife Gayle took control of his business affairs in Australia, overseeing a \$22 million asset sell-off.

Swiss and Australian lawyers are divided as to the enforceability of the Freris bequest document, which was counter-signed and dated by Bank Leumi's private client manager Ernst Imfeld.

Beatrice Stuber of Sydney law firm Schweizer Kobras says unless it was revoked in a later will in Australia, Swiss authorities would have to take such a bequest seriously.

However, Stuber says that while a handwritten document of this sort could constitute a valid will under Swiss law, Rivkin's apparent failure to write the date on the document himself means that it may be open to legal challenge.

A Swiss lawyer in Zurich, who asks not to be named, says the document appears to be a testament that the bank can execute and that needs not be disclosed to the family.

A second Zurich lawyer notes the difficulties with the date, which appears to have been filled in by Imfeld, but says that under Swiss law there are good prospects for the bequest to be recognised.

Rivkin held at least three bank accounts with Bank Leumi and Bank Maerki Baumann, which will be subject to Swiss inheritance laws, and another account with Insinger Bank in the Netherlands.

The Freris document raises questions whether Rivkin's offshore bank files contain other secret bequests.

Under Swiss law, while immediate family members are statutory heirs and must be notified of an inheritance, there is no requirement to notify an Australian executor of the foreign assets, Stuber says.

Rivkin told Zurich District Attorney Nathan Landshut in December 2002 that when Walter Rivkin died in April 1997, Rene merely supplied a copy of his father's death certificate to Bank Leumi before taking control of Walter's account, which contained millions of dollars of bonds that were not mentioned in his Australian will.

WHERE THERE'S A WILL

The fax sent to Bank Leumi in 1994.

I wish to leave George Freris \$500,000 (five hundred thousand dollars) Australian currency in the event of my death. I do not wish any members of my family to know about this bequest.
