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## Regulator will pursue Rivkin mates

**Neil Chenoweth**

The Australian Securities and Investments Commission will continue to investigate shareholdings in Offset Alpine Printing Group linked to businessman Trevor Kennedy and former Labor cabinet minister Graham Richardson through Swiss bank accounts, despite the death of former Offset Alpine chairman and stockbroker Rene Rivkin.

ASIC is seeking documents from Swiss authorities in connection with its perjury investigation so it can determine whether to press for charges over the secret bank accounts held by the three men.

"Our investigation is ongoing, our inquiries will continue," an ASIC spokesman said.

"If it gets to the stage of laying charges, we couldn't bring actions against someone who is dead."

Mr Kennedy's lawyer, Leon Zwier, said yesterday Rivkin's death was "a very sad turn of events".

"What it means for Trevor Kennedy, only time will tell," he said.

Mr Richardson declined to comment on Rivkin's suicide and the implications it might have for him.

An autopsy was performed yesterday on Rivkin's body, which was found on Sunday afternoon at the apartment of his mother, Rachel, at Darling Point in Sydney's eastern suburbs.

Police sources indicated it might be some time before the cause of death was made public, but suicide by asphyxiation was suspected.

Details of Rivkin's funeral had not yet been made available last night. "They're all pretty upset," a family friend said.

Rivkin's lawyer, Greg Walsh, said Rivkin had been determined to take his own life.

"There's only so much you can do and he was determined to do it.

"He said to me, 'You just don't know what it's like to feel the shame. You don't know what it's like feeling shameful all the time. I just want to end it all'."

Though Rivkin's wife, Gayle, and five children have appealed for privacy, the family could be caught up in ASIC's inquiry into Offset. Leading corporate lawyers suggested yesterday that Rivkin's death offered a legal nightmare for the family, and that ASIC was in a position to demand that his executor produce extensive Swiss bank records that are now the property of Rivkin's estate.

It is believed that the bulk of Rivkin's assets were transferred to his wife as part of a family law settlement ahead of a divorce. However, this would not include bank records.

Applying to Rivkin's executor could short-circuit the assistance request for documents that ASIC lodged with Swiss authorities last year. This is now subject to an appeal before the Zurich High Court.

Under Section 33 of the ASIC Act, investigators could require the executor to produce Swiss records dating to the 1980s or earlier, along with any details of other investors.

At the same time, Rivkin's death was expected to trigger delays in the Swiss appeal process, and might reduce the amount of information that Swiss authorities could deliver to ASIC.

"One of the parties probably Rivkin's lawyers will have to inform the Zurich court of Rivkin's death and they will have to adjust the request according to the information," said Swiss lawyer Beatrice Stuber, who advises the Swiss embassy in Canberra.

The case might be halted while an executor was appointed to Rivkin's estate to ensure the estate had appropriate representation, she said.

An executor can only be appointed after probate is granted by the NSW Supreme Court, a process which generally takes three to six months.

ASIC requested Swiss assistance last year in an investigation triggered by revelations by The Australian Financial Review that Rivkin, in sworn testimony before Zurich district attorney Nathan Landshut in December 2002, had revealed that a mystery \$26 million Swiss shareholding in Offset Alpine Printing Group was owned by Mr Kennedy, Mr Richardson and himself. ASIC's referral to the Swiss stated that it suspected that Rivkin and Mr Kennedy had committed perjury in 1995 when they told investigators under oath that they did not know who owned the Offset shares.

Five parties have lodged appeals against the release of the information, with a further appeal to the Swiss Federal Court likely.

"I think the application in regard to Rivkin would have to lapse," said a senior lawyer, who asked not to be identified.

Other legal sources said ASIC would argue that Rivkin's death would leave it with an even greater need for documentary evidence in any case brought against Mr Kennedy, who has fought three unsuccessful court battles in Australia to halt the investigation and to stop access to notes he wrote in a London hotel and on his office hard drive.

In 2001, Mr Kennedy wrote to the Zurich DA's office: "I deliberately keep no records of my affairs in Switzerland. I visit the country only on an annual basis. I am very circumspect about using the telephone between Switzerland and Australia. I have transferred significant funds between the banks there, and have changed banks from time to time.

"My only crime has been . . . to have put my faith and trust in the integrity and efficiency of the Swiss banking system."

The major beneficiary of any alteration to the ASIC information request appeared to be Mr Richardson, who operated a sub-account within one of Rivkin's accounts at Bank Leumi le-Israel (Switzerland). He was not questioned by ASIC in 1995, and faces no perjury allegation. His Swiss lawyer was likely to argue that details of his sub account would not assist the Kennedy investigation.

However, legal sources suggested that, by applying directly to Rivkin's executor, ASIC could gain far wider material than was possible through Swiss assistance, which only provides information for matters that are regarded as criminal in Swiss law.

Until now, both Mr Kennedy and Rivkin have claimed privilege from self-incrimination in refusing demands by investigators under Section 33 of the ASIC Act to produce their Swiss records.

Lawyers said executors of an estate could not claim self-incrimination as a reasonable excuse under Section 63 of the Act not to provide documents to the corporate regulator. It gives ASIC an opportunity to seek banking records for Rivkin as far back as the 1980s with his use of Zurich finance group EBC Zurich.

It's not clear what steps the executor will have to take to establish claim over Rivkin's Swiss accounts. When Rivkin's father, Walter, committed suicide in April 1997, Rivkin immediately assumed control of his Bank Leumi account, spending close to \$500,000 within days. "I showed [Bank Leumi executive] Ernst Imfeld the death certificate," Rivkin told Mr Landshut in 2002.

