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The press review

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National news

Wort.lu

LUXEMBOURG
Publié le 19.02.14 07:21

Scandale à la Fonction publique: aucune suspension pour Pierre Barthelmé

Le haut fonctionnaire au ministère de l'Economie, Pierre Barthelmé est soupçonné de vol de données professionnelles et d'avoir demandé des traductions du programme électoral du CSV à une fonctionnaire.

Photo: Michel Brumat

Pierre Barthelmé ne sera pas suspendu. Une information confiée par Etienne Schneider, ministre du Tourisme et des Classes moyennes au magazine Paperjam.

Raison invoquée: ce n'est pas la manière de procéder avec un haut fonctionnaire.

Pierre Barthelmé sera néanmoins réaffecté de sorte à ce qu'il ne soit plus en contact avec le ministre Schneider, qui ne lui fait plus confiance.

Quant à l'endroit de sa réaffectation, il n'est pas connu pour l'heure. Une décision sera prise la semaine prochaine.

LUXEMBOURG | Publié le 20.02.2014 11:15

LABORATOIRE KETTERTHILL

Dourson, un patron lanceur d'alerte?

Après le limogeage de l'administrateur délégué de Ketterthill, Jean-Luc Dourson, l'hémorragie se poursuit dans le principal laboratoire privé du pays avec le départ «de son plein gré», la semaine dernière, du directeur administratif et financier.

Par : Véronique Poujol
Mis à jour : 20.02.2014 12:18

Le futur siège de Ketterthill à Esch Belval

(Photo: archives paperJam)

Il est difficile d'y voir encore clair dans les raisons qui ont poussé le 14 janvier dernier le groupe Cerba European Lab (CEL), la maison mère de Ketterthill, à se séparer sans ménagement de Jean-Luc Dourson, l'administrateur délégué du laboratoire luxembourgeois, mais aussi membre du directoire du groupe français. CEL s'est contenté d'un communiqué de presse laconique renseignant uniquement d'un changement d'administrateur délégué. De son côté Jean-Luc Dourson a observé un silence radio laissant subodorer que son départ brutal de l'entreprise s'est fait dans la douleur. «Nous nous sommes séparés pour des raisons graves qui nous

appartiennent» explique Catherine Courboillet, présidente du directoire de CEL, dans un entretien à paperJam.lu. Elle évoque aussi des «évènements exceptionnels», sans vouloir en dire plus.

La semaine dernière, on apprenait que l'hémorragie de dirigeants s'était poursuivie: Osman Uslu, le directeur administratif et financier a claqué la porte du laboratoire privé qui emploie plus de 200 personnes. Un départ pour des raisons personnelles a fait savoir Catherine Courboillet, en balayant d'un revers de main le lien que cette démission pourrait avoir avec l'utilisation de la trésorerie du laboratoire luxembourgeois par sa maison mère en France.

Des «curiosités» soulignées

Le limogeage de Dourson le 14 janvier 2014 est en tout cas intervenu au lendemain d'une lettre qu'il adressa au réviseur de Ketterthill, exploitant le laboratoire sous le nom de Laboratoire luxembourgeois d'analyses médicales (LLAM), pour signaler un certain nombre de «curiosités» dans le bilan 2013 et dont il n'aurait pas été informé au préalable, alors qu'il en était le patron. Le Mémorial C ne renseigne toutefois que des chiffres de 2012. De source proche du laboratoire, on explique que c'est Jean-Luc Dourson qui aurait mis lui-même le feu au baril en réclamant d'urgence la convocation d'une assemblée générale extraordinaire. Il aurait fait précéder cette demande de convocation d'AGE pour se désolidariser des engagements financiers par une mise en demeure auprès des autres dirigeants du groupe français (Dourson faisait partie du directoire de CEL), pour obtenir des explications sur des engagements financiers de l'entreprise qu'il avait rachetée en 2007 pour la revendre en 2011 à CEL en échange d'une participation dans la maison mère française. Toutefois, la valorisation actuelle de sa participation minoritaire dans CEL n'aurait plus rien à voir avec la valeur de Ketterthill.

Frais de gestion problématiques

L'ex-administrateur délégué de LLAM aurait en tout cas considéré les engagements financiers incompatibles avec l'intérêt social de l'entreprise qu'il dirigeait alors. On a du mal à s'imaginer qu'un patron puisse dénoncer les défaillances de sa propre entreprise. Mais aussi cocasse que la situation paraisse, ce serait tout de même bien la raison ayant poussé ensuite les actionnaires majoritaires du labo à mettre Dourson, le whistle-blower, à la porte. Parmi les engagements financiers pointés du doigt figurait la facturation par la maison mère CEL de frais de gestion liés à la rémunération de prestation de services de gestion administrative. Or, ces 'management fees' n'auraient pas eu de justification économique étant donné que toutes les fonctions de supports comme l'informatique, la logistique, les services administratifs et financiers étaient assurés en interne par Ketterthill. Ce qui en faisait d'ailleurs une entité indépendante. Ces frais auraient atteint plus de 400.000 euros en 2013. Dourson aurait en outre signalé des imputations de frais de gestion sur des exercices comptables déjà clôturés ainsi que l'existence d'un contrat antidaté pour justifier des prélèvements auprès du commissaire aux comptes. Un risque fiscal que l'administrateur délégué aurait donc dénoncé en se faisant, de ce fait, harakiri. La riposte de CEL arrivera le lendemain de sa dénonciation.

Contactée par la rédaction de paperJam.lu, la dirigeante de CEL dément et qualifie les informations et les propos de «mensongers». À l'en croire, il n'auraient qu'un but: «nuire à la société et faire pression». «La gestion comptable, fiscale et sociale se fait dans le strict respect

des règles», indique-t-elle. «Monsieur Dourson est un chef d'entreprise qui a vendu son entreprise en 2011 dans des conditions extrêmement favorables pour lui. Ce monsieur n'a pas accepté de ne plus en avoir été le propriétaire», souligne Mme Courboillet en indiquant n'avoir connaissance d'aucune action en justice de la part de l'ex-administrateur délégué, ni en France ni au Luxembourg.

Emprunt high yield à 7,5%

À ces facturations de frais de gestion que CEL chargeait à sa filiale luxembourgeoise se sont ajoutées d'autres «surprises» comme des frais financiers imputés à LLAM liés au remboursement d'un emprunt à haut rendement (7,5% d'intérêt) contracté par la maison-mère pour financer sa dette (350 millions d'euros). Rien que les frais d'honoraires liés à cet emprunt atteignaient une dizaine de millions d'euros. Toutefois, Dourson, un des trois membres du directoire avait signé les documents relatifs à ce prêt.

Il était clair qu'il y avait des divergences de vues entre Ketterthill et sa maison-mère sur la stratégie de développement de l'entreprise et il était encore plus évident que Jean-Luc Dourson avait envisagé le divorce, après deux ans de vie commune avec Cerba, contrôlée à 75% par le fond de private equity PAI Partners. Jean-Luc Dourson, qui avait perdu le contrôle de Ketterthill, a perdu la partie et s'est fait débarquer, bien que l'ancien patron du labo luxembourgeois reste actionnaire de CEL, même s'il a été logiquement révoqué fin janvier de ses fonctions au sein du directoire et que sa participation dans Cerba ne vaut sans doute pas ou plus la valeur du laboratoire luxembourgeois qu'il a fait passer de 150 personnes en 2007 à 210 employés en 2013.

EUROPE | Publié le 21.02.2014 12:23

SOCIÉTÉS OU FIDUCIES

Bénéficiaires ultimes: fin de l'anonymat

Par : Frédéric Antzorn
Mis à jour : 21.02.2014 15:30

Le projet adopté hier sera soumis au vote de l'assemblée plénière du Parlement européen, prévue en mars.
(Photo: DR)

Le Parlement européen prépare une mise à jour des dispositions visant à renforcer la lutte contre le blanchiment d'argent. Les bénéficiaires ultimes de sociétés ou de fiducies pourraient à l'avenir être répertoriés dans des registres publics.

SURFACTURATIONS À L'UMP

27 février 2014 14:43; Act: 27.02.2014 16:21

La boîte qui roule Sarkozy liée au Luxembourg?

Une entreprise très proche de Jean-François Copé est soupçonnée d'avoir surfacturé ses services durant la campagne présidentielle 2012 de l'ancien président français. À qui profite l'astuce?

L'UMP a surpayé les services d'une société, fondée par deux proches de l'actuel patron de l'UMP, Jean-François Copé. (photo: AFP)

Alors que l'on apprend grâce *au Point* que la société de communication Bygmalion, fondée par deux proches de Jean-François Copé, aurait surfacturé ses prestations de 8 millions d'euros durant la campagne de Nicolas Sarkozy, l'hebdomadaire en dit un peu plus sur le complexe montage financier.

L'un des actionnaires (très discret) de Bygmalion serait une SARL basée au Luxembourg. Derrière celle-ci se trouverait la holding familiale d'Emmanuel Limido, un ancien banquier, nouvel actionnaire majoritaire du club de football AJ Auxerre et président-fondateur de Paris Luxembourg Participations (une société de capital-risque qui investit dans les arts, la culture et la technologie médicale) et Centuria Capital, qualifié «de fond d'investissement lié au Qatar» par le magazine *le Point*.

(fru/*L'essentiel*)

International/Regional news

Wort.lu
International
Publié le 19.02.14 13:47

16.000 titulaires de comptes en Suisse et au Luxembourg se déclarent

Près de 16.000 contribuables français qui avaient des comptes bancaires à l'étranger se sont déclarés depuis fin juin à l'administration fiscale de l'Hexagone, dont 87% étaient titulaires de comptes en Suisse ou au Luxembourg.

(AFP) - L'Etat français a déjà engrangé 230 millions d'euros à partir des 241 dossiers qui ont été traités, a précisé le ministre français délégué au Budget, Bernard Cazeneuve, devant la commission des Finances de l'Assemblée.

Le ministre a précisé qu'il s'agissait d'un bilan provisoire puisque des contribuables continuent de se déclarer au fisc, à un rythme moyen de 150 par semaine.

Il a ajouté qu'au 7 février, 2.621 dossiers étaient complets, c'est-à-dire intégrant la déclaration rectificative et l'ensemble des pièces nécessaires concernant notamment l'origine des avoirs. Ces dossiers représentent, a-t-il précisé, "2,4 milliards d'euros d'avoirs, soit près de 910.000 euros par dossiers".

Le Luxembourg à la deuxième place

Sur l'ensemble des 15.813 dossiers déposés, même incomplets, il a expliqué que 76% des contribuables fraudeurs avaient hérité d'un ou de plusieurs comptes bancaires à l'étranger. Il a précisé que 10% concernaient des sommes inférieures à 100.000 euros et que "beaucoup sont d'un montant élevé". Il a cité l'exemple d'un "dossier de plus de 100 millions d'euros".

Si 80% des comptes bancaires non déclarés ont été ouverts en Suisse, M. Cazeneuve a observé que le Luxembourg prenait la deuxième place, avec 7% des comptes.La circulaire Cazeneuve précisant les conditions dans lesquelles des contribuables pouvaient se déclarer spontanément à l'administration fiscale en vue de régulariser leur situation a été signée le 21 juin 2013.

Elle prévoyait un régime de majoration et pénalités de droit commun avec un aménagement à la baisse pour les contribuables considérés comme "passifs", car ayant hérité d'avoirs auxquels ils n'ont pas touché.

theguardian

Viktor Yanukovych is gone, but where are Ukraine's missing millions?

Ukrainians want those in power who pillaged the public coffers to be held to account, which will require cross-border co-operation

Oleksii Khmara
theguardian.com, Tuesday 25 February 2014 11.35 GMT

The corruption within Viktor Yanukovych's political system enriched the few and disadvantaged many within Ukraine. Photograph: Sergei Svetlitsky/Demotix/Corbis

The fast-moving events of the past few days in Ukraine have shown the depth of anger over the violence and corruption of the regime of Viktor Yanukovych and his cronies. There may now be early elections, and Yanukovych has fled, but this alone will not heal the wounds of the past few years.

The pictures of the former president's plush compound – his vintage car collection and fancy pheasants, the private restaurant and golf course – have struck a chord in the same way the palaces of Ben Ali and the wealth of Hosni Mubarak angered the people of Tunisia and Egypt. Ukrainians want those in power and their accomplices who used their positions to pillage the public coffers held to account, and measures taken around the globe to make sure this cannot happen again.

This means enforcing anti-corruption and money laundering legislation in the places where the ill-gotten gains have ended up, not just in Ukraine. This will require a consistent and sustained change of policy. It should and could have happened sooner in Ukraine.

The corruption at the heart of Ukraine's political system that has enriched the few – and disadvantaged the many – was only sustainable through the knowing compliance of actors in the financial systems of those same states now lecturing Kiev on good governance and democratic values.

The Ukrainian elites have for years salted away ill-gotten gains throughout the EU while the authorities, specifically in the UK, Germany, Austria, the Netherlands, Switzerland and Latvia, failed to apply their anti-corruption and anti-money laundering legislation to stop them.

If this was part of a strategy to woo Ukraine westward, it clearly failed. Those in power decided to throw in their collective lot with Russian's bailout billions despite opposition from the people. The sad truth is that it has taken a near civil war to raise the spectre of financial sanctioning for a kleptocratic regime and its backers.

Although the UK government estimates that £23bn-£57bn a year might be laundered through its financial centre, it issued the first fine for lax anti-money laundering controls in January this year. The UK branch of Standard Bank Group was fined $12.6m – less than 2% of its 2013 first-half earnings.
According to a report by Transparency International UK, the global anti-corruption movement, there is a "tendency to tackle corruption only where there is strong bilateral political support". In other words, the British government is reluctant to charge foreign citizens with money laundering without the explicit approval and co-operation of that citizen's government. How is this system supposed to work if it is the government officials that are stashing cash and buying villas in faraway places around the world?

The real world consequences of this policy are obvious: the only foreign citizens in danger of investigation, let alone prosecution – Ukrainian or otherwise – are those out of favour with their home governments. Those shielded from prosecution in Ukraine are automatically afforded the same protection in the UK and elsewhere.

Reversing this trend should not be too difficult if there is political will. Investigative journalists and civil society activists have done a stellar job unearthing the links between those in power in Ukraine and huge wealth.

At the Yanukovych.info website, for example, two non-governmental organisations, PEP Watch and the Anticorruption Action Center, have traced the alleged financial dealings of Yanukovych's inner circle showing the interconnectedness of the presidential administration and a myriad of "shell and shelf companies" in London, Austria, the United States and other conventional tax havens.
European money laundering laws can and should be strengthened to force greater due diligence on the part of financial institutions and others. The vote this week in the European parliament to make it mandatory for jurisdictions to keep a register of the beneficial owners of companies could make it harder for people to hide assets in shell companies.

But even as things stand, if the current anti-corruption laws were enforced then the pillaging of assets that we have seen in the Ukraine would have been harder to do.

Transparency International has chapters around the world and we will focus our energy on making sure that the promises to investigate and freeze illicit funds from Ukraine are indeed upheld and criminals sanctioned.
Corruption is a cross-national issue and weak financial oversight only encourages the abuse of power and fiscal malfeasance by offering a safe and easily accessible hiding place for purloined funds. For governments and activists seeking to promote democracy and the rule of law in Ukraine and other transitional countries, the battle starts at home.

theguardian

Billion dollar gold market in Dubai where not all was as it seemed

Gold was plated in silver and metal worth billions was bought for cash at the bustling market run by Kaloti Group

Simon Bowers The Guardian, Tuesday 25 February 2014 21.51 GMT

The bars were stacked casually on a desk in a back office of Dubai's bustling gold souk, and they immediately caught the eye of the inspectors. Keen to impress his guests, the manager picked one up.

After a lifetime in the trade, Osama Kaloti suggested he could tell the provenance and purity of each bar simply by its look and weight. This one was silver.

Or so it seemed. Kaloti insisted the metal in his hand was gold. To prove his point, he scraped away the outer coating, revealing the yellow treasure beneath. There were about six bars in the stack, which might have weighed about 75kg in total. If gold, at today's prices, they would be worth $3.2m. If silver, the same size bars would be valued at less than $30,000.

The inspectors, from Ernst & Young Dubai, had been hired to audit Osama's family business Kaloti Group, Dubai's largest gold refinery, a process designed to assure important international customers that the company was doing all in its power to avoid conflict gold.
Processing some 300 tonnes a year, Kaloti claims to account for close to half of all refining in Dubai's gold market. Regulators claim gold trading in the emirate reached $70bn in 2012, up 25% on the previous year.

"Dubai is emerging as a gold bullion centre to rival London, Shanghai and others," Osama's father, Munir Kaloti, who founded the business, explained to the Middle East Economic Digest in April last year. "Dubai now accounts for approximately 25% of the world's annual gold trade. The principal challenge [our] company faces is ensuring the responsible sourcing of gold … Our safeguard measures are beyond the minimum set out by trade associations and government bodies."

But back in the souk office, only the previous month, E&Y inspectors could hardly believe what Osama was telling them. According to their minutes: "He took a scanner and showed that the gold content was more than 85% and these bars are … from a Moroccan supplier. He said that it's normal to receive silver coated gold bars especially from Morocco due to the gold export limits imposed by the Moroccan customs."


Gold trading in Dubai is said to have reached $70bn in 2012. Photograph: Karim Sahib/AFP/Getty Images

It also emerged the Moroccan suppliers had brought the shipment in by hand and were paid in cash at Kaloti's office in the souk. The shipment had left North Africa incorrectly labelled silver, and was properly accepted at Dubai airport customs as gold. It sounded like a smuggling scam. Further investigations found about four tonnes of gold, hidden beneath silver plating, may have come to Kaloti in a similar manner from several suppliers in Morocco. At today's prices, which are lower than those of 2012, four tonnes of gold is worth more than $170m.

After being melted down, the bars would eventually emerge from the refinery as newly minted bullion, of 99.5% purity or greater, destined for the international gold market and stamped with a serial number and the words "Kaloti, Dubai".

Following the E&Y inspection, Kaloti expected to be able to claim that its gold bars had been independently verified as conflict-free and responsibly sourced. But the inspectors were rapidly taking a very different view. They were shocked by refinery admissions that it accepted gold which had probably been smuggled. This was to be just one of the failings they stumbled over but it was enough, they thought, to mean the refinery had already effectively failed its inspection and would receive from E&Y the worst available score for the review period, covering the last seven months of 2012: "Breach of review protocol and zero tolerance".

Serious

This score is reserved for the most serious lapses – such as refineries withholding information from reviewers, using unethical means to influence them, knowingly taking conflict gold, or taking gold from suppliers they know to have used falsified or misrepresented paperwork.

Such a conclusion could even have resulted in the Dubai authorities stripping Kaloti of certification needed to trade easily with international customers. The damage to Dubai's reputation as a gold market would be huge.

Of the gold seemingly smuggled from Morocco, E&Y inspectors initially recorded in confidential reports that there had been "misrepresentation and falsification of documentation by the ... supplier with the knowledge and acceptance of [Kaloti]."

There were other serious shortcomings. Kaloti records showed more than 1,000 transactions with customers walking into the group's office in the souk, off the street, without having to provide

paperwork and being paid cash for gold. A total of 2.4 tonnes was accept this way, with company records showing simply "call customer".

The average amount received from these walk-in customers was 2.25kg, but once gold weighing 35kg — the average weight of a 10-year-old boy in the UK — was exchanged for cash from a walk-in customer whose identity was unrecorded. Today this amount of gold would be worth about £850,000.

And these cash deals were just a small fraction of Kaloti transactions taking place outside the banking system. "EY team observed large quantities of cash in the vault," minutes of the inspectors' visit to the gold souk office recorded. "Kaloti team explained that about 40% of the transaction value in Kaloti was carried out in cash in the Gold Souk office." E&Y's eventual finding was that the refinery group's cash-for-gold deals in 2012 amounted to $5.2bn, compared to $6.6bn of transactions involving conventional bank transfers. If the office opened for business all year round that would still be equivalent to more than $14m a day being paid out to customers in cash.

Kaloti told the inspectors clients sometimes preferred cash as payment via a bank transfer involved a charge of 1,000 dirhams (£163). It later added that cash deals had "historically been the typical modus operandi in Dubai's cosmopolitan wholesale gold market".

Again the E&Y inspectors were troubled. Kaloti had declared itself signed up to international guidelines recommending all gold firms should "avoid cash purchases where possible, and ensure that all unavoidable cash purchases are supported by verifiable documentation".

Elsewhere, inspectors also found evidence of Kaloti transactions with suppliers from Sudan, a country linked to conflict gold in the past. Instead of showing heightened vigilance, Kaloti staff were happy to offer cash-in-hand in exchange for gold hand-delivered and originating from artisanal, small-scale mines (ASMs).

Inspectors found Kaloti had no record of mining licences for the shipments, ensuring any audit trail to the source was lost. ASMs are low-tech, labour-intensive mining operations, highly vulnerable to extortion by armed groups.

E&Y inspectors diligently recorded each of the failures. Less than three months into their work, the list had become so concerning that they discreetly contacted the regulator, warning the Dubai Multi CommoditiesCentre (DMCC) of impending embarrassment.
The response was a surprising one. One DMCC email inquired: "We would like to understand that if we change the review period to Jan-March 2013 ... would there be a material difference that will impact the rating positively?"

This was the first indication that led some at E&Y to believe the Dubai authorities were prepared to tinker with their own rules if the result spared the blushes of important players in the Dubai gold industry – an inference the DMCC says was unfounded.

One internal E&Y email revealed concern that Amjad Rihan, the partner in charge of the inspection team, was "getting some heat from the regulator who is keen to promote the Dubai gold industry on the global stage".

Unrealistic

It added: "They have unrealistic expectations of their industry's level of compliance, which have repeatedly been communicated to them, and there is an undercurrent of them looking to use EY's brand for their advantage, which of course is being managed."

In a statement to the Guardian, the regulator said: "The DMCC strongly refutes any allegation that it pressured EY, that it sought to influence or interfere with the review process or that it softened the review process to favour any member refinery."

Establishing the DMCC 12 years ago, Dubai's ruler Sheikh Mohammed, said: "The world's gold production is about 2,300-2,400 tonnes. Our main objective is to achieve half of the world production in the next few years. We have the will and the determination."

While Dubai's wider economic fortunes faltered in 2009, the DMCC thrived, benefiting from a surging gold price and heavy demand from India and China, the emerging economic engines of global growth.

In typical Dubai style, last year DMCC chairman Ahmed bin Sulayem celebrated this success by announcing the regulator had commissioned the Burj 2020, the world's tallest commercial tower, to be built for Dubai's hosting of the World Expo in six years' time.

Meanwhile, Dubai's largest refinery group Kaloti in December broke ground on what it says will be the world's largest gold refinery, a new $60m plant with capacity to refine as much as 1,400 tonnes of gold a year.

"The construction of our new refinery is part of the company's overall strategy to expand its capacity up to 2,000 tonnes," said Munir Kaloti.

In the end, the DMCC did not elect to alter the inspection period for Kaloti. Instead, between May and June last year, the regulator came up with another, less conspicuous, tweak to the rulebook.

It removed a recommendation that the overall verdict of inspectors be recorded in public documents, instead ordering that any such reference must henceforth be kept confidential. At the time DMCC maintained, as it does now, these rule changes were being introduced "to be consistent with similar global accepted guidance manuals" – a claim verified by London consultancy firm SGS in a detailed report.

Other gold regulators around the world were also fine-tuning rules at this time as they too assimilated international standards drawn up by the OECD.

Nevertheless the DMCC's alteration – which was not to be the last occasion the regulator tinkered with the rules – greatly concerned senior partners at E&Y Dubai, particularly Rihan, who led the division involved out the Kaloti audit.

Behind the scenes he and senior executives at E&Y Dubai contacted the audit group's global office in London asking for urgent advice on how best to treat the damaging findings in refinery inspection reports. "The issue of conflict minerals is both delicate and critical for our business in Dubai and, indeed, the region," said one email to E&Y's global head of climate change and sustainability Juan Costa Climent, a former Spanish finance minister. "We need to take a position urgently and we need the global firm to be fully aware of the facts and the issues … I am sorry to press you on the matter but it is both serious and critical."

Within two weeks the issue had been further escalated to Mark Otty, E&Y's London-based managing partner for Europe, Middle East, India and Africa, who assembled a team of senior figures to deal with the matter, also calling in law firm Linklaters to provide outside advice. "We are taking this issue very seriously," Otty wrote in one of a number of emails on the subject. "I have taken the lead in relation to our investigation of it."

Meanwhile, in Dubai, it became increasingly clear that Kaloti did not see the problem. The refinery group began drafting an official summary of E&Y's inspection – a document it believed would become the only publicly available report. Not only did it make no reference to the inspectors' overall conclusion, in accordance with the DMCC's new rules, but it also contained scant mention of many serious failings found by the independent review team.

This was too much for E&Y, which responded by indicating it would not be able to sign off on such a whitewash report as accurate.

After Kaloti received a quiet word from the DMCC, however, it began to work more collaboratively with E&Y towards a formula of words acceptable to both. Kaloti hired Jeff Rhodes, one of the most experienced executives in the Dubai gold industry who served on DMCC committees, to deal with the matter. By now Rihan, a 39-year-old partner at E&Y, had stepped back from the project, remaining deeply uncomfortable.

The work progressed without him, with both sides exchanging and refining drafts of what both inspectors and refinery staff believed would eventually be published as the official summary of the troublesome inspection.

Leaked draft filings, attached in these email exchanges, show the extent to which E&Y actively advised Kaloti how best to describe its shortcomings publicly.

At one stage the audit firm recommended edits which removed reference to "bars coated with silver", replacing the words with a more generic reference to "an incident in which there were certain documentary irregularities". It was a formula Kaloti was quick to adopt. At a stroke, any suggestion of smuggling was replaced with a more anodyne phrase hinting at what may just have been a clerical error.

Contacted by the Guardian, E&Y was unable to answer several detailed questions because it was under a duty of confidentiality to Kaloti, but said: "EY Dubai refutes entirely the suggestion that we did anything but highly professional work in relation to our engagement with Kaloti." It added that any failings discovered were fully reported to the DMCC. Meanwhile, the Guardian understands it is commonplace for audit firms to use their technical expertise to advise clients on the appropriate wording to be used in official reports.

On 8 September last year official filings were submitted to DMCC, their language carefully polished and signed off by EY and by three managing directors at Kaloti.

The phrase "breach of review protocol – zero tolerance" did appear in paperwork expected to be made public, but there was no indication it was also the inspectors' final conclusion.

Colleagues at E&Y told Rihan they regarded it a successful outcome. Otty urged him to look on the bright side. "The situation has changed dramatically … In particular, we have a team in Dubai who have worked very hard to get us to the point that both client and regulator will report deficiencies," he emailed. "On this basis I suggest that we … achieve all that you were focused on – and more." Joe Murphy, E&Y Dubai managing partner, also suggested Rihan should no

longer have cause for concern. "Each of these clients has now issued a compliance report which satisfactorily takes into account the elements of non-compliance," he emailed. "We can now expect that DMCC will publish the compliance report … There is now no tension or concern about reporting."

Murphy may not have know it, but, in truth, tensions had not vanished. Kaloti was fuming.

It felt it had been rushed into the regulatory submission. The company had understood that the controversial shipments from Morocco were going to be rated only as "non-compliant, high risk", but were told the rating would be "breach of protocol and zero tolerance" just days before the submission deadline.

Despite being convinced E&Y was wrong, three top Kaloti executives, signed the compliance report — even though the refinery believed it to be incorrect — and cleared the audit firm to submit it to the DMCC.

Kaloti say this was done reluctantly, and only to meet a regulatory deadline.

According to the DMCC, queries over the findings in the submitted Kaloti report were first raised with it by E&Y, at the request of the refinery group.

If it was unusual for a firm like E&Y to be querying its own regulatory filings after they had been submitted, the move seemed doubly odd given that Otty and other senior figures at E&Y's global head office in London had earlier spent considerable time wrestling over how best to treat the Morocco finding with the help of Linklaters.

EY Dubai had concluded Kaloti's actions merited a rating of "breach of review protocol and zero tolerance". Now, however, they were no longer so sure.

In response the DMCC contacted E&Y giving its opinion of inspectors' assessment. That led the audit firm re reconsider its own view and ultimately to recall its 8 September submission.

A new set of filings were entered one month later, this time with controversial dealings with Moroccan suppliers downgraded to "High risk, non-compliance".

The exact reason for the reclassification is unclear, but confidential paperwork shows that it remained uncontested that Kaloti had told inspectors "gold plated with silver was exported as silver in Morocco however the same is declared as gold at Dubai customs".

Again, the regulator rejected any allegation that it pressured E&Y or in any other way acted improperly. E&Y said it "refutes entirely the suggestion that we did anything but highly professional work."

The unusual circumstances in which the regulatory filings had been retracted was not the end of the matter. Less than three weeks later, the DMCC would change the inspection reporting rules once again, this time in a way that meant Kaloti's second compliance report, with the downgraded finding, would never be made public.

It was a move that surprised some at E&Y. As the weeks had passed, without the anticipated publication, members of the inspection team became increasingly puzzled why no reports had been made public. By this time they were completing a brief follow-up inspection to verify Kaloti had put in place remedial action, and that failings earlier identified by E&Y had not reoccurred.

As part of this process they noted that the failure to publish a compliance report once again put Kaloti on track for further public criticisms. DMCC guidance required refiners to "publicly report ... to generate public confidence [in the inspection process]".

In internal memos E&Y inspectors wrote: "The refiner has not publicly reported ... This disclosure needs to be made prior to issuance of the follow-up review report." Such an omission, E&Y reviewers believed, was another "Non-compliance: High Risk" failing.

What they had not counted on, however, was the DMCC's willingness once again to bend its own inspection rules. This time, without advertising the changes on its website, the regulator quietly changed the public reporting standards, introducing the new concept of a "consolidated compliance report".

This removed any requirement for a refiner to publish a compliance report with embarrassing findings — so long as it later carried out a short follow-up review. The review and initial audit period would then be summerised in a single published report.

These discreet changes led E&Y to advise Kaloti that the refiner was no longer required to publish a separate compliance report covering the earlier inspection. The DMCC consulted with EY before introducing this change, and it said the audit firm confirmed such a move would not compromise the integrity of the ongoing review and publication process.

In confidential papers, E&Y noted that the DMCC rules had been "amended" in November 2013. In documents to be made public, however, E&Y was circumspect. It said it had tested Kaloti compliance against DMCC rules "in issuance as at the date of this report". In one internal email, a sharp-eyed E&Y inspector noted that a date and version number were missing on the regulator's new rules.

When, last December – and six months later than planned – Kaloti for the first time made public its official summary of the troublesome E&Y inspection, this eleventh-hour DMCC rule change was not mentioned. Also hard to discern in this, the only publicly available summary of E&Y's inspection, were full details of the shortcomings at Kaloti, between June and December 2012.

In the publicly released consolidated report Kaloti stressed that by the end of the period it was "fully compliant" with all DMCC responsible gold sourcing standards. There was no mention of "breach of protocol and zero tolerance" or even "non-compliance, high risk" in the report. The report did refer briefly to some past imperfections, labelling them "deviations".

Referencing dealings with gold seemingly smuggled from Morocco, it said: "There was lack of documentation in identifying risk in the supply chain for a small number of transactions although they were in accordance with Dubai Customs import regulations".

That Kaloti routinely offered cash-for-gold is stated clearly, though there is no indication that the sums involved ran into billions of dollars. "During the initial review period we had deviations ... in which [Kaloti] did not identify risks in cash settlement transactions which was the typical modus operandi in the Dubai wholesale market."

There is no suggestion any descriptions in the Kaloti report, signed off as "fair" by E&Y, were out of line with regulatory rules or industry practice. In any event, whatever these elliptically described historic lapses had been, Kaloti's consolidated report said they had been firmly rectified.

Kaloti said: "The final findings of the consolidated report were published in accordance with the requirements of the regulator, and were consistent with global best practices and industry norms of compliance reporting."

Meanwhile, after months trying to persuade senior colleagues in Dubai, and at E&Y's London office, that clear details of failures should appear in Kaloti's published report, Rihan decided to take the full findings, to the Guardian.

He had become increasingly isolated at E&Y and senior figures were growing impatient at his meddlesome interventions. "It is the firm's view ... a satisfactory position was reached with regard to the client engagements and with the DMCC," wrote Murphy.

"We respect, but do not agree with, your views as to how issues with one specific client [Kaloti] require to be presented both to the DMCC and more broadly," wrote one of E&Y's top lawyers in London, claiming Rihan's position was at odds with "internal and external experts".

When independent lawyers for Rihan wrote to E&Y formally urging for the audit firm to ensure the complete picture of inspection findings be revealed, the response was a sharp one from lawyers at Linklaters.

"The position is that EY Dubai agreed to carry out certain assurance work for clients [including Kaloti]. Pursuant to the terms of those engagements, EY Dubai was required, both as a matter of contract ... and as a matter of compliance with the regulatory regime under which it operated, to apply the DMCC guidelines as in force from time to time.

"EY Dubai has done so and delivered the required reports to its clients and to the DMCC setting out the findings made in the course of the work that it undertook.

"EY Dubai has therefore discharged its obligations ... Mr Rihan may have preferred that matters had been handled in a different manner, but that was not his decision to make."

Le Monde.fr

Enrico Macias condamné à rembourser 30 millions d'euros à une banque islandaise

Le Monde.fr avec AFP | 28.02.2014 à 15h43 • Mis à jour le 28.02.2014 à 16h14

Le prêt de 35 millions d'euros accordé au chanteur Enrico Macias par Landsbanki vire au cauchemar. REUTERS/ÉRIC FEFERBERG

Le chanteur Enrico Macias a été condamné à payer 30 millions d'euros à la filiale luxembourgeoise de la banque islandaise Landsbanki, aujourd'hui en liquidation, qui lui avait accordé en 2007 un prêt d'un montant de 35 millions d'euros.

Dans son jugement, le Tribunal de Luxembourg a condamné M. Macias à payer à la banque en liquidation le montant de 30,071 millions d'euros avec les intérêts conventionnels à compter du 1er janvier 2013.

« EQUITY RELEASE »

Les juges luxembourgeois ont également validé une saisie-arrêt sur les contrats d'assurance-vie de l'artiste auprès de la compagnie Lex Life & Pension (entreprise qui était liée à la banque islandaise) afin de s'assurer du recouvrement des 30 millions d'euros à la liquidatrice de la banque.

En juillet 2007, Enrico Macias et son épouse, aujourd'hui décédée, avaient contracté un prêt auprès de Landsbanki, garanti par deux biens immobiliers, dont la villa du chanteur à Saint-Tropez.

Il s'agissait d'un prêt de type « Equity release » consistant à mettre en garantie un ou des biens immobiliers pour obtenir des liquidités utilisables librement et dont le montant est déterminé par la valeur desdits biens. L'emprunteur ne reçoit qu'un certain pourcentage de la somme

totale empruntée et est obligé d'investir le différentiel dans des supports spéculatifs. En l'occurrence des contrats d'assurance-vie dans le cas des prêts consentis par Landsbanki.

« UN INVESTISSEUR AVERTI »

Enrico Macias reçut ainsi 9 millions d'euros en liquide et le surplus de 26 millions fut investi dans trois polices d'assurance-vie : deux de 11 millions chacune et un contrat de 4 millions. En 2008, la banque islandaise fut déclarée en cessation de paiement puis en liquidation et la valeur du portefeuille d'assurance-vie s'écroula. Les biens gagés ne permettant plus de couvrir les ratios de couverture du contrat de prêt, la liquidatrice réclama en 2009 le remboursement intégral du prêt. Ce à quoi le chanteur français s'opposa.

M. Macias avait attaqué la banque en liquidation devant le tribunal de commerce luxembourgeois en réclamant la nullité du prêt de 35 millions d'euros. Ses avocats ont invoqué des fautes de Landsbanki et considéré que le montage financier qui lui fut proposé reposait *« sur un mensonge juridique et économique, mais également sur une tromperie concernant ses véritables risques »*. Le chanteur demandait aux juges des dommages et intérêts en réparation de son préjudice évalué à 43,513 millions.

Mais les juges luxembourgeois ont débouté le chanteur, arguant qu'il était *« un investisseur averti »* et qu'il avait contracté le prêt de 2007 *« en toute connaissance de cause »*. Contactés par l'AFP, les avocats luxembourgeois d'Enrico Macias n'ont pas souhaité commenter cette affaire ni dire si leur client entendait faire appel du jugement.