

Pike River mine disaster families seek answers about unlawful payment to avoid prosecution of CEO

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On July 2, an advertisement appeared in the *Weekend Herald* offering a \$5,000 reward “for information leading to the identity of the ‘original source’ of the \$3.41 million” payment distributed among the families of the 29 workers who died in the Pike River coal mine disaster in New Zealand.

The payment was made in December 2013, without the agreement of the families, as part of a backroom deal between the Ministry of Business, Innovation and Employment (MBIE) and lawyers for Pike River Coal chief executive Peter Whittall. In exchange, MBIE dropped 12 charges that had been laid against Whittall for breaches of health and safety regulations. In 2017, the country’s Supreme Court ruled that the agreement was unlawful, but the charges against Whittall were not reinstated.

The series of underground explosions at Pike River in November 2010 were the result of extremely unsafe conditions in the mine, including grossly inadequate methane gas monitoring and ventilation, and no proper emergency exit. The main ventilation unit was installed underground, which is hardly ever done, partly because of the risk that it will spark an explosion. A 2012 royal commission of inquiry found that the company had prioritised production ahead of the workers’ safety and, ultimately, their lives.

Nearly 12 years later, however, no one has been held accountable. In April 2013, Pike River Coal was found guilty on nine counts of breaching health and safety rules, and ordered to pay a fine of \$760,000 plus \$3.4 million in reparations to the families. But the company had declared bankruptcy, so it did not pay anything, nor were any other managers or directors charged. Pike River Coal had received more than \$90 million in insurance payouts following the disaster, most of which went to its two

biggest creditors: the mine’s major shareholder New Zealand Oil and Gas, and the Bank of New Zealand.

It has never been explained how, just a few months later, Whittall was able to come up with \$3.41 million to buy his way out of being prosecuted. On December 12, 2013, the *National Business Review* reported that the payment came from “an unnamed insurance company.” Media reports did not make clear the basis on which the insurance payout was made, and why the money was not used earlier to pay the company’s court-ordered fines and reparations. Pike River directors John Dow, Ray Meyer and Stuart Natrass stated that the funds would have been used to defend Whittall’s case, had it gone to trial.

The notice offering a \$5,000 reward for the source of the payment was published by former criminal barrister Christopher Harder, who has been working with Bernie Monk and Dean Dunbar, whose sons Michael and Joseph died in Pike River.

In a press statement, Harder said he had “received anonymous information last week that [the money] did not come from Whittall’s insurer, as was claimed at the time.” He also said he had seen an email sent by Stuart Grieve, Whittall’s lawyer at the time, to crown solicitor Brent Stanaway on December 7, 2013, discussing the statement in which they would announce the payment and the dropping of charges. In the email, Grieve allegedly told Stanaway to “delete reference to the insurer which we consider neither necessary or appropriate.”

In 2020, Harder complained to the New Zealand Law Society about the conduct of Grieve and Stanaway in arranging the unlawful deal. The society said it investigated the complaint, but decided that there was nothing wrong with the lawyers’ actions.

Undoubtedly, a key reason for not putting Whittall on trial was to shield the many other corporate figures,

government regulators and union bureaucrats implicated in the disaster.

The royal commission found that the Department of Labour—which was later rebranded WorkSafe and became part of MBIE—was aware of Pike River Coal’s dangerous and illegal practices, and should have taken action to shut down the mine, but did nothing. Whittall’s defence team would certainly have drawn attention to this fact. The pro-business deregulation of safety standards in the mining industry, by successive Labour and National Party governments, would also have been exposed.

Other companies involved with Pike River might also have come under scrutiny. The royal commission identified the underground fan’s variable speed drive, made by Rockwell Automation—a major US-based multinational corporation—as a possible source of ignition, which could not be confirmed or ruled out without a forensic examination. Rockwell denied that there were any problems with its equipment.

A trial could also have lifted the lid on the role of the Engineering, Printing and Manufacturing Union (EPMU, now called E t?), which had dozens of members at Pike River. The union functioned as an arm of management: it took no action to protect the workers, and made no public statement about the dangerous conditions in the mine, of which it was fully aware. In the days following the first explosion, EPMU leader Andrew Little falsely claimed that there was “nothing unusual” about the mine, and defended the company’s safety record.

When the Labour Party-led government was elected in 2017, it promised to re-enter the mine and gather physical evidence in order to pursue a criminal prosecution for the disaster. However, the appointment of Little as minister for Pike River re-entry was a clear indication that the government would continue the years-long cover-up on behalf of the company.

Last year, the government permanently sealed the mine without conducting a manned exploration of the mine workings, where the fan and the human remains are located. Only the drift, or entry tunnel, was explored. Minister Little dismissed the protests of family members and their supporters, who demanded a thorough investigation, and rejected expert advice that the mine workings could be safely re-entered.

Police claim that their investigation of the disaster is ongoing, but it is far from clear whether a case can be built given the decision not to examine vital evidence. The police abandoned their initial investigation in 2013, saying that it could not be concluded without a re-entry of

the mine to determine precisely what sparked the first explosion.

Bernie Monk told the WSWS that he and other family members are being kept in the dark. On May 25, he submitted a list of questions for police, under the Official Information Act, regarding the conduct of the investigation. He demanded to know which experts were advising the police, and to what extent they had engaged with the independent mining experts who submitted a plan for the recovery of the mine workings.

Monk asked police to confirm reports that images recorded in the mine workings, by cameras lowered down boreholes, showed deployed self-rescue devices. This would indicate that at least some of the 29 men survived the initial blast and were trapped inside the mine—contrary to the royal commission’s finding that they all died immediately or very soon after the first explosion.

Five days passed and then there was a second explosion, after which the government agencies said there was no chance of mounting any rescue attempt. Monk and other family members have called for an investigation into what caused the second explosion. Electrical engineer Richard Healey has suggested, based on his analysis of electronic data from the mine, that it was sparked by a conveyor belt being started up, something that police have denied.

Monk called for the release of documents to show who had authorised a decision, several months after the disaster, to pour concrete down a ventilation shaft into the mine workings. This would have flooded an area known as the “fresh air base,” where survivors of the first explosion might have congregated, destroying any evidence there. At the time, members of Pike River management were still allowed to come and go from the mine, which should have been treated as a crime scene.

Monk also asked police to release information relating to evidence that has gone missing from the mine site, especially a door to a control panel connected with the underground fan that was blown out of the mine. If tested, the door could have given vital information about the cause of the first explosion.

On June 17, Monk was informed by police that they required until July 21 “to provide a substantive response” to his questions.



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