

Ex-EU commissioner Neelie Kroes failed to declare directorship of offshore firm

Leak of files from Bahamas corporate register reveals former head of Europe's antitrust watchdog was recruited by UAE venture set up to buy Enron assets

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The former European commissioner Neelie Kroes, who is now a paid adviser to Bank of America and Uber, failed to declare her directorship of an offshore firm in the Bahamas while she was the most powerful corporate enforcer in Brussels.

A cache of previously unseen documents published on Wednesday reveal that Kroes was recruited by a venture funded by the United Arab Emirates, which intended to snap up the international assets of the energy company Enron in a \$7bn (£5.4bn) deal.

The information comes from a leak of 1.3m files from the Bahamas corporate registry, which has brought to light the names of directors and shareholders at nearly 176,000 shell companies, trusts and foundations located in the Caribbean tax haven.

The data was received by Süddeutsche Zeitung, the German newspaper behind the Panama Papers, and the International Consortium of Investigative Journalists in Washington is releasing it to the public online.

Kroes was an EU commissioner from 2004 until 2014, initially overseeing the powerful competition directorate and then Europe's digital agenda. She was forbidden by the commissioners' code of conduct to hold any outside directorships while in the roles. The code states: "Commissioners may not engage in any other professional activity, whether gainful or not."

Kroes was also obliged to make a full declaration of her previous financial and corporate interests, stretching back 10 years. She may have breached both of those rules.

Papers from the Bahamas corporate registry show that between July 2000 and October 2009, she was registered as a director of Mint Holdings Limited, a company set up by a polo-playing private equity boss from the Middle East.

When she joined the European commission in 2004, Kroes declared previous roles at more than 60 companies, foundations and educational bodies, including Volvo, McDonald's, the defence and aerospace company Thales and the British mobile phone group mmO2. None of her filings, however, mention Mint Holdings.

After being approached by the Guardian, the Dutch newspapers Trouw and Het Financieele Dagblad and other media, Kroes responded through her lawyer, who said: "My client agrees that formally she should have declared this directorship ... Mrs Kroes will inform the president of the European commission of this oversight and will take full responsibility for it."

Kroes's lawyer said she made her filings in good faith because she believed Mint Holdings had been liquidated in 2002, before her appointment as Europe's antitrust watchdog.

She said she was not paid for her role, did not offer advice on the Enron deal and did not hold shares in the company. She said the company never became operational and there had been no board meetings.

Mint Holdings is owned by Amin Badr-El-Din, a former special adviser to the president of the UAE. A polo fanatic who used to breed ponies at an estate in the Chiltern hills, his team has been a regular fixture at Cowdray Park and other prestigious grounds.

In 2000, Badr-El-Din led a group of investors in negotiations to buy almost all of Enron's international assets. He then recruited Kroes, who is also a former Dutch transport minister, to advise on the venture.

The talks took place shortly before Enron collapsed, brought down by a major accounting fraud. The UAE deal fell through in the late summer of 2000, because of financial complexities and concerns about Enron's accounting, Badr-El-Din said.

Had it succeeded, the transaction would have placed between \$6bn and \$8bn worth of assets in India, Turkey, Brazil, the Caribbean and Japan into a company of which Kroes was a board member. The assets included power plants and utility groups, oil and gas reserves, ships and terminal rights and an international gas pipeline. One of the aims was to make Europe less dependent on Russian gas.

Mint Holdings was set up to "open the dialogue with Enron", Badr-El-Din's lawyer said. The directors were to oversee the hiring of professional advisers, raise funds and agree the final details. The financier briefed Kroes on the strategy, which she found "intriguing enough to join a few friends in Mint".

He said: "If the deal had been successful then her continued involvement would have been immensely valuable for her strategic vision. Many of the board would have come from the various assets of Enron, the Middle East and internationally. The idea was to build the world's premier gas-based company."

The financier said he had ordered Mint Holdings to be wound up in 2002, but a "clerical error" meant this never happened. In 2004, it became active, holding shares in another Bahamas company unrelated to Enron or Kroes. It was not until 2009, he says, that Kroes and two other individuals recruited for the Enron deal were discovered to be still on the register of directors. Their names were then removed. Kroes said she was not aware of the mistake until being approached by reporters last week.

The UAE attempt to buy Enron's assets has been reported, but Kroes's involvement has not been public knowledge until now. The online version of the Bahamas registry, which often contains patchy information on companies, does not list the directors of Mint Holdings.

The revelation is likely to cause controversy. During her term, Kroes initiated major interventions in the oil and gas markets.

Nicknamed "Steely Neelie" during her time in Brussels for tackling Microsoft and other corporate giants, she conducted a two-year inquiry aimed at challenging the power of former national monopoly companies in the oil and gas sectors. In 2006 she ordered dawn raids on six gas companies, which resulted in E.ON and GDF Suez paying more than €500m (£430m) each for

breaching cartel rules.

Carl Dolan, the EU director of the campaign group Transparency International, said the case reinforced the need for public registers to be more transparent about the owners of offshore companies. He said: "Kroes' links to the proposed Enron deal would have remained a secret were it not for this leak. All EU commissioners, and in particular competition commissioners, have access to privileged and market-sensitive information.

"That's why asking for a complete record of a commissioner's past business links is one of most basic things the commission can do to avoid potential conflicts of interest. The fact that Neelie Kroes did not take this obligation sufficiently seriously shows the need for the commission to scrutinise these self-declarations more thoroughly."

The revelations will fuel tensions over the business ties of European commission bosses. The commission's former president José Manuel Barroso is under fire for taking up a post this summer with the investment bank Goldman Sachs as chairman of its international business.

Barroso has countered that he is not a lobbyist for the US bank, but one French minister has described the move as "scandalous" and it has prompted an inquiry by the EU ombudsman. The current European commission president, Jean-Claude Juncker, has asked its ethics panel to investigate, and 145,000 people have signed a petition calling for Barroso to have his pension withdrawn.

The only sanction available against former commissioners is the loss of their pension and other benefits such as allowances for moving home, and to exercise this the commission must first secure an order from the European court of justice.

In order to secure her post as the EU's antitrust chief, following concerns about her business ties to an array of multinationals, Kroes vowed "not to engage into any business activity following the end of my term".

Within two years of leaving the commission, however, she has joined three US companies. She is a special adviser to Bank of America Merrill Lynch, a full board director at the customer data firm Salesforce, and a policy adviser to the taxi hailing company Uber, which shelters its international revenues from tax through the Netherlands.

Kroes is already busy promoting US interests. Earlier this month, she made headlines by criticising the European commission's ruling that Apple owed the Irish government an estimated €13bn in unpaid back taxes

Challenged on why Kroes, now 75, had gone back on her promise to stay out of the private sector, her lawyer said: "It is true that Mrs Kroes made this pledge at the beginning of her first term with the European commission. Having fulfilled this term, Mrs Kroes fulfilled this pledge and did not enter into business activity. Instead, she was honoured with a second term in a completely different field. Having now finished her second term, she no longer feels bound by the commitment made prior to taking her first post."

Additional reporting by Gaby De Groot, Frederik Obermaier, Bastian Obermayer and Will Fitzgibbon

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