

# Findex chair to take his water startup loss to the High Court



Findex chair Terry Paule says he will go to the High Court after losing an appeal over an earlier \$24.4m judgement in a waste-to-water case.

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Melbourne businessman Terry Paule wants to appeal to the High Court after he unsuccessfully applied to have his breach of fiduciary duties finding overturned from a waste-to-water drinks startup.

Mr Paule was dealt a loss in the NSW Court of Appeal on July 25 after a trio of judges threw out his appeal of a judgment handed down last year.

The entrepreneur, who co-founded and chairs advisory firm Findex, said he would now take the case to the High Court, in his last attempt at avoiding a \$US15.8m (\$24.4m) ruling against him, plus costs and interest.

The NSW Court of Appeal dismissed his appeal, finding an earlier court decision that he had misused his position and breached his duties after seizing control of bottled water business Aqua Botanical should stand. The company owned technology to turn food waste into juice concentrates, sugar, or water.

Justice Michael Ball had found Mr Paule preferenced his own interests over Aqua Botanical's inventor Ambrosios "Bruce" Kambouris, who brought the case.

The Court of Appeal found Dr Kambouris and his business partner David Driver were “entitled to expect that Mr Paule would act in their interests”, noting the Findex chair “took no steps” to appoint the two men to run a UK-arm of the water business.

This came as Mr Paule and his brother, Findex chief executive Spiro Paule, arranged for a capital raising for Aqua Botanical in May 2019.

Dr Kambouris developed the Aqua Botanical technology in 2010, in an attempt to extract wastewater from processed fruit, vegetables, and sugar cane.

The judges noted Mr Driver and his lawyers’ attempts to seek confirmation of control of the UK business “were repeatedly met by silence, or evasive or largely non-responsive answers from Mr Paule and his representatives over a period of many months”.

The Court of Appeal also found Mr Paule’s claims he was not afforded procedural fairness in fighting the first case could not stand.

“I find that the allegation that Mr Paule breached a fiduciary duty to DJD was raised at trial, both in opening and closing address, without objection by the appellants,” the judges said.

“The argument now advanced by Mr Paule highlights the absence of any relevant unfairness.”

Mr Kambouris told The Australian the latest knock-out for Mr Paule showed justice had “prevailed”.

“The truth has come out about Terry’s actions,” he said.