



Deals, Tax & Legal
Tower Two
Collins Square
727 Collins Street
Melbourne Vic 3008

GPO Box 2291U
Melbourne Vic 3001
Australia

ABN: 51 194 660 183
Telephone: +61 3 9288 5555
Facsimile: +61 3 9288 6666
DX: 30824 Melbourne
www.kpmg.com.au

REPORT TO CREDITORS PURSUANT TO IPR Our ref 36063036_1
75-225(3) OF THE INSOLVENCY PRACTICE
RULES (CORPORATIONS) 2016

5 April 2019

Dear Sir/Madam,

Specialty Mens Apparel Pty Ltd (Administrators Appointed)
ACN 149 766 307 (“the Company”)
Trading as “Ed Harry”

ONLINE REPORT NOTIFICATION

I refer to the appointment of Gayle Dickerson and I, Brendan Richards, of KPMG as joint and several Voluntary Administrators’ of the Company on 15 January 2019 pursuant to section 436A of the Corporations Act 2001 (*Cth*) (“the Act”) and our circular to creditors dated 16 January 2019 regarding the Voluntary Administration of the Company.

The Voluntary Administrators’ report to creditors pursuant to Insolvency Practice Rule 75-225(3) of the Insolvency Practice Rules (Corporations) 2016 will be issued on 5 April 2019 and will be available for download from KPMG’s website at: <https://home.kpmg/au/edharry>.

You will be able to download the following documents:

- Voluntary Administrators’ report to creditors pursuant to Insolvency Practice Rule 75-225(3) of the Insolvency Practice Rules (Corporations) 2016 dated 5 April 2019 including the Remuneration Approval Report, Appointment of Proxy and Proof of Debt forms and creditor information sheets;
- Statement of the Voluntary Administrators’ opinion about the option that would be in the creditors’ interest for the Company to execute; and
- Notice of the second creditor’s meeting.

A copy of our replacement Declaration of Independence, Relevant Relationships and Indemnities (“DIRRI”) dated 5 April 2019 is also enclosed. The DIRRI assists you to understand any relevant relationships that we have, and any indemnities or upfront payments that may have been provided. We have considered each relationship and it is our opinion that none of the relationships disclosed in the DIRRI result in a conflict of interest or duty or affects our independence.



Specialty Mens Apparel Pty Ltd (Administrators
Appointed)
ACN 149 766 307 ("the Company")
ABN 73 149 766 307
5 April 2019

If you do not have access to the internet and have not received a copy of the report, please request that a copy be sent to you by post.

If you have any queries, please contact our office by email at edharry@kpmg.com.au or telephone +61 2 9335 7546.

Yours faithfully

Brendan Richards

Brendan Richards
Joint and Several Administrator

Corporations Act 2001 (Cth) (Act)

Replacement Declaration of Independence, Relevant Relationships and Indemnities “DIRRI”

Specialty Mens Apparel Pty Ltd (Administrators Appointed)
Trading as Ed Harry
ACN 149 766 307 (the Company)

We have previously provided creditors with a DIRRI in relation to our appointment. Pursuant to section 436DA(5) of the Act, we have updated our DIRRI to reflect a change in circumstances.

This declaration requires us as the Practitioners appointed to the Company to make declarations as to:

- A. our independence generally;
- B. relationships, including:
 - i the circumstances of the appointment;
 - ii any relationships with the Company and others within the previous 24 months;
 - iii any prior professional services for the Company within the previous 24 months;
 - iv. that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to us as the Practitioner.

This declaration is made in respect of us, Brendan Richards and Gayle Dickerson, our partners, KPMG Australia partnership and related parties covered by the extended definition of firm.

On Thursday, 14 March 2019 it was announced that, in Australia, KPMG Ferrier Hodgson are to merge (**Merger**) by way of an acquisition of assets, with the majority of Ferrier Hodgson’s partners and staff to join the combined operation from 1 July 2019.

We consider that this does not create a conflict (or an appearance of a conflict) because:

- we completed our investigations, and the majority of tasks required to be undertaken in order finalise the voluntary administration of the Company and its subsequent winding-up should we be appointed liquidators, prior to the parties agreeing to enter into the Merger;
- relevantly, these investigations included a review of the Company’s affairs including its prior engagement of Azurium Advisory (**Engagement**), including whether the Engagement, or the payments made to Azurium Advisory in respect of it, could be set aside as voidable transactions in the event the Company is wound up;
- as set out in our accompanying section 439A report, we came to the firm conclusion that no voidable transaction or other claims could be brought by the Company or its subsequently-appointed liquidators arising out of the Engagement; and



- further, as the entity which carries on the Ferrier Hodgson business will continue to exist following the Merger, any voidable transaction or other claim which might have been identified, could still be brought against that entity.

There have not been any other changes that would have affected our independence, relevant relationships or indemnities requiring notification to creditors since our initial appointment as Administrators on 15 January 2019 and as outlined in our initial Declaration of Independence, Relevant Relationships and Indemnities dated 16 January 2019.

A. Independence

We, Brendan Richards of the KPMG Australia partnership (“KPMG Australia”), Tower Two, Collins Square, 727 Collins Street Melbourne VIC 3008 and Gayle Dickerson, of KPMG Australia, Level 38, Tower 3, 300 Barangaroo Avenue, Sydney NSW 2000, have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Voluntary Administrators of the Company in accordance with the law and applicable professional standards. We declare that this assessment identified no real or potential risks to our independence.

It remains the case, following the announcement of the Merger, that we are not aware of any reasons that would prevent us from accepting this appointment or subsequently continuing our appointment as Administrators or Liquidators should the Company be wound up at the second meeting of creditors.

In the event that any real or perceived conflict arises, we will:

- seek independent legal advice or court directions if appropriate;
- update this DIRRI if necessary, in which case we will issue a written notice to all known creditors and lodge the updated DIRRI with ASIC; and
- set up information barriers within KPMG and/or seek or support the appointment of a special purpose liquidator as appropriate.

B. Declaration of Relationships

i) Circumstances of appointment

Brendan Richards, a Partner in the KPMG Restructuring Services team, received a phone call from the Managing Director of the Company, David Clark, on 8 January 2019 to discuss some challenges the Company was experiencing following a weaker than expected sales period in the second half of 2018. Brendan Richards had been referred to David Clark by Azurium Advisory, who were acting on behalf of the Company to raise capital and / or strategic partners for the business (**Main Engagement**). Azurium Advisory is a consulting firm established by Ferrier Hodgson, a firm at which Brendan Richards was a partner until November 2017.

Our previous DIRRI noted that Azurium Advisory did not advise the Company until after Brendan Richards had left Ferrier Hodgson. We have subsequently been advised by the Company that Azurium Advisory was initially engaged to undertake a strategic business



review for the Company in July 2017 (**Initial Review**), ie prior to Brendan Richards departing in November 2017.

In addition to our points raised in our previous DIRRI, in our opinion, the above change in circumstances does not affect our independence for the following reasons:

- Brendan Richards did not undertake any work on either the Initial Review or the Main Engagement while at Azurium Advisory.
- Referrals from accountants, lawyers, business advisors and government agencies are commonplace and do not impact on our independence in carrying out our duties as voluntary administrator.
- We have not identified any issue in relation to this relationship that would give rise to a conflict in undertaking the administration of the Company. This relationship has not impeded our independence.

We had 1 meeting with the Company and its Directors on Wednesday, 9th January 2019 prior to our appointment for the purposes of:

- Discussing the recent trading performance of the Company.
- Clarifying and explaining to the Company and its directors the various options available to the Company and the nature and consequences of an insolvency appointment.

A summary of the meeting is provided below.

Date	KPMG Attendees	External Attendees	Agenda
9 January 2019	Brendan Richards (Partner), David Hardy (Director)	David Clark, John Read, Anthony Hawkins, Adrian Crowley	Discussion on challenges in the retail sector Discussion on general background and current trading performance of the Company Discussion on implications of formal insolvency

We did not receive any remuneration in relation to this advice.

Post this meeting, there were a series phone calls and emails with David Clark and John Read in the period from 9 January to 14 January 2019. These communications were focused on information provided by the Company, general advice, provision of Consents to Act and undertaking preliminary planning for a Voluntary Administration.



In our opinion, the meeting held and subsequent phone calls do not affect our independence for the following reasons:

- The discussions were at all times factual in nature, focused on the historical and financial position of the Company, the consequences of insolvency and the possible voluntary administration. Neither we nor KPMG provided advice to the Company. Discussions were restricted to the Company situation and no advice was provided to the directors personally. We understand the directors have sought their own advice.
- No fees or charges were rendered in respect to time incurred by us and our staff in attending the above meetings or reviewing information.
- The discussions were restricted in accordance with the limitations imposed by Principle 2 of the ARITA Code of Professional Practice in relation to independence and pre-appointment communications and meetings.
- As the discussions were of a factual nature, they are unlikely to be subject to review by an Administrator or Liquidator and would not impact on compliance with our statutory and fiduciary duties.

ii) Relevant Relationships

We, or a member of our Firm, have, or have had within the preceding 24 months, a relationship with the following parties:

Name	Nature of relationship	Reasons
<p>Commonwealth Bank of Australia (“CBA”) provides financial services to the Company.</p> <p>We have made no determination at this time whether the secured creditor has a charge on the whole of or substantially the whole of the Company.</p>	<p>KPMG has had relationships with CBA due to the nature of KPMG’s business. This includes business advisory, consulting services and the appointment of KPMG’s registered liquidators to companies as a formal insolvency appointment (in some cases by the secured creditor), where the secured creditor has provided banking facilities, loan facilities and/ or leasing facilities to insolvent companies.</p>	<p>In our opinion, this relationship does not result in a conflict of interest or duty as KPMG has never undertaken any work for CBA in respect of the Company.</p>
<p>Australian Taxation Office (“ATO”)</p>	<p>KPMG undertakes work from time to time on behalf of the ATO. This includes business advisory, consulting services and the appointment of KPMG’s registered liquidators to companies as a formal insolvency appointment where the ATO has asked us to consent to act as liquidators.</p>	<p>In our opinion, this relationship does not result in a conflict of interest or duty as KPMG have not identified any issue in relation to this relationship that would give rise to a conflict in undertaking the administration of the Company. This relationship has not impeded our independence.</p>

iii) Prior professional services to the Company

Our previous DIRRI noted that neither we, nor our firm, have provided any professional services to the Company in the previous 24 months prior to the acceptance of this appointment.

Professional services provided to the Company by Azurium Advisory under the Engagement have no bearing on our independence for the reasons identified on pages 1 and 2 above. Accordingly, we believe there is no impediment to us continuing our appointment as Administrators or subsequently being appointed as liquidators.

Notwithstanding the above, should a conflict arise out of the Engagement following the Merger on some unforeseen basis, we will:

- seek independent legal advice or court directions if appropriate;
- update this DIRRI if necessary, in which case we will issue a written notice to all known creditors and lodge the updated DIRRI with ASIC; and
- set up information barriers within KPMG and/or seek or support the appointment of a special purpose liquidator as appropriate.

Brendan Richards was a partner at Ferrier Hodgson between 2009 and 2017. In 2011, Ferrier Hodgson were appointed voluntary administrators and subsequently liquidators to the company that traded the Ed Harry business, EDH Pty Ltd (Deregistered), which was later acquired by the Company.

We believe that this relationship does not result in a conflict of interest or duty because:

- Brendan Richards was not personally involved in the voluntary administration of EDH Pty Ltd (Deregistered);
- the Company and EDH Pty Ltd (Deregistered) are unrelated; and
- the voluntary administration and liquidation of EDH Pty Ltd (Deregistered) occurred almost 8 years ago such that there would not be any transactions that would or could be subject to review during the conduct of the external administration.

Should a conflict arise, we will keep creditors informed and take appropriate action to resolve the conflict.

iv) Other relevant relationships

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or



entity that has security over the whole or substantially whole of the Company's property that should be disclosed.

C. Indemnities and up-front payments

We not been indemnified in relation to this voluntary administration, other than any indemnities that we may be entitled to under statute.

We have not been provided with any upfront payments in respect of my remuneration or disbursements.

Dated: 5 April 2019

Brendan Richards

**Brendan Richards
Administrator**

Gayle Dickerson

**Gayle Dickerson
Administrator**

Note:

1. If circumstances change, or new information is identified, we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement at the next meeting of the insolvent's creditors.
2. Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.