

Pfitzner, Laura

From: Kate Haddock <haddock@bhf.com.au>
Sent: Friday, 4 July 2014 3:20 PM
To: Macrae, Tess
Subject: TRIM: APRA ADR - Appointment of Facilitator

Dear Ms Macrae

I refer to condition C3.8 and C3.9 to the Determination dated 6 June 2014, and confirm that, subject to ACCC approval, APRA will today appoint Shirli Kirschner of Resolve Advisors Pty Limited as the Facilitator in accordance with those conditions.

Ms Kirschner's CV is attached. It is our view, and APRA's, that Ms Kirschner has the appropriate qualifications in accordance with condition C3.8(ii), (iii) and (iv). We are in the process of preparing a contract between Resolve Advisors and APRA, which among other things will ensure that the matters set out in condition C3.9 are obligations on the Facilitator, and will set out the remuneration arrangements as referred to in condition C3.12(ii). We will provide you with a copy of the contract before it is executed, next week.

With reference to condition C3.12(i), I confirm that neither Ms Kirschner nor Resolve Advisors has done any work for APRA other than in connection with the design and implementation of this ADR procedure, nor have they had any other relationship with APRA or its senior management.

Please let me know if you require any further information, other than the contract itself.

Kind regards

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4 July 2014

Shirli Kirschner
Resolve Advisors Pty Ltd
PO Box 15
PADDINGTON NSW 2021

Dear Shirli

I refer to our discussions regarding your proposed role as Facilitator for the APRA ADR procedure, and have pleasure confirming your appointment subject to ACCC approval.

We will shortly forward you a proposed contract for your consideration, however the role of the facilitator is set out in APRA's authorisation dated 6 June 2014, a copy of which is attached. I draw your attention in particular to condition C3 and its schedules (pp 90 – 100).

I also attach a copy of the budget as we have discussed which will be incorporated into the contract.

Yours Sincerely



Jonathan Carter
General Counsel
Direct Tel + 61 2 9935 7860
Email jcarter@apra.com.au

Shirli Kirschner -Nationally Accredited Mediator (LEADR).

Tertiary qualifications: BA/LLB UNSW.

I have been a qualified mediator since 1992 and the principal of Resolve Advisors Pty Ltd, which I established in August 1996. Resolve provides services resolving disputes, assisting group decision making and process design services to a wide client base. I have a background in Law. I have also had the benefit of working with Roger Fisher and the Harvard Negotiation project and their licensee as a coach and consultant in negotiation. My background has given me skills to assist people and organisations to solve issues in an interactive, effective and pragmatic way.

Mediation Panels:

- LEADR Advanced Panel of mediators
- Law Society Panel of mediators
- Singapore National Electricity market panel
- Federal Court Native Title panel.

Other Relevant positions:

- Member of NADRAC -The National Alternative Dispute Resolution Advisory Council (NADRAC) is an independent body charged with providing policy advice to the Australian Attorney-General on the development of Alternative Dispute Resolution. (Appointed June 2013)
- Appointed by the Australian Energy Regulator as the Resolution Adviser Wholesale Energy Market disputes (wholesale electricity and Gas market disputes).
- Sessional Registrar for mediation of small claims, workplace issues Federal Circuit Court (Appointed February 2012)
- Sessional Lecturer UNSW Masters of Law – Foundations of Facilitation and Mastering facilitation- Effective meetings and assisting groups to make smarter decisions.
- Trainer for Resolve Advisors programs in, Negotiation, Mastering Difficult Conversations and Under Attack- Managing the fight and flight response.
- Dispute Resolution Adviser for the wholesale telecommunications market- Industry award 2002.
- Editorial committee ADR Journal
- The Law Society of NSW ADR Committee (2003-2005)
- Board Member of the Shalom Institute UNSW (2009 –2013)
- Board Member Jewish Care (current)

Personal Training completed:

- LEADR mediation training and advanced mediation training
- Facilitation (basic and advanced)
- Conflict coaching CINERGY® model (2005)
- Narrative mediation (2008)
- Cardio Respiratory Psychophysiology- Gateway to Mind and Body Medicine- Richard Gervits PHD (2 days (2011)
- IMI Cross cultural training (2 days 2011)

Scope of mediation and facilitation work:

- Commercial disputes.
- Workplace, discrimination and partnership mediations in both a corporate and court context.
- Industry work in electricity, telecommunications and Gas focussing on wholesale and connection disputes.
- Large group decision, strategy and running effective meetings.

Specific examples include:

- Facilitation re public lighting issues (2013)
- Distribution dispute re licensed technology and exclusivity (2013)
- Mediation for a high profile organisation between the CEO, CIO and another a senior manager to realign a joint vision(2013)
- Mediation of a Supreme Court matter re shipping containers (2012)
- Mediation re bullying complaint between senior uniformed persons and the office manager in an emergency services operation (2012)
- Mediation of sale of business breach of contract and misleading conduct claims and cross claims District Court (2011)
- Interactive problem solving between family members and partners of a family company to restructure the company and their relationship.(2011)
- Workplace conference and strategic team with HR content experts and the Business Facing HR partners to consolidate and align an HR model and resolve internal tensions (2011)
- Mediation between CEO, CFO and the Board of a not for profit in relation to conflict over performance issues (2011)
- Report to a Board of an organisation with representatives from Government, Traditional Owner Groups and the community on governance and conflict management issues (2011).
- Integration of GenY into the workforce for McDonalds
- Strategic consultation for Workplace Agreement in the Tri-services (2011)
- Community sessions on the nuclear reactor for ANSTO (2006-2008)
- Facilitation and capacity building in Israel and the administered Territories working with Israeli's and Palestinians with Israeli passports building cross functional dialogue around identity. Part of an International team (2003), (2004).
- Mediations for organisations including Department of Defence, Qantas, Perpetual, NBNC0, Telstra, Optus, AEMO, Nurses Association, Rio Tinto, Cotton Australia.
- Interactive problem solving, assisting senior leaders one on one.
- Dispute system design- wholesale Electricity market, Victorian Gas market and individual organisation dispute resolution systems.

Papers and Capacity building: Part of change often involves capacity building I have lectured and designed programs in dispute resolution, negotiation and managing the effects of conflict, for a number of organisations locally and Internationally including the U.S. Department of the Navy, the USA Department of Interior (2012) the Department of Justice (Victoria) the Department of Health and Ageing (NSW), IBM, Cotton Australia, NSW Farmers' Association, the Environment Protection Authority, Energex and Argyle Diamonds.

I have been an invited speaker at industry functions and have presented at International conferences, including the Mediation Conference Singapore (2012), National Mediation Conference Sydney (2012) Darwin (2004), LEADR conference in Melbourne and Christchurch, American Bar Association in Washington DC (2000) and the World Mediation Conference, Asia Pacific Region.

Background: I am a graduate in Arts (Psychology) and Law from the University of New South Wales. I practiced law full-time for six years first at Allen Allen & Hemsley, where I was a Senior Associate, and then at Gilbert & Tobin. I left full time legal practice to start Resolve Advisors.

