

28 November 2019

DIRECTION SUMMARY

This is a summary of a direction issued by the Australian Charities and Not-for-profits Commission to Role Models and Leaders Australia Ltd

The Assistant Commissioner of the Australian Charities and Not-for-profits Commission (**ACNC**) has issued a direction to Role Models and Leaders Australia Ltd (ABN: 41236400793) (**RMLA**) under s 85-5(1) of the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**) on 7 December 2018.

This is a summary of the direction published in accordance with s 40-5(1)(f)(ii) of the ACNC Act.

Direction revocation

In accordance with s 85-20(3) of the ACNC Act, the ACNC has revoked the direction issued to the charity, effective 27 November 2019. The basis for the decision to revoke the direction is that the charity has met the requirements of the direction and has acted to address non-compliance.

The Charity

RMLA is an Australian public company, incorporated under the *Corporations Act 2001* (Cth) that has been registered with the ACNC as a public benevolent institution since 3 December 2012 (*i.e. on commencement of the ACNC*).

RMLA operates programs in Western Australia, New South Wales, Queensland and the Northern Territory. According to the Charity's 2018 annual report, its main program, the Girls Academy, operates 42 academies with over 2,300 Aboriginal and Torres Strait Islander girls enrolled in the program.

RMLA reported assets of over \$8.2 million, liabilities of over \$7.6 million and total revenue of over \$13.3 million in its Annual Financial Report to the ACNC for its 2018 annual reporting period. Most income is from government grants however RMLA also received over \$1.4 million in donations in 2018.



Why the matter arose

After receiving concerns about the Charity, the ACNC commenced an investigation under the ACNC Act focused on the Charity's financial management, management of conflicts of interest and broader governance practices.

ACNC findings

Charities registered with the ACNC must meet the ACNC's governance standards and obligations under the ACNC Act to remain registered with the ACNC. There are five governance standards that set a core, minimum standard of governance that deal with how charities are run i.e. its processes, activities and relationships. A charity is required to have appropriate and proportionate systems in place such as policies, processes and procedures, to ensure compliance with these standards.

The ACNC found that RMLA had failed to comply with ACNC governance standards 1, 5(a), and 5(f) (ss 45.5 and 45.25 of the Australian Charities and Not-for-profits Commission Regulation 2013 (Cth) and other record keeping obligations

Regulatory action - Direction

To address the breaches and non-compliance referred to above the Assistant Commissioner gave RMLA a written direction under s 85-5 of the ACNC Act.

The Assistant Commissioner directed RMLA to:

1. Cease expenditure of charity funds for private purposes. This includes the use of charity credit and debit cards for private expenditure.
2. Cease any form of pre-payments or loans to related parties.
3. Employ a suitably qualified and independent forensic auditor (to be approved by the ACNC Commissioner), with the necessary skills and experience in large not-for-profit entities to complete a forensic audit of the Charity's financial activities. The audit will include an examination and reconciliation of the financial records and operations of RMLA.

Direction outcome

The forensic audit confirmed governance and record keeping failures: For example, the auditor noted:

- *The lack of formal written agreements for the provision of services by related parties.*
- *The inability to demonstrate by way of written evidence that appropriate due diligence and market-based assessments were undertaken prior to entering into material transactions with related parties.*
- *Lack of written policies and procedures in relation to critical financial matters (although we note that these have either now been addressed or are in the process of being addressed).*
- *Ineffective controls over material expenditure incurred via the use of credit, debit and other cards (although we note this has now been addressed).*
- *The overpayment of remuneration to RRG Enterprises Pty Ltd in the year ended 31 December 2017, which has now largely been recouped subject to minor*



corrections. Whilst the overpayment resulted from the lack of effective controls to prevent and detect such payments, we note that the amount involved did not affect the viability of RMLA and that control weaknesses have been addressed.

The auditor also noted the absence of the following policies and procedures during the period of review;

- *Spending delegations/approvals, in particular in relation to expenditure at the executive, board level.*
- *Entertainment expenditure.*
- *The use of credit, debit and Coles cards including financial record keeping practices and the application of these policies to executives/directors.*

In addition, there was evidence that some private expenditure was inaccurately allocated as Charity expenditure:

...not all invoices/receipts could be provided to support credit and debit card transactions and as a result of our enquiries it was agreed that a number of such expenses had been incorrectly allocated as business transactions.

The forensic audit report also comments on private expenditure of charity funds outside agreed limits and the misuse of the credit, debit and Coles cards.

The lack of written policies and controls around the use of credit and debit cards as well as Coles Cards may have contributed to their apparent misuse which in turn was not detected on what we consider a timely basis, nor was appropriate mitigation action taken in a timely manner.

The auditor refers to an instance where a Coles card was misused for private expenditure and the lack of effective financial management that allowed this:

Our analysis of expenditure on the [Coles] card indicates that the card could have potentially been misused for most of the 2016 and 2017 years.

There appears to be a lack of control (or even apparent confusion, based on explanations provided) over who had possession of the main card during this period and also a lack of effective monitoring and approval of monthly purchases. The balance on the card was paid monthly, yet apparently the volume and reason for the level of purchases was not questioned until late 2017. Appropriate controls over who had use of the card, accountability for monthly expenses incurred, and effective monitoring would have detected the misuse/fraud earlier.

The auditor also notes that:

The board has stated that that the misuse/fraud was from a former employee and that no board member benefited from the expenditure on the Coles Cards.

There was a lack of written and documented disclosure and demonstration of the management of conflicts of interest during the period of review.



Response by the Charity

The Board and CEO of RMLA acknowledge the non-compliance of the past:

- The non-compliance related to failure to meet the ACNC's governance standards 1, 5(a), and 5(f) and obligations under the ACNC Regulation 2013 (Cth); the deficiencies related to record-keeping, policies and procedures, risk management and board oversight.
- RMLA experienced a period of rapid growth between 2015 and 2018 with the number of academies increasing from 12 to 42 and employees from 39 to 137. During this period the main focus of the Board and Executive was on operational matters and maintaining and strengthening its governance was regrettably not prioritised.
- The ACNC's direction has provided a salutary lesson to RMLA and the forensic audit highlighted a number of deficiencies. The most significant findings of the forensic audit have now been addressed; however, the report will continue to be used as a guide to the new Board in ensuring it continues to focus on governance improvements.
- RMLA will ensure that it meets the ACNC's Governance Standards and will implement a strategy to ensure it remains compliant into the future. Its commitment to best practice in governance will be communicated to all its stakeholders; and at the same time, RMLA will continue to focus on ensuring that its programs are operated as efficiently and effectively as possible.

RMLA wants to move forward from the deficiencies of the past and demonstrate its commitment to good governance. A majority of previous RMLA Directors, who held positions as responsible persons of RMLA when the non-compliance occurred, have resigned from the Board of RMLA as part of a planned Board renewal process. New directors who have been appointed bring with them strong skills and experience, including in relation to financial management and governance, to guide RMLA in best practice and to overcome past non-compliances.

The new Board is overseeing the implementation of the recommendations from the forensic audit report. This includes improved record keeping, financial management and reporting practices. For example, new policies and procedures include financial delegations, executive credit and debit card expenditure controls, improved record keeping requirements and a whistle blowers' policy. In addition, the Board intends to establish an Audit & Risk Sub-Committee and a Remuneration Sub-Committee made up of non-executive directors. The engagement, remuneration and performance of the Executive Officers will be the subject of ongoing review.

A governance consultant has also been engaged to conduct a review of RMLA. RMLA will report back to the ACNC regarding the recommendations and implementation resulting from this governance review.