



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP24/54

Friday, 20 September 2024

Tissue Repair Ltd – Panel Accepts Undertaking Declines to Conduct Proceedings

The Panel has declined to conduct proceedings on an application dated 28 August 2024 from Tissue Repair Ltd (TRP) in relation to its affairs, after accepting an undertaking from Spark Capital Pty Ltd and Mr Charara (see Annexure). Mr Charara is the co-Founder and an executive director of TRP. He is also a director Spark Capital.

On 27 August 2024, TRP's non-executive directors received notices under sections 249D and 203D dated 15 August 2024 to requisition a general meeting to move resolutions for the removal of two TRP directors and the appointment of a new director. The section 249D and 203D notices appeared to be signed by shareholders, including Spark Capital and Mr Charara, who together hold more than 50% of TRP's voting shares. The notices were provided to TRP's non-executive directors by a legal adviser who asserted that the notices would be served on TRP if TRP failed to provide a satisfactory proposal to give effect to the board changes being sought by the relevant shareholders.

On 4 June 2024, Mr Charara had proposed to his fellow directors that TRP delist from the ASX. That proposal was not supported by the non-executive directors.

On 28 August 2024, TRP made its application to the Panel. TRP submitted (among other things) that the shareholders who had signed the requisition notices have a relevant agreement to seek to restructure TRP's board of directors and have failed to disclose any combined voting power, relevant interests or association (see [TP24/47](#)).

Mr Charara and Spark Capital Pty Ltd have undertaken not to give the notices to TRP and to inform each of the other shareholders who signed the notices that they are free to exercise their voting rights in their absolute discretion on any resolution put to TRP shareholders. Mr Charara also submitted that he had not discussed any delisting proposal with the other requisitioning shareholders and *"he is not considering, proposing or currently giving any consideration to any proposal to delist TRP and that he has no intention to do so in future"*.

Considering the undertaking and Mr Charara's submission, the Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances. Accordingly, the Panel declined to conduct proceedings.

The sitting Panel was Bruce Cowley, Kierin Deeming and Chelsey Drake (sitting President).

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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Takeovers Panel

**AUSTRALIAN SECURITIES AND
INVESTMENTS COMMISSION ACT 2001 (CTH) SECTION 201A
UNDERTAKING**

TISSUE REPAIR LTD

Mr Tony Charara and Spark Capital Pty Limited each jointly and severally undertakes to the Panel to:

1. not give the Notices to TRP and
2. inform each of the Co-requisitioners that they are free to exercise their voting rights in their absolute discretion on any resolution put to TRP shareholders.

Mr Tony Charara and Spark Capital Pty Limited each jointly and severally undertakes to the Panel that they will confirm in writing to the Panel when they have satisfied their obligations under this undertaking.

In this undertaking the following terms have the corresponding meaning:

Co-requisitioners means each of the signatories to the Notices.

Notices means the notices dated 15 August 2024 and provided to TRP's non-executive directors on 27 August 2024 to requisition a general meeting to move resolutions for the removal of two TRP directors and the appointment of a new director under sections 249D and 203D of the *Corporations Act 2001* (Cth).

TRP means Tissue Repair Ltd.

Signed by Mr Tony Charara
Dated 18/09/2024

Signed by Mr Tony Charara of Spark Capital Pty Limited
with the authority, and on behalf, of Spark Capital Pty Limited
Dated 18/09/2024