

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

26 February 2014

Question: AET 3165

Topic: Walton Collapse

Written: 25 February 2014

Senator DASTYARI asked:

Does ASIC intend to forensically examine the full circumstances behind the Walton collapse, including the establishment of phoenix companies Lewton Asset Management and Pelleton Builders, and the roles played by secured creditors and principals who retained Walton as their builders?

Answer:

ASIC considers that such a forensic examination is a matter for the liquidators of the Walton Group (WCG) to perform and report their findings to ASIC in the normal course.

The liquidators have been provided with funding from the Queensland State Government to investigate the circumstances surrounding the collapse of Walton Constructions (Qld) Pty Ltd. It is envisaged that persons associated with the collapse will be publically examined regarding their role in the failure of the company.

ASIC's concerns:

ASIC notes that the liquidators have an ongoing referral relationship with the firm of business consultants advising the WCG directors about the restructure and who must investigate the pre appointment transactions.

ASIC believes there is a clear apprehension of a lack of independence.

Accordingly, we applied to the Court to remove the liquidators or alternatively hold a meeting of creditors with further and better particulars of their DIRRI. On 13 February, 2014 the Court declined ASIC's application.

ASIC has appealed the Court's decision (appeal hearing set for 5 May 2014).

This is a good example of ASIC acting to enforce independence obligations of registered liquidators. ASIC is concerned, more broadly, that disclosure is such that creditors can truly exercise their rights to seek to replace an incumbent external administrator.

More broadly, ASIC has been actively reviewing the circumstances surrounding the collapse of the Walton Group.