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## SEC Charges Former CEO and Board Member With Failure to Disclose Friendship With Company Executive in Violation of Proxy Rules

On September 30, 2024, the Securities and Exchange Commission (“SEC”) filed a complaint (the “Complaint”)<sup>1</sup> in the U.S. District Court for the Southern District of New York against James R. Craigie (“Craigie”), the former CEO, Chairman, and board member of Church & Dwight Co., Inc. (the “Company”). The Complaint alleges that Craigie failed to disclose a close personal relationship with a senior executive of the Company (“Executive”), resulting in the Company’s 2021 and 2022 proxy statements containing material misstatements by listing Craigie as an independent director. Without admitting or denying the SEC’s allegations, Craigie agreed to settle with the SEC for a \$175,000 civil fine and a five-year bar on being an officer or director of a public company.

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### I. Determining Director Independence

Prior to the period relevant to the Complaint, Craigie had served as CEO of the Company, the Non-Executive Chairman of the Company’s Board of Directors (the “Board”), and a non-independent director. Beginning as of January 2019, the Board determined Craigie was independent, and he was elected as an independent director by the Company’s shareholders beginning with the Company’s 2020 annual meeting. In making its independence determination, the Board “needed to affirmatively determine that Craigie did not have a material relationship with [the Company] by considering all relevant facts and circumstances” and “relied substantially on Craigie to disclose any information” that could affect it. Nonetheless, from January 2020 through March 2023, Craigie failed to disclose his close personal friendship with Executive.

As is the case with most SEC-reporting companies, the Board’s primary tool for gathering the information needed to make an independence determination each year is to have each of its members complete a directors’ and officers’ questionnaire (a “D&O Questionnaire”). The Company’s D&O Questionnaires clearly stated that, to be independent, a director must have no “material relationship” with the Company, “such as commercial, industrial, banking, consulting, charitable, and familial relationships,” and the SEC noted in the Complaint that, although this list did not expressly include “friendships,” the D&O Questionnaires made clear the list was not “exhaustive.” In his D&O Questionnaires for 2021, 2022 and 2023, Craigie stated he did not have any relationship with the Company or its management.

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<sup>1</sup> The SEC’s complaint can be found [here](#). Unless otherwise indicated, all quoted statements in this memorandum are taken from the Complaint.

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## II. The SEC's Allegations Against Craigie

### a. Relationship With Executive

According to the Complaint, Craigie had been friends with Executive since at least 2017 and would frequently travel with Executive and Executive's spouse on vacations, where Craigie spent over \$100,000 on Executive's and his spouse's travel and accommodations. The Complaint also alleges that Craigie did not vacation with or pay for expenses for any other executives of the Company, and he encouraged Executive to withhold their relationship from the Company. According to the SEC, Craigie "knew, or should have known, that his relationship with Executive was relevant and significant to [the Company]'s independence determination."

### b. CEO Succession Process

In 2022, the then CEO of the Company informed the Board that he was considering retiring no earlier than the end of 2023. The Board then began considering internal candidates as potential successors to the CEO, including Executive. The Complaint alleges that despite Craigie's relationship with Executive, Craigie participated in the search for the new CEO, which included evaluating Executive.

The Complaint further alleges that despite having been instructed, as a Board member, to keep details of the CEO succession process confidential, Craigie confided to Executive about the process and did not inform the Board. When the Board decided to search for external candidates in the succession process, Craigie recommended a former colleague of Executive's, who had also been on vacations with Craigie and Executive.

In 2023, the Company learned of the relationship between Craigie and Executive and determined that Craigie had violated the Company's Code of Conduct, particularly its obligations of confidentiality and candor, and that he was not an independent director.

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## III. Alleged Violations by Craigie and Settlement


The Complaint alleges that Craigie violated federal proxy disclosure rules (Section 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9 thereunder). The Complaint further alleges that Craigie caused the Company's 2021 and 2022 proxy statements to contain materially misleading statements by listing him as an independent director and failing to inform the Board of his relationship with Executive. Among other things, Section 14(a) and Rule 14(a)-9 require public companies to determine whether each director is independent and list each as such in their annual proxy statements.

Without admitting or denying the SEC's allegations, Craigie agreed to a permanent injunction against any further violations of the proxy rules, a \$175,000 civil fine, and a five-year bar on serving as an officer or director at a public company.

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## IV. Conclusion and Best Practices

The SEC has not charged the Company with any violations of the federal proxy disclosure laws. The Complaint notes that the Company annually required its board members to answer the D&O Questionnaires and to disclose any material relationships. The Board also expressly directed its members to keep details of the succession process confidential, which Craigie failed to do. The matter serves as a reminder of the importance of strongly- and accurately-worded questionnaires and company policies, accurate and complete disclosure by board members, and compliance with board confidentiality requirements.



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If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email authors Daniel Anderson (partner) at [danderson@cahill.com](mailto:danderson@cahill.com) or 212.701.3819, Geoffrey E. Liebmann (senior counsel) at [gliebmann@cahill.com](mailto:gliebmann@cahill.com) or 212.701.3313, or Nichole Scholl (associate) at [nscholl@cahill.com](mailto:nscholl@cahill.com) or 212.701.3689; or email [publicationscommittee@cahill.com](mailto:publicationscommittee@cahill.com).

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