



2 September 2019

**PUBLIC CENSURE OF GOOD SPIRITS HOSPITALITY LIMITED
BY THE NZ MARKETS DISCIPLINARY TRIBUNAL FOR A BREACH OF
NZX MAIN BOARD LISTING RULES 3.3.1(c) AND 3.6.2(c) DATED 1 OCTOBER 2017**

1. The NZ Markets Disciplinary Tribunal (**Tribunal**) has approved a settlement agreement between NZX Limited (**NZX**) and Good Spirits Hospitality Limited (**GSH**) dated 16 August 2019 (the **Settlement Agreement**).

Background

2. GSH is a listed Issuer with its ordinary shares quoted on the NZX Main Board.
3. During the period that this censure relates to, GSH was bound by the NZX Main Board Listing Rules dated 1 October 2017 (**Rules**).
4. Rule 3.3.1(c) requires that the minimum number of Independent Directors for an Issuer shall be two if the Issuer has fewer than eight Directors.
5. Rule 3.6.2(c) requires that the Audit Committee of every Issuer shall have a majority of members that are Independent Directors.
6. Between 25 January 2019 and 1 March 2019 GSH failed to have at least two Independent Directors on its Board, in breach of Rule 3.3.1(c), and failed to have a majority of Independent Directors on its Audit Committee, in breach of Rule 3.6.2(c) (the **Breach**).
7. Since 1 March 2019, two new Independent Directors have joined the Board.

Determination

8. The corporate governance provisions of the Rules are important to the integrity of the market. The underlying policy of these Rules is to ensure that there is an independent perspective to Board and Audit Committee decision-making, and to provide confidence to investors that their interests will be represented. These obligations are considered to be fundamental for Issuers.
9. The Tribunal considered the following aggravating factors in this case:
 - a. The corporate governance provisions of the Rules are important to the integrity of the market. The Tribunal considers any breach of these fundamental obligations to be serious;
 - b. While GSH did self-report its breach of the Rules, the Breach was not identified by GSH until one month after the Board became aware that one of its Independent Directors was also a Director of a Substantial Product Holder; and
 - c. GSH has previously been referred to the Tribunal, albeit for a breach of a different nature.

10. The Tribunal also considered that there were a number of mitigating factors in this case based on the submissions from NZX, including that:
 - a. GSH had actively sought to identify Independent Director candidates before the Breach occurred and had more than the minimum number of Independent Directors on its Board prior to 21 January 2019;
 - b. GSH was in breach of the Rules for a relatively short period (25 business days);
 - c. GSH rectified the Breach within four business days once it became aware of its non-compliance;
 - d. The Tribunal has not been presented with any evidence that investors were adversely affected by the Breach and notes that GSH had one Independent Director, who was acting Board chair, during the period it was in breach; and
 - e. GSH fully cooperated with NZXR during the investigation.

Penalties

11. NZX and GSH have reached a settlement under which GSH admits that it breached Rules 3.3.1(c) and 3.6.2(c).
12. NZX and GSH have agreed that:
 - a. A public censure by the Tribunal will be made;
 - b. GSH will pay to the NZX Discipline Fund, within 20 business days of receiving a tax invoice from NZX, a financial penalty of \$10,000;
 - c. GSH will pay the costs of the Tribunal (plus GST, if any), within 20 business days of receiving a tax invoice from NZX; and
 - d. GSH will pay \$7,200 being the costs of NZX (plus GST, if any), within 20 business days of receiving a tax invoice from NZX.

Approval

13. The Settlement Agreement is approved by the Tribunal pursuant to Rule 8 of the Tribunal Rules, and as such, the Settlement Agreement is the determination of the Tribunal.

Censure

14. The Tribunal hereby censures GSH for its breach of Rules 3.3.1(c) and 3.6.2(c) between 25 January 2019 and 1 March 2019.

The Tribunal

15. The NZ Markets Disciplinary Tribunal is a disciplinary body which is independent of NZX and its subsidiaries. The Financial Markets Authority approves its members. Under the Tribunal Rules, the Tribunal determines and imposes penalties for referrals made to it by NZX in relation to the conduct of parties regulated by the market rules.

ENDS