

LIQUOR CONTROL REFORM ACT 1998

ENFORCEABLE UNDERTAKING

PURSUANT TO SECTION 133F

The commitments in this undertaking are offered to the Victorian Commission for Gambling and Liquor Regulation (the **Commission**) by Casef Pty Ltd (the **Licensee**).

Background

1. On 21 November 2012, Inspector Michael West (the **Requestor**) made a written request under section 91(1) of the *Liquor Control Reform Act 1998* (the **LCR Act**) for the Commission to conduct an inquiry into whether there are grounds to take disciplinary action against the Licensee. The Requestor is a licensing inspector appointed under section 172 of the LCR Act.
2. The Requestor considered that there were grounds for disciplinary action because the Licensee:
 - a) had contravened the LCR Act, the licence and one or more of the conditions of the licence;
 - b) had paid a penalty for an offence under the LCR Act for which an infringement within the meaning of the *Infringements Act 2006* had been served; and
 - c) was not a suitable person to hold a liquor licence.
3. The licensed premises is the Kay Street Entertainment Centre (the **Premises**) and is located at 21-23 Kay Street, Traralgon, Victoria. Casef Pty Ltd is endorsed as the Licensee on liquor licence number 31821158 (late night (general) licence) (the **Licence**).
4. The Requestor sought the following orders against the Licensee¹:
 - a) a fine not exceeding an amount that is 30 times the value of a penalty unit fixed by the Treasurer under section 5(3) of the *Monetary Units Act 2004*;

¹ Under the amendments to the LCR Act and from the commencement of the *Victorian Commission for Gambling & Liquor Regulation Act 2011*, there is no authority vested in a Requestor to seek orders. Once the Commission has determined to hold an inquiry, the Commission may seek a view from the parties about appropriate disciplinary action to be taken.

b) that directors Andrew and Josephine Panayiotou undertake the Licensee Enforceable Undertaking Training delivered by Franklyn Scholar Hospitality; and

c) an order varying the Licence to impose the following conditions:

- When live or amplified music is being played one crowd controller licensed under the *Private Security Act 2004* and trained in the responsible service of alcohol is to be present at each bar within the Premises where liquor is being supplied to monitor patrons with the aim of ensuring that liquor is not provided contrary to the LCR Act. That person is to wear a tabard with the letters RSA displayed on the front and rear in letters no smaller than 10cm in height. This crowd controller or crowd controllers are to be in addition to the number of crowd controllers required under the licence.
- A Director of the Licensee is to be present at the Premises on Fridays and Saturdays between 9pm until the cease of trade when live or amplified music is being played other than pre-booked functions.
- The licensee must not have a drunken person in the Premises.

5. Inspector West supported his request with 13 particulars alleged against the Licensee.

6. On 21 November 2012, the Requestor made a written request under section 94(2) of the LCR Act for the Commission to conduct an inquiry into whether the continuation of the Licensee would detract from or be detrimental to the amenity of the area in which the licensed premises are situated.

7. Inspector West supported his request with 32 particulars alleged against the Licensee.

8. On 25 January 2013, the Commission received a written submission on behalf of the Licensee as to why the Commission should not conduct inquiries under section 91(1) or section 94(2) of the LCR Act.

9. On 21 March 2013, the Commission determined to conduct an inquiry under section 91(1) of the LCR Act on the basis that the 13 particulars alleged were of sufficient seriousness to warrant the holding of an inquiry and an inquiry under section 94(2) of the LCR Act on the basis that the 32 particulars alleged were of sufficient seriousness to warrant the holding of an inquiry.

10. On 3 September 2013 the Licensee filed with the Commission an unsigned Statement of Agreed Facts regarding the particulars alleged in relation to both the section 91(1) and section 94(2) inquiries (attached to this enforceable undertaking).
11. A public hearing was held by the Commission on 26 and 27 September 2013.
12. On 11 November 2013 the licensee offered to the Commission this enforceable undertaking for the period from 14 November 2013 to 15 January 2014.
13. The Commission has determined to adjourn the hearing of both inquiries to 15 January 2014.

Undertaking

14. The Licensee will, as and from 15 November 2013, undertakes that:

- the Premises will not trade past 4am on any night;
- save in the event of illness or other similar emergency, at least one of the Directors of the Licensee (Mr Andrew Panayiotou and Mrs Josephine Panayiotou), will be present at the Premises on any evening from 11pm on which the Licensee intends to trading past 1am, until trading ceases at the Premises;
- the Directors attend before the Commission at 9.30am on Wednesday 15 January 2014;
- the Directors file with the Commission no later than Monday 13 January 2014 a report prepared by Mr Zalewski on the implementation of recommendations set out in a report presented to the Commission in contemplation of the hearing on 26 and 27 September 2013 and the effectiveness of those recommendations and procure Mr Zalewski's attendance before the Commission at 9.30am on Wednesday 15 January 2014 and make himself available to be questioned by the Commission.

Commencement and duration of the undertaking

15. This undertaking comes into effect on 15 November 2013 and will continue until the Commission make a determination under section 95 of the Act in relation to this Licensee or until further order.

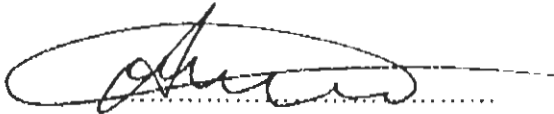
Acknowledgements

16. The Licensee acknowledges that:

- a) pursuant to section 133G of the LCR Act, the Commission will register this undertaking in the Register of Undertakings and the undertaking will be available for public inspection on the internet;
- b) the Licensee, the Commission and/or the Premier or a Minister of the Government of Victoria may from time to time publicly refer to this undertaking;
- c) this undertaking does not fetter the Commission in respect of any other action it may deem appropriate to take, or in any other power or function contained within the LCR Act.

Execution

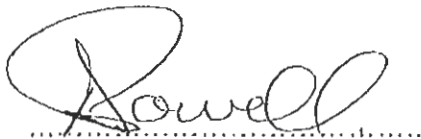
Executed by **CASEF PTY LTD**



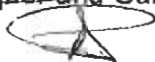
Director (Andrew Panayiotou)



Director (Josephine Panayiotou)



Execution by the Victorian Commission for Liquor and Gambling Regulation

Gambling and Liquor


Dated the 11th of November 2013