

3 December 2024

Enforceable Undertaking

Pursuant to sections 46 and 46A of the Financial Markets
Authority Act 2011

The enforceable undertaking is offered to the Financial Markets
Authority for its acceptance under sections 46 and 46A of the
Financial Markets Authority Act 2011 by:

Pritesh Kiran Patel

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www.fma.govt.nz

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Overview

Date: 3 December 2024

Parties

PRITESH KIRAN PATEL, of Auckland, New Zealand

and

FINANCIAL MARKETS AUTHORITY, an independent Crown entity established under the Financial Markets Authority Act 2011

Introduction

This enforceable undertaking is given by Pritesh Patel (**Mr Patel**), and has been accepted by the Financial Markets Authority (**FMA**) in accordance with sections 46 and 46A of the Financial Markets Authority Act 2011 (**FMA Act**).

Mr Patel has offered this enforceable undertaking following an investigation made by the FMA into his trading of ordinary shares of Heartland Group Holdings Limited (**HGH**).

Background

Relevant context

- A. The FMA investigated Mr Patel's conduct in relation to the trading of HGH shares in July and August 2020.
- B. Following the investigation, the FMA is of the view that Mr Patel has contravened sections 240 and 241 of the Financial Markets Conduct Act 2013 (**FMC Act**), which relate to insider trading.
- C. Throughout the investigation, Mr Patel has constructively engaged and cooperated with the FMA.
- D. As part of this engagement, Mr Patel has offered to make fulsome admissions in relation to his trading conduct and pay an amount in lieu of a pecuniary penalty set out in this document.

Background facts

Heartland Group Holdings

- E. HGH is a dual listed issuer with NZX and the Australian Securities Exchange Limited (**ASX**). Ordinary shares of HGH are quoted financial products that are quoted on the NZX Main Board and the ASX.
- F. HGH is the listed parent company of Heartland Bank Limited (**HBL**) and Heartland Bank Australia Limited. HBL is a registered trading bank in New Zealand which offers and carries on the business of banking services in New Zealand.

Pritesh Patel

- G. Mr Patel, at all relevant times, was a Senior Manager, Financial Markets Accounting at ASB Bank Limited (**ASB Bank**) and a Chartered Accountant.
- H. Mr Patel was, at all relevant times, a friend of a former ASB Bank colleague, Kevin Young, who was working at HBL as a member of the finance team (the **HBL Employee**).

Mr Patel's bank transfer

- I. On 28 July 2020 Mr Patel transferred the sum of \$5,000 into the account he used to buy and sell shares with the narration "Shares HBL".

Mr Patel's communications with the HBL Employee

- J. On 31 July 2020, Mr Patel sent a WhatsApp message to the HBL Employee asking whether HGH will pay the full year dividend for the year-end 2020. The message exchange is as follows:
 - a. At 8:56am, Mr Patel asked the HBL Employee "Do you think heartland will pay the full year dividend this year? Around Aug/sep?".
 - b. At 9:24am, the HBL Employee responded "Not sure yet".
 - c. At 9:27am, Mr Patel said "Still under valued at 1.30 though I think, normal trading levels more like \$1.70. You reckon?"

- d. At 9:30am, the HBL Employee responded “Yes they increase profit this year and even if the don’t pay dividend this year there will be a special dividend next year to get the money out”.

Acquisition of HGH shares

- K. About half an hour after the WhatsApp exchange, Mr Patel placed a buy order of 4,000 HGH shares at an average price of \$1.3178.
- L. On 4 August 2020, the buy order was executed in two parcels – 895 and 3,105 shares, respectively.
- M. The total consideration for the 4,000 HGH shares was \$5,301.05 (which included the cost of the brokerage rate).

NZX announcement and HGH share price

- N. On 17 September 2020, HGH announced to the market that it achieved a net profit after tax (**NPAT**) of \$72.0 million for the financial year ended 30 June 2020 (FY20) and that it would be issuing a dividend of 2.5 cents per share (**September Announcement**).
- O. Following the September Announcement, the HGH share price rose by 5.9% on that day.

Dividend payments and disposal of HGH shares

- P. On 9 October 2020, Mr Patel received a full year FY20 dividend payment of \$93.06 from HGH.
- Q. On 16 March 2021, Mr Patel received a half year FY21 dividend payment of \$148.89 from HGH.
- R. On 15 September 2021, Mr Patel received a full year FY21 dividend reinvestment in 115 HGH shares. The value of the 115 shares is \$261.05.
- S. On 15 February 2021, Mr Patel sold 2,000 HGH shares for a total of \$4,700 (inclusive of the brokerage rate).
- T. On 16 March 2022, Mr Patel received a half year FY22 dividend reinvestment in 51 shares. The value of the 51 shares is \$107.61.
- U. On 18 May 2022, Mr Patel sold the remaining 2,166 HGH shares for a total of \$4,830.18 (inclusive of the brokerage rate).

Mr Patel’s position and context

- V. Mr Patel regularly invested in shares in companies on the NZX. During the year from 1 April 2020 to 31 March 2021 Mr Patel held shares in no less than 18 entities listed on the NZX.
- W. Mr Patel said he intended to purchase the HBL shares after conducting his own research and before the messages with Mr Young on 31 July 2020. Mr Patel acknowledges that he acquired 4,000 HGH shares using the ASB Securities platform on 4 August 2020.
- X. Mr Patel stated he sold HGH shares in a ‘staggered manner’, namely, 2,000 HGH shares on 15 February 2022 and the remaining 2,166 HGH shares on 18 May 2022.
- Y. The selling of the HBL shares was done as part of Mr Patel’s sale of all his shareholdings in individual companies in order to invest in exchange traded funds instead on the advice of his financial advisor.

Admissions

Admissions

1. Mr Patel accepts that he acquired 4,000 HGH shares on 4 August 2020.
2. Mr Patel admits that:
 - 2.1 he knew or ought to have known that the HBL Employee's message that HGH "increase profit this year" was material information that was not generally available to the market, and which the HBL Employee received in their capacity as a member of the finance team at HBL;
 - 2.2 he knew or ought to have known the information that HGH's "increase profit this year" that he possessed was material information, which was not generally available to the market until the September Announcement was made on 17 September 2020;
 - 2.3 having traded in HGH shares on 4 August 2020 while in possession of the information, he has contravened sections 240 and 241 of the FMC Act.

No further action

3. In agreeing to accept these admissions made by Mr Patel, and the undertaking offered by him (as set out **below**), the FMA agrees that it will not take any further action against Mr Patel in relation to the matters described above.

Undertakings and Payment

Payment

Mr Patel has offered a payment in lieu of pecuniary penalty which the FMA has agreed to accept in accordance with sections 46 and 46A of the FMA Act.

4. Mr Patel undertakes to pay the FMA a total of \$30,000 in lieu of a pecuniary penalty (**Penalty Sum**), and to make payment of the Penalty Sum within 10 working days from the date of executing this agreement.
5. The Penalty Sum will be paid into a Crown Bank Account, after deducting the FMA's actual costs incurred in connection with its investigation into this matter.

Default

6. In the event that Mr Patel fails to pay the Penalty Sum within the agreed time under paragraph 5, the FMA may at its absolute discretion pursue recovery of the Penalty Sum plus interest in accordance with the Interest on Money Claims Act 2016 and legal costs on a solicitor-client basis.

Notice

7. The FMA will give notice of the Enforceable Undertaking offered by Mr Patel on its website (www.fma.govt.nz). A corresponding media statement will also be published on the FMA's website.

Acknowledgements

Acknowledgements

8. Mr Patel acknowledges that:
 - 8.1 the undertakings and payment voluntarily given by him and accepted by the FMA in accordance with sections 46 and 46A of the FMA Act may be legally enforced by the FMA in accordance with section 47 of the FMA Act from the date this enforceable undertaking is executed by both parties;
 - 8.2 where the FMA undertakes legal proceedings to enforce the terms of this enforceable undertaking, Mr Patel accepts and agrees to pay the FMA's legal costs in relation to those proceedings;
 - 8.3 following the execution of this enforceable undertaking by both parties, it will be published by the FMA on its website, together with a media statement; and
 - 8.4 in accepting the undertakings and payment, the FMA is not prevented from exercising its rights under financial markets legislation and/or under the FMA Act in relation to any contravention(s) of the undertakings or arising from any future conduct.

Execution

Signed by PRITESH PATEL:



PRITESH KIRAN PATEL

In the presence of: (via AVL)



Name:

Joshua Ian Taylor

Occupation:

Lawyer

Address:

Christchurch

Execution (cont.)

The Financial Markets Authority accepts this enforceable undertaking pursuant to sections 46 and 46A of the FMA Act by its authorised delegate:



Margot Gatland

Head of Enforcement at the Financial Markets Authority

In the presence of:

LUCY VICTORIA CHAPMAN

Name:

Occupation: SOLICITOR

Address: AUCKLAND