

COPY



Government of South Australia
Consumer and Business Services

COPY

16/7/17

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UNDERTAKING
Liquor Licensing Act 1997
Section 119A(1)

Undertaking given to the Commissioner for Consumer Affairs given for the purposes of section 119A(1) of the *Liquor Licensing Act 1997* by:

**Wilted Spinach Trading Pty Ltd and
Mr Benjamin Lawrence Johnston**

Persons Giving this Undertaking

1. This undertaking is given to the Liquor and Gambling Commissioner (the Commissioner) by Wilted Spinach Trading Pty Ltd in respect of Premises One Little Sister at 48 Main Road, Normanville in the State of South Australia and the sole director Benjamin Lawrence Johnston for the purposes of section 119A(1) of the *Liquor Licensing Act 1997* ("the Act").

Background

2. Wilted Spinach Trading Pty Ltd ("the licensee") has held a Restaurant Licence pursuant to Section 34 of the Act since 5 November 2013 in respect of the premises One Little Sister.
3. Mr Benjamin Johnston ("Mr Johnston") is the sole director of Wilted Spinach Trading Pty Ltd.

Conduct of Concern

4. On 2 September 2016 at 3.15pm, the licensee's business was trading without the supervision and management of a Responsible Person contrary to s 97(1)(a) of the Act.

Contraventions of the *Liquor Licensing Act 1997*

5. The Commissioner considers, and the licensee acknowledges, that by engaging in the conduct described in paragraph 4, the licensee contravened:
 - 5.1. Section 97(1)(a) in relation to the *Liquor Licensing Act 1997*;
6. The Commissioner considers, and Mr Johnston acknowledges, that Mr Johnston is vicariously liable for the actions of the licensee pursuant to s 134 of the Act.
7. Upon being made aware of the Commissioner's concerns, the licensee and Mr Johnston:
 - 7.1. Agreed to provide an undertaking to the Commissioner pursuant to section 119A(1) of the Act; and
 - 7.2. Indicated a willingness to ensure that the licensee would take action to ensure future compliance with s 97(1)(a) of the Act.

Undertaking

- 8. The licensee undertakes to ensure that at all times when the business is open to the public, it will be personally supervised and managed by a Responsible Person in compliance with s 98(1)(a) of the Act.
- 9. Mr Johnston undertakes that, as sole director of the licensee, he will ensure that the licensee complies with s 97(1)(a) of the Act.

Commencement of Undertaking


- 10. This undertaking comes into effect when:
 - 10.1. The undertaking is executed by the licensee and Mr Johnston; and
 - 10.2. The Commissioner accepts the undertaking so executed.

Acknowledgments

- 11. The licensee and Mr Johnston acknowledges that:
 - 11.1. CBS will make this undertaking publicly available including by publishing it on CBS' public register of undertakings on its website;
 - 11.2. CBS will, from time to time, make public reference to the undertaking including in news media statements and in CBS publications; and
 - 11.3. This undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

Executed as an Undertaking

Executed by Mr Benjamin Johnston in his personal capacity as sole director and on behalf of the licensee:



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Mr Benjamin Johnston

Sole Director

Date: 21/06/17



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Signature of Witness

Name: SURJIT SINGH

Date: 21/06/17

Accepted by the Liquor and Gambling Commissioner pursuant to s119A (1) of the *Liquor Licence Act 1997*.



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Liquor and Gambling Commissioner

Date: 11/7/17