

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2023] NZERA 309
3128536/3141782

BETWEEN A LABOUR INSPECTOR
Applicant

AND NIKHIL HIMALAYA BOTANY
LIMITED trading as Merchants Liquor
First Respondent

AND THE FURTHER RESPONDENTS
listed in Schedule 1

Member of Authority: Andrew Dallas

Representatives: Martin Denyer, counsel for the Applicant
Miriam Mitchell, counsel the Respondents

Investigation Meeting: On the papers

Submissions received 3 February and 13 March 2023 for the Applicant and 6 March
2023 for the Respondents

Date of Determination: 14 June 2023

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] A Labour Inspector lodged proceedings against Nikhil Himalaya Botany Limited (Nikhil Himalaya Botany) and the 10 other related companies set out in Schedule 1 of this determination (Further Respondents)¹. The Respondents each operate liquor stores in various North Island locations. The Respondents have a common director, Ravinder Kumar Arora.

¹ Collectively “the Respondents”. Normally the word “Respondent” would not feature in the body of a determination. It is being used here for ease of reference.

[2] The Labour Inspector lodged proceedings in the Authority due to a breach by the Respondents of an improvement notice issued on 6 June 2019. In further proceedings, the Labour Inspector said Nikhil Himalaya Botany breached a second improvement notice issued on 4 November 2020.

[3] In order to assist the resolution of the Labour Inspector's claims against the Respondents, the parties, in discussion with the Authority, undertook to reach agreement on the relevant facts. The following facts were agreed²:

1. All Respondents are limited liability companies who, at the time of the investigations into them described in these agreed facts, each operated a different liquor store. The director of the Respondents, and the person in charge of the operations of each store at all relevant times, is Ravinder Kumar Arora.
2. Between 23 January 2018 and 30 January 2018 each of the 11 liquor stores were visited by Labour Inspectors as part of a planned investigation into minimum employment standards.
3. At each site visit a Labour Inspector formally requested records under section 229(1)(c) and (d) of the Employment Relations Act 2000 and section 82 of the Holidays Act 2003. The requested records were copies of wages and time records, holiday and leave records, and employment agreements for past and present employees from the previous six years. The records were requested by 2 February 2018.
4. On 31 January 2018, the Respondents requested an extension until 31 March 2018. An extension was granted to 2 March 2018. The Respondents delivered records to the Labour Inspectorate on 2 March 2018 and 5 March 2018.
5. On 7 December 2018, the Labour Inspector notified the Respondents that the information provided had not fully answered the initial requests for information. The Applicant requested documents which had not yet been provided by 21 December 2018. Following a request for an extension by the Respondents, this deadline was extended to 3 January 2019.
6. On 3 January 2019, the Respondents provided the Labour Inspector with MYOB holiday and leave reports for three employees, three employment agreements, and an Excel spreadsheet with employee details. Following further communication between the Labour

² These have been amended for consistency and style.

Inspector and Respondents about what was required, a meeting was arranged for 11 January 2019.

7. The Labour Inspector and Respondents met on 11 January 2019. As a result of agreement reached at this meeting about the provision of further documents, the Respondents provided the Applicant with wages and time records on 17 January 2019.
8. On 1 April 2019, the Labour Inspector provided the Respondents with an investigation report setting out the findings of these investigations. The investigation reports identified slightly different breaches for each Respondent, which are set out in the individual statements of problem (SOPs). The breaches included:
 - (a) s 81 of the Holidays Act (holidays and leave records);
 - (b) s 130 of the Employment Relations Act (wages and time records);
 - (c) sections 23, 27, 49, 50, 55, 56, 60 of the Holidays Act (worked and unworked public holidays and alternative holidays, payment of time and a half, payment of annual holiday when employment ends within 12 months, when payment for annual holiday must be made, payment of accrued annual holiday upon termination of employment);
 - (d) s 6 of the Minimum Wage Act 1983 (minimum wage); and
 - (e) s 69OJ of the Employment Relations Act (employment agreement not containing mandatory employment protection provisions).
9. The Respondents were also advised that an improvement notice would be issued to each Respondent.
10. On 15 April 2019, the Respondents advised the Labour Inspector that changes had already been implemented in their systems and they were in the process of implementing further changes to ensure ongoing compliance with New Zealand law.
11. On 6 June 2019, the Labour Inspector served each Respondent with an improvement notice. The improvement notices outlined the breaches identified in each investigation report and the actions that each Respondent was required to take and the evidence it was to provide in order to comply with each notice. Each Respondent was given until 5 September 2019 to comply with the relevant improvement notice. An extension was subsequently granted to 27 September 2019.
12. On 27 September 2019, each Respondent provided evidence in respect of compliance with the relevant improvement notice. The documents provided by each Respondent are set out in the individual SOPs.

13. The Respondents had engaged an accountant to calculate arrears owed to employees. In their cover letter accompanying the evidence provided on 27 September 2019, the Respondents sought instructions as to how to make payments to employees owed arrears as identified in the accountant's calculations. The Respondents also referred to a "Deed of Settlement" that had already been signed by the Respondents and a group of employees. The Deed of Settlement is annexed to the affidavit of Ravinder Kumar Arora signed 27 September 2022.
14. Between 6 August and 10 August 2020, the Labour Inspector emailed each Respondent, setting out outstanding matters relating to compliance with the Improvement Notices. Despite the information provided to this point, none of the improvement notices had been fully complied with. The Labour Inspector requested all outstanding evidence by 20 August 2020.
15. Following successful requests for extensions, the Respondents each provided further evidence of compliance on 7 September 2020.
16. While the Respondents provided various documents in an attempt to comply with the improvement notices, the documents provided were insufficient to establish full compliance with an improvement notice by any of the Respondents. In particular, the evidence provided by each Respondent failed to establish that the Respondents had correctly calculated and paid arrears owing to employees.
17. Between 24 September 2020 and 30 October 2020, each of the Respondents was advised by the Labour Inspector that their non-compliance with an Improvement Notice would be the subject of an application to the Authority. These are 11 of the 12 SOPs currently before the Authority.
18. The Respondents accept that they had each failed to fully comply with the requirements of the respective improvement notices as at the time of these applications to the Authority in so far as it agreed that it needed to calculate what, if any, arrears were owed to employees, and these are referred to in more detail later in this document.

Second SOP regarding Nikhil Himalaya Botany

19. There are two SOPs before the Authority in respect of Nikhil Himalaya Botany. The second SOP, lodged on 2 June 2021, relates to a reactive investigation of a complaint received on 5 December 2019.
20. On 25 September 2020, the Labour Inspector advised Nikhil Himalaya Botany that an investigation into the complaint had concluded and provided an Investigation Report. The

Labour Inspector advised Nikhil Himalaya Botany that an improvement notice would be issued for identified breaches in this investigation report.

21. The improvement notice was issued on 4 November 2020. Breaches were identified under sections 21, 23, 25, 27, 49, 50, 55, 56, 60 and 81 of the Holidays Act, sections 130 and 142W of the Employment Relations Act, and section 6 of the Minimum Wage Act . The improvement notice identified the actions that Nikhil Himalaya Botany was required to take and evidence it was to provide to achieve compliance. The due date for compliance was 9 December 2020.
22. On 3 December 2020, following communications between the Labour Inspector and Nikhil Himalaya Botany, it notified the Labour Inspector that the arrears owed to the complainant had been paid.
23. On 11 December 2020, the Labour Inspector advised Nikhil Himalaya Botany that further evidence was still required to establish compliance with the improvement notice and that an extension was granted to 21 December 2020 to provide this information.
24. By 22 December 2020, no further evidence had been provided and the Labour Inspector advised Nikhil Himalaya Botany that the failure to fully comply with the improvement notice would be escalated to the Authority.
25. On 2 February 2021, Nikhil Himalaya Botany engaged the services of a payroll and Human Resource Information Systems specialist, Barbara Houlbrooke, Director Houlbrooke Group Limited to assist with resolving the issues documented in the improvement notice.
26. Ms Houlbrooke was instructed by Nikhil Himalaya Botany to gather information needed to comply with the improvement notices across all 12 applications and to audit wage, time, holiday and leave records for all former and current employees.
27. On 16 March 2021, the Nikhil Himalaya Botany emailed the Labour Inspector advising it is agreeable to taking up the Authority's suggestion for the parties to work together to resolve the 12 applications and enquired whether the Labour Inspector was agreeable to working with Ms Houlbrooke directly.
28. The breaches of sections 21, 23, 25 and 27 of the Holidays Act identified in the improvement notice in this matter are new breaches not identified in the other application filed in respect of Nikhil Himalaya Botany.

29. The breaches of sections 49, 50, 55, 56, 60 and 81 of the Holidays Act, s 130 of the Employment Relations Act and s 6 of the Minimum Wage Act, are breaches identified in both improvement notices which are the subject of applications before the Authority in respect of Nikhil Himalaya Botany. For this second application, the breaches identified cover the period from 6 June 2019 to 15 December 2019.
30. Nikhil Himalaya Botany accepts that it has also failed to fully comply with the requirements of the second improvement notice as at the time of the application to the Authority dated 2 June 2021 in so far as it agreed that it needed to calculate what, if any, arrears were owing. The arrears are referred to in more detail below.

After SOPs lodged in the Authority

31. After lodging the 12 applications currently before the Authority, the Labour Inspector agreed to liaise with Ms Houlbrooke with respect to coming to an agreed remediation plan which would involve satisfactory compliance by all Respondents with the 12 improvement notices.
32. The Labour Inspector and Respondents agreed that Ms Houlbrooke's audit would be completed in three sections containing three to four companies per section.
33. On 16 July 2021 the Respondents provided:
 - (a) spreadsheets setting out their calculations for the first section (Group One); and
 - (b) a compliance report by Ms Houlbrooke showing that compliance with the improvement notices had largely been achieved with regard to record keeping, ensuring payment methods and rates are correct.
34. On 16 July 2021, the Respondents provided spreadsheets setting out their calculations for the second section (Group Two).
35. On 5 August 2021, the Labour Inspector advised the Respondents that:
 - (a) it will not at this stage approach the Authority to seek compliance orders;
 - (b) the Labour Inspector has reviewed the compliance report and spreadsheets and considers positive progress toward achieving compliance with the improvement notices is being made, and in general Ms Houlbrooke's findings appear in keeping with the Inspector's findings on the records.
36. On 16 August 2021, the Respondents provided spreadsheets setting out their calculations for the third section (Group Three).

37. The Labour Inspector then met with Ms Houlbrooke to discuss the calculations and requested some amendments be made to them. Following a meeting on 7 September 2021, the parties reached a general agreement as to the arrears, although subject to the Labour Inspector checking the Respondents' amended calculations and any further evidence of compliance provided by them.
38. On 14 December 2021, the Labour Inspector wrote to the Nikhil Himalaya Botany confirming that its understanding of the outcome of the meeting of September 2021 was that the Respondents were to pay all arrears and provide proof of this to the Applicant.
39. Between 29 March 2022 and 13 April 2022, there was correspondence between the Nikhil Himalaya and the Labour Inspector about calculations of arrears and whether the Respondent could wait to have the calculations confirmed by the Applicant before paying the arrears. On 13 April 2022, the Labour Inspector advised the Respondents of some identified errors in their calculations and confirmed its position that the arrears amounts had been established and the Respondents should proceed to pay them.
40. On 25 May 2022, the Respondents advised the Labour Inspector that before paying all outstanding arrears they were seeking further advice from Mr Houlbrooke to ensure that they did not pay any incorrect amounts.
41. On 29 July 2022, the parties filed a joint memorandum with the Authority setting out that they had agreed on the arrears and a payment plan for the arrears.
42. The Respondents have made payment of all arrears owing, except where bank accounts for past employees are not known. The Respondents have paid the arrears for these employees into the trust account of the Labour Inspector. The Labour Inspector has reviewed the payments and any other evidence of compliance with the payment of the arrears.

Agreed breaches and arrears

43. For each of the 12 applications before the Authority, the Labour Inspector has sought one penalty for one breach per application. In each case the breach is a failure to comply with an improvement notice. As set out above, each Respondent accepts that it has committed this breach, in so far as at the time of each application to the Authority they had failed to calculate and pay arrears owed (if any) to each past and present employee.

44. Each of the 12 improvement notices set out specific identified breaches, as referred to above. Each Respondent accepts that none of the improvement notices were fully complied with until the full identified arrears were calculated and paid. Full payment of all arrears was completed on 22 December 2022.
45. In respect of each improvement notice there are identified and agreed arrears.
46. These arrears only reflect what was able to be calculated based on the records of the Respondents. The Labour Inspector has not established whether the records were complete or compliant in all respects and notes that the Respondents will have an ongoing obligation to repay any further arrears should they be identified in future.

The Authority's investigation

[4] It was agreed with the parties this matter would be heard "on the papers". In addition to the agreed facts and the parties' submissions, Ravinder Kumar Arora also lodged an Affirmation on behalf of the Respondents, which he described as the "Nikhil Himalaya Group of companies", setting out various circumstances and matters he wished the Authority to take into account when fixing penalties.

[5] While I have not referred to all submissions advanced by the parties during the investigation meeting, I record I have fully considered them.

The Labour Inspector's claim for penalties

[6] The Authority has jurisdiction to hear and determine an application by a Labour Inspector for recovery of penalties under the Employment Relations Act.³ The standard of proof for the imposition of a penalty by the Authority is on the balance of probabilities or, as sometimes expressed, on a more probable than not basis.

[7] As the Respondents accept that they failed to comply with the improvement notices insofar as they were required to calculate arrears of wages (if any) for affected current and former employees, this matter comes down to the level of penalties to be imposed on each.

³ Employment Relations Act 2000, s 161(m)(ii).

[8] The starting point for a penalty for a body corporate, as is the case here, is \$20,000 per breach.⁴ So, for Nikhil Himalaya Botany, against whom the Labour Inspector seeks penalties for two breaches of s 223F of the Act, the maximum penalty is available \$40,000. In relation to the Further Respondents, against whom the Labour Inspector seeks a penalty for one breach each of s 223F of the Employment Relations Act, the maximum penalty available is \$20,000.

[9] The methodology for assessing various factors relevant to the imposition of penalties is both well-known and applied below.⁵

Statutory consideration 1: objects of the Employment Relations Act

[10] The Labour Inspector said improvement notices are an important tool which require an employer who is failing or has failed to comply with minimum employment standards to do so; thereby reducing the need for judicial intervention being one of the objects of the Act. The failure to comply with an improvement notice frustrates this object because the need for such intervention has arisen. Further, the Labour Inspector said the failure to comply with an improvement notice is inconsistent with an employer's good faith obligations and compromised the Labour Inspector's ability to fully assess an employer's level of default.

[11] The Respondents raised various matters, some of which were outside the agreed summary of facts. It referred to a memorandum of understanding (MOU) entered into with various parties, not including the Labour Inspector, dealing with the payment of outstanding wages. The Respondents described this as a "compelling mitigating consideration". The Labour Inspector said the MOU pre-dates the investigation into the matters currently before the Authority and should be disregarded. I accept this submission, while contextually interesting in that it demonstrates the Respondents could, eventually, meet their legal obligations, it has no bearing the current matters before the Authority.

Statutory consideration 2: nature and extent of breaches

[12] The Labour Inspector said while there were subtle differences between the failures of the Respondents, each improvement notice addressed broadly similar issues regarding record

⁴ Employment Relations Act, s 135(2)(b).

⁵ See, *Boorsboom v Preet PVT Limited* [2016] NZEmpC 143 and the line of cases following. And as applied by the Authority in respect of a breach of an improvement notice in: *A Labour Inspector v Bombay Gymkhana Limited* [2019] NZERA 268.

keeping and payment of arrears for underpayment of minimum wages or underpayments under various sections of the Holidays Act 2003.

[13] The Labour Inspector acknowledged that some steps had been taken to comply with the improvement notices prior to proceedings being lodged in the Authority. The Respondents steps to comply took a similar form and were received at the same time. The Labour Inspector said the steps were insufficient to demonstrate outstanding arrears had been correctly calculated and paid. The Labour Inspector said approximately 18 months had elapsed between the issuing the first improvement notices and commencing proceedings and seven months had elapsed between issuing the second improvement notice to Nikhil Himalaya Botany and separately commencing proceedings against it in the Authority. The Labour Inspector also observed that arrears were still outstanding when proceeding were commenced in the Authority against the Respondents.

[14] The Labour Inspector said the nature of the breaches was serious and rectification of arrears took “a number of years” with a significant quantity of arrears payable to multiple employees. The Respondents did not disagree with the broad thrust of the Labour Inspector’s submission here but said they continued to engage with the Labour Inspector throughout the process and at no point neglected or failed to engage.

Statutory consideration 3: whether the breach was intentional, inadvertent or negligent.

[15] The Labour Inspector submitted that some steps had been taken by the Respondents to comply with the improvement notices and this was not a case of “wilful disregard”. The Labour Inspector said the failures by the Respondents in respect of the notices was probably not “deliberate” but they were at the least “negligent”. The Labour Inspector said the Respondents failure to act promptly affected a number of employees. The Respondents denied negligence and asserted “they were working in the background to resolve issues that were brought to their attention”. The Respondents also rejected any characterisation of the breaches being intentional or inadvertent and said they acted promptly but were hampered by delays occasioned by the Labour Inspector. The Labour Inspector rejected this.

Statutory consideration 4: nature and extent of any loss or damage

[16] The Labour Inspector said it took five years after it commenced its investigation into the Respondents for the arrears to be correctly calculated and paid to affected employees. While

some of the underpayments predate the improvement notices, the affected employees were denied the benefit of this money until it was paid by the Respondents. The Respondents said all arrears were now paid “so that former employees [are] now in the position that they ought to have been” and that matters would have been resolved earlier if the Labour Inspector had agreed to mediate. The Labour Inspector rejected this contention.

Statutory consideration 5: steps to mitigate the breach

[17] The Respondents said as they had engaged in good faith throughout the process, complied with the improvement notices, contracted in external services to assist with remediation and paid the arrears to affected employees, credit should be given for these actions. The Labour Inspector said limited credit could be given because the Respondents were required by law to do these things anyway. The Labour Inspector, citing a decision of the Australian Federal Circuit and Family Court in *Fair Work Ombudsman v Australian Sales and Promotion Pty Ltd*⁶, also cautioned against giving too much credit to remediation efforts so as to not create “perverse incentives”.

Statutory consideration 6: circumstances of the breach, and any vulnerability

[18] The Labour Inspector noted that most employees owed wages were migrant workers. The Respondents accepted this and acknowledged that migrant workers are inherently vulnerable.

Statutory consideration 7: previous conduct

[19] The Respondents submitted they had no conduct issues prior to the issuing of the improvement notices and consequently credit should be given for this. In his affirmation, Ravinder Kumar Arora asserted “[t]he Respondents have not previously been found by the Authority or court to have engaged in any similar conduct”.⁷ The Labour Inspector noted the court issued a decision in January 2023 related to overlapping respondents and timeframes.⁸

[20] The Labour Inspector also submitted that some of findings related to conduct prior to those matters complained about in the Authority. The Labour Inspector suggested limited credit

⁶ [2016] FCCA 2804 at [82]

⁷ Affirmation of Ravinder Kumar Arora (27 September 2022) at [49]

⁸ *A Labour Inspector v Nikhil Himalaya Point Chev Limited t/a Merchants Liquor* [2023] NZEmpC 5

could be given as some of the current respondents were not involved in the proceedings in the court.

Additional consideration 8: deterrence

[21] The Labour Inspector said that a “message of deterrence” to both the Respondents and employers generally, would be signalled by the imposition of penalties for non-compliance with an improvement notice. The Respondents submitted that having worked through a process leading to compliance with minimum standards over a period of two years and having appeared in both the Authority and the court was “sufficient deterrence in itself”.

Additional consideration 9: culpability

[22] The Respondents said the Labour Inspector had placed too much emphasis on the time it took them to comply with the improvement notices even though they were working “tirelessly” with a trusted expert on remediation efforts and in good faith with the Labour Inspector. Consequently, culpability could not be assessed as being at “a high level”. The Labour Inspector said the precise nature of the Respondent’s breaches of the improvement notices varied, but the Respondent’s response to the notices was essentially the same. Within this context, the Labour Inspector said the key focus was the failure by the Respondents to comply with the improvement notices in a timely manner. The Labour Inspector submitted this failure was an aggravating factor in each case, but this did not significantly alter the level of culpability between the Respondents. Consequently, a provisional starting point of 70% of the maximum, noting Nikhil Himalaya Botany was liable for two penalties, would be appropriate at this stage. I accept this submission.

Additional consideration 10: consistency

[23] The parties identified various determinations which demonstrated for and against their respective positions on “consistency”. The Authority is well familiar with the determinations cited and the parties can be assured that the final outcome will be consistent.

Additional consideration 11: ability to pay

[24] The Respondents provided evidence that, bar one exception: Nikhil Himalaya Point Chev Limited, they are no longer trading. However, the Labour Inspector said it is not then clear from the evidence about the ability of the “overall group of companies” to pay or not pay (modest) penalties. The Respondents, through the Affirmation of Ravinder Kumar Arora asserted there were no funds available to pay penalties and now Nikhil Himalaya Point Chev Limited has also ceased trading. On this basis, the Respondents sought a 20% discount to penalties due to financial capacity.

[25] I agree with the Labour Inspector’s submission here. The financial information is not sufficient detailed for all responding entities to make a sound finding about the ability (or inability) of the Respondents to pay penalties.

Additional consideration 12: proportionality of the outcome

[26] The Labour Inspector said having regard to all the factors considered above that an outcome, after a modest discount for proportionality, would be in the order of \$15,000 for Nikhil Himalaya Botany and \$8,000 for the Further Respondents.

[27] The Respondents approached this step quite differently. It proposed globalisation of penalties across all Respondents such that the maximum starting point was \$60,000 and after applying various discounts, the appropriate globalised penalty for all breaches by all respondents would be \$12,000.

Overall assessment of the parties’ submissions

[28] The Respondents in its submissions appeared to suggest there were deficiencies in the Labour Inspector’s investigation. First, it said there was “duplication of breaches”, which the Labour Inspector rejected based on the Respondents’ corporate structures and the complexity of the matters being investigated. Second, the Respondents appeared to suggest the Labour Inspector contributed somehow to their inability to comply with the improvement notices. This submission was also rejected by the Labour Inspector. Third, the Respondents expressed being “disappointed” that the parties did not attend mediation. The Labour Inspector said there was no prejudice to the Respondents in attending mediation and the parties worked constructively

directly to resolve matters between them. I find nothing turns on these matters such as to impact on consideration of the level of penalties to be imposed on the Respondents.

[29] Taking the submissions of the parties into account and having regard to all the circumstances of the case, it is appropriate to impose significant, but proportionate, penalties on the Nikhil Himalaya Botany and the Further Respondents. In doing so, I endorse the Labour Inspector's approach to the assessment of penalties to be imposed as being more realistic in the circumstances of this matter. In contrast, and I agree with the Labour Inspector here, the approach proposed by the Respondent globalises down the penalties to such an extent they become completely disproportionate. This simply cannot be an appropriate means by which to determine appropriate penalties to be imposed on the Respondents in this case.

Result

[30] So then, the Respondents must pay following amounts to the Labour Inspector within 28 days of this determination:

1. Nikhil Himalaya is to pay penalties of \$15,000; and
2. the Further Respondents listed in Schedule 1 of this determination are to each pay penalties of \$8,000.

Costs

[31] Costs are reserved. The parties are invited to resolve the matter between them. If they are unable to do so, the Labour Inspector has 28 days from the date of this determination in which to file and serve a memorandum on costs. The Respondents have a further 14 days in which to file and serve a memorandum in reply.

[32] The parties could expect the Authority to determine costs, if asked to do so, on its usual "daily tariff" basis unless particular circumstances or factors require an adjustment upwards or downwards.

Andrew Dallas
Chief of the Employment Relations Authority

SCHEDULE 1

NIKHIL HIMALAYA POINT CHEV LIMITED t/as Merchants Liquor (3128514)

Second Respondent

N H REMUERA LIMITED t/as The Bottle-O Remuera (3128458)

Third Respondent

NIKHIL HIMALAYA LIQUOR MERCHANTS LIMITED t/as The Bottle-O Great North Road (3128537)

Fourth Respondent

NIKHIL HIMALAYA FOREX LIMITED t/as The Bottle-O Royal Oak (3128498)

Fifth Respondent

NIKHIL HIMALAYA LIQUOR LIMITED t/as The Bottle-O Manly (3128497)

Sixth Respondent

NIKHIL HIMALAYA RETAILS LIMITED t/as The Bottle-O Gulf Harbour (3128496)

Seventh Respondent

NIKHIL HIMALAYA PARKLAND LIMITED t/as Merchants Liquor Balmoral (3128494)

Eighth Respondent

NIKHIL HIMALAYA MOUNT ALBERT LIMITED t/as The Bottle-O Mount Albert (3128475)

Ninth Respondent

NIKHIL HIMALAYA TAIHAPE LIMITED t/as The Bottle-O Taihape (3128459)

Tenth Respondent

NIKHIL HIMALAYA LIQUOR OTAKI LIMITED t/as The Bottle-O Otaki (3128434)

Eleventh Respondent