

From: Kevin Lewis [<mailto:Kevin.Lewis@asx.com.au>]
Sent: Tuesday, 6 February 2018 11:55 AM
To: Gary Morgan
Cc: Rick Holliday-Smith; Dominic Stevens; Daniel Moran; owen.rayner@asic.gov.au
Subject: RE: Gary Morgan Chairman Haoma Mining NL letter to Chairman ASX regarding reply on ASX website - 05.02.18

Dear Mr Morgan

The attached letters from you have been forwarded to me for a response.

As you know, ASX does not agree with the argument HAO has made, and continues to make in the attached letter to shareholders, about HAO having an overarching obligation to disclose information about the discovery of gold nuggets under the Corporations Act that somehow trumped its obligations under the listing rules to do so in compliance with the JORC Code. The reasons why that argument is not correct were set out clearly and comprehensively in ASX's letter to you dated 30 October 2017 (further copy attached). As you would know from your discussions with ASIC, ASIC agrees with ASX's position on this matter.

Nor does ASX agree with your claim that the undertaking it requested from HAO on 1 February 2018 was "improper and unlawful". The argument you make to support that claim is inextricably linked to the argument in the preceding paragraph, which for the reasons outlined in ASX's letter to you dated 30 October 2017 is simply not correct.

ASX does not intend to publish the attached letters from you on the Market Announcements Platform ("MAP"). MAP is for the publication of information by ASX and listed entities under the listing rules.

HAO has chosen to make HAO's position in these matters public by including them in a letter to shareholders and publishing that letter on its website, which it is free to do and which ensures that the market is fully aware of HAO's arguments in support of its position.

ASX (and its officers and employees) will not be responding to any further communications from HAO in connection with these matters. ASX does, however, reserve the right to correct any incorrect or misleading information that HAO may publish to its shareholders or on its website, or otherwise make public, about the reasons for its removal from the official list.

Regards

Kevin Lewis

Chief Compliance Officer

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ASX – heart of Australia's financial markets



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From: Gary Morgan <gary.morgan@roymorgan.com>

Date: 5 February 2018 at 5:44:17 pm AEDT

To: "rick@hollidaysmith.com.au" <rick@hollidaysmith.com.au>, "Dominic Stevens (Dominic.Stevens@asx.com.au)" <Dominic.Stevens@asx.com.au>, "owen.rayner@asic.gov.au" <owen.rayner@asic.gov.au>

Cc: Gary Morgan <gary.morgan@roymorgan.com>, Michele Levine <Michele.Levine@roymorgan.com>, Tim Ingram <Tim.Ingram@roymorgan.com>, "Hugh Morgan" <hm@firstchar.com>, Peter Cole <haoma2@bigpond.com>, "Peter Scales (Melb Uni)" <peterjs@unimelb.edu.au>, Jim Wallace <Jim.Wallace@roymorgan.com>, James Yeatman <James.Yeatman@roymorgan.com>, "Sellars-Jones, Graham" <GSellarsJones@bellpotter.com.au> (GSellarsJones@bellpotter.com.au)" <GSellarsJones@bellpotter.com.au>

Subject: Gary Morgan Chairman Haoma Mining NL letter to Chairman ASX regarding reply on ASX website - 05.02.18

Mr Rick Holliday-Smith
ASX Ltd
20 Bridge Street
Sydney NSW 2000

Cc Dominic Stevens, ASX, CEO & Managing Director
Owen Rayner, ASIC

Dear Mr Holliday-Smith,

My attached letter expresses Haoma's concern regarding today's [ASX Haoma Mining announcement](#).

<https://www.asx.com.au/asxpdf/20180205/pdf/43rbn1trcztwsz.pdf>

I have also attached my letter to Haoma's shareholders which details those concerns.

Your faithfully

Gary Morgan
Chairman
Haoma Mining NL

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Haoma Mining NL

A.B.N 12 008 676 177

Registered Office & Head Office:

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Telephone (03) 9629 6888, Facsimile (03) 9629 1250

Email: haoma@roymorgan.com Website: www.haoma.com.au

February 5, 2018

Mr R Holliday-Smith
Chairman of Directors
ASX Limited
20 Bridge Street
SYDNEY NSW 2000

Dear Mr Holliday-Smith

Haoma Mining NL (“Haoma”) and the Australian Securities Exchange Limited (“ASX”)

We note that today, as foreshadowed, the ASX posted its Market Release, Haoma Mining NL, Reasons for Removal from the ASX Official List.

The release is not balanced and omits significant facts and information necessary to properly inform investors and Haoma shareholders the reason Haoma Mining NL was removed from the official list.

In the interest of honest and transparent market announcements, the Directors of Haoma believe that ASX should also post Haoma’s response to your Market Release (a copy of which is enclosed).

Yours sincerely

Gary Morgan
CHAIRMAN
Haoma Mining NL



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February 5, 2018

To Haoma Shareholders,

ASX Ltd improper and unlawful conduct against Haoma Mining NL

Shortly after midday today the ASX published its [reasons for the removal of Haoma from the ASX official list](#).

It is ironic that in explaining why Haoma has been delisted, the ASX has finally done the only thing Haoma has been seeking: to make a public announcement about Haoma's discovery of "***flat – watermelon seed – like nuggets from conglomerates at the Comet Mine near Marble Bar***" (See paragraphs 1 and 8 of the announcement).

Attached to Haoma's announcement of February 2, 2018, [is a copy of all correspondence between Haoma and the ASX on this matter](#). We urge you to read it in full.

You will note in reading this correspondence that the ASX, on numerous occasions, demanded that Haoma delete all references to "***flat – watermelon seed – like nuggets from conglomerates at the Comet Mine near Marble Bar***" from its announcements, even as part of its '*compromise*' offers.

The Directors of Haoma considered it would be dishonest, and there would be no integrity associated with, rewriting history to pretend the discovery did not happen, or in not informing shareholders and investors of this very significant discovery.

The Directors also believed, and still believe, that this important gold discovery was information about which the market should be informed immediately, in order to avoid insider trading, and to comply with their obligations of continuous disclosure.

[Since my email to John Johansson of the ASX on October 16, 2017](#), Haoma's Directors have observed that the ASX has failed or refused to acknowledge and respond meaningfully to the real conflict between directors' continuous disclosure obligations under the Corporations Law, and the arbitrary roadblocks the ASX imposes to full and timely disclosure of important and market sensitive information.

Apparently, the ASX now considers Haoma's assertions about the discovery of "***flat – watermelon seed – like nuggets from conglomerates at the Comet Mine near Marble Bar***" to be acceptable for public release as a statement not needing to meet ASX Listing Rules.

You will also note from the correspondence between Haoma and the ASX why the ASX's assertion that "*As late as 5.00pm on 2 February 2018, HAO could have avoided its removal from the official list by giving the undertaking set out in paragraph 14 above, but it chose not to do so*" is misleading and deceitful.

In paragraphs 1(b), 1(c), and 2 of the undertaking, the ASX was demanding, under threat of delisting, that Haoma's Directors withdraw all references to, and advise investors to disregard, the discovery of the gold nuggets in October 2017.

The Directors of Haoma considered this demand to have been improper and unlawful, and informed the ASX accordingly. The ASX chose not to mention this fact.

Yours sincerely

A handwritten signature in blue ink that reads "Gary Morgan". The signature is written in a cursive, flowing style.

Gary Morgan
CHAIRMAN
Haoma Mining NL



30 October 2017

Mr Gary Morgan
Chairman of Directors
Haoma Mining NL
401 Collins Street
Melbourne VIC 3000

By email: gary.morgan@roymorgan.com

Dear Mr Morgan

Haoma Mining NL (“HAO”) – ongoing ASX enquiries

I refer to your letter today to the Chairman of ASX Limited (“ASX”) Mr Rick Holliday-Smith. Your letter has been passed on to me, in my capacity as ASX’s Chief Compliance Officer, for a response.

In your letter you state:

“Haoma’s directors considered the finding of a large number of nuggets in a Comet Mine Conglomerate formation was of significance and shareholders had to be informed. Therefore results with photos were released to the ASX on Monday October 16, 2017 – before share trading began at 10am.

To withhold [that] information would have resulted in the Directors being liable for future prosecution by ASIC and Haoma shareholders. ...

Haoma’s Directors have never and will never withhold shareholder information. We believe the ASX has no right to ask Haoma’s Directors to withhold significant information from shareholders.”

Background

The background to your letter is that on 16 October, HAO attempted to release on the ASX Market Announcements Platform (“MAP”) an announcement about the discovery of gold nuggets in the Comet Mine Conglomerate formation. ASX withheld the announcement from release for apparent non-compliance with the Listing Rules and suspended trading in HAO’s shares pending clarification of queries raised by ASX in relation to the announcement.

ASX sent an email to your company secretary on 16 October explaining the reasons for not releasing the announcement and highlighting the areas that needed to be addressed to comply with the Listing Rules.

On 18 October, HAO attempted to release a further announcement on the same matter, which ASX also withheld from release because it did not adequately address the issues identified in our 16 October email.

Having reached an apparent impasse with HAO, ASX subsequently sent a detailed query letter to HAO on 26 October about the attempted 16 and 18 October announcements, asking questions to address the areas of potential non-compliance with the Listing Rules.

The information required to be released

Contrary to the statement in your letter, ASX is **not** asking HAO to withhold information from its shareholders. Rather, ASX is asking HAO to include in its announcements on these matters the information required to be included, and that HAO's shareholders and the market are entitled to expect, under the Listing Rules, including in particular Listing Rules 5.6 and 5.7.

Listing Rule 5.6 requires a public report prepared by an entity that includes a statement of exploration results to be prepared in accordance with the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (JORC Code), including in particular, clauses 9, 10, 11, 18 and 19 of that Code. If the announcement relates to a material mining project, it must also comply with Listing Rule 5.7.

Among other things, these require the production of a 'Table 1' addressing each of the criteria in sections 1 and 2 of that table on an 'if not why not' basis and various other information about the discovery (including information about sampling techniques, logging, location of data points, discussion of geological context and planned further work). The Table 1 must be based on and fairly reflect the work of a named 'competent person'.

The requirements in Listing Rules 5.6 and 5.7 are long standing and important protections for investors and ASX takes compliance with them very seriously. They trace their roots back to the highly speculative and damaging trading that occurred in the late 60s and early 70s in Poseidon Nickel and are intended to prevent a re-occurrence.

The draft announcements that HAO attempted to release on MAP on 16 and 18 October appeared to ASX not to meet the requirements of Listing Rules 5.6 and 5.7. Given that, ASX appropriately declined to publish them to the market and suspended trading in HAO's shares.

I note that despite this, and in apparent disregard of its obligations under Listing Rule 15.7 (which requires a listed entity not to release information that is for release to the market to any person until it has received an acknowledgment from ASX that the information has been released to the market), HAO chose to put the 16 and 18 October announcements on the "Announcements" page of its website. The announcements published on HAO's website had the appearance of actual market announcements, including being addressed to ASX, but there was no reference to the fact that ASX had declined to release them to the market for non-compliance with the Listing Rules. The inappropriateness of this should be self-evident. Suffice to say, ASX directed HAO to withdraw the 16 and 18 October announcements from its website, which HAO has now done (although, as at the time of writing this letter, broken links to the announcements still appear in the list of announcements on HAO's Announcements page).

Reconciling HAO's obligation to release information immediately

The passages quoted from your letter above appear to argue that HAO is excused from compliance with Listing Rules 5.6 and 5.7 because it had an obligation under Listing Rule 3.1 to release the information included in its attempted 16 and 18 October market announcements "immediately". ASX does not agree.

The interaction between Chapter 5 and Listing Rule 3.1 is explained in section 9 of ASX Listing Rule Guidance Note 31 *Reporting on Mining Activities*. It states:

"The reporting requirements for mining activities in Chapter 5 are an adjunct to, and operate in tandem with, the reporting and disclosure requirements in Chapter 3 (continuous disclosure) and Chapter 4 (periodic disclosure) of the Listing Rules.

For example, where an entity is required to disclose market sensitive information involving mining activities to ASX under Listing Rule 3.1, the information disclosed must comply not only with that rule but also with any applicable requirements in Chapter 5.

It should be noted that information required to be disclosed under Listing Rule 3.1 must be disclosed immediately. ASX has given guidance in Guidance Note 8: Continuous Disclosure: Listing Rules 3.1 – 3.1B that:

- *“Immediately” does not mean “instantaneously”, but rather “promptly and without delay”.*
- *ASX recognises that the speed with which an entity can disclose information under Listing Rule 3.1 will vary, depending on factors such as where and when the information originated, the forewarning (if any) the entity had of the information, the amount and complexity of the information concerned, the need in some cases to verify the accuracy or bona fides of the information, and (importantly in this context):*

“the need in some cases to comply with specific legal and Listing Rule requirements, such as the requirement for an announcement that relates to mining or oil and gas activities to comply with Chapter 5 of the Listing Rules.”

- *ASX will take these factors into account, as well as whether or not the entity has promptly requested a trading halt to minimise the period that the market is trading on an uninformed basis, in assessing whether an entity has complied with its obligation to disclose information in a timely manner under Listing Rule 3.1.*

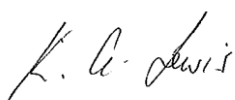
All other things being equal, ASX considers that the requirement for an entity to disclose market sensitive information about a mining activity under Listing Rule 3.1, which is also subject to the reporting requirements in Chapter 5, will generally only be triggered when the entity is in possession of all of the information that it is required to include in a market announcement about that activity under Chapter 5. Prior to it having all of that information, ASX considers that whatever market sensitive information it may have about the activity will generally be insufficiently definite to warrant disclosure. Therefore, provided the market sensitive information is and remains confidential, ASX has not formed the view that it has ceased to be confidential, and a reasonable person would not otherwise expect it to be disclosed, it will generally fall within the carve-out to immediate disclosure in Listing Rule 3.1A.

If what motivated the HAO board to attempt to release the 16 October announcement so quickly and without the information required under Listing Rules 5.6 and 5.7 was a concern that trading in HAO shares might otherwise occur on an uninformed basis, then well-known and well-tried mechanisms were available to HAO to prevent this occurring – ie requesting a trading halt or voluntary suspension to afford the time needed to make a proper and complete announcement of the information required under the Listing Rules.

As is appropriate in the circumstances, HAO will remain suspended until it provides a satisfactory response to ASX’s 26 October query letter.

Finally, I note the statement in your letter today that you intend to release copies of HAO’s correspondence with ASX on these matters. ASX will not be deterred by this from enforcing HAO’s compliance with the Listing Rules and reserves the right to release a copy of this letter to ensure the public record is complete.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Lewis', written in a cursive style.

Kevin Lewis
Chief Compliance Officer, ASX Limited