

OPT OUT AND CLAIM REGISTRATION NOTICE FEDERAL COURT OF AUSTRALIA

Vocation Limited Class Action

Whittenbury v Vocation Limited (in liq) & Anor | VID 434 of 2015

1 Why is this notice important?

This notice contains important information about the Vocation Limited Class Action proceeding which is currently before the Federal Court of Australia.

If you purchased shares in Vocation between 27 November 2013 and 4 December 2014 (inclusive), you should read this notice carefully as it may affect your ability to participate in the class action.

The Federal Court has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the action is brought and may be affected by the action. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in it that you do not understand, you should seek legal advice.

2 Key points to be aware of

If you wish to register to obtain compensation from any settlement of this proceeding you must:

- a Have already retained:
 - i Maurice Blackburn Lawyers, to act for you in writing and/or signed a funding agreement with International Litigation Funding Partners Pte Ltd (**ILFP**) in relation to this proceeding; or
 - ii Slater and Gordon Lawyers, to act for you in writing and/or signed a funding agreement with IMF Bentham Limited (**IMF**) in relation to this proceeding; **OR**
- b **Before 4.00pm on 4 March 2019** complete and submit the Vocation Limited Class Action Registration Form accessible:
 - i online at www.vocationclassaction.com.au
 - ii by calling IMF Bentham Limited on 1800 016 464 or by email at 402626@imf.com.au

If you do not wish to be involved in the class action, **before 4.00pm on 4 March 2019** you must complete and submit an opt out notice in the form available on the websites of Maurice Blackburn Lawyers and Slater and Gordon Lawyers.

If you wish to challenge the orders of the Federal Court, **before 4.00pm on 4 March 2019** you must write to Maurice Blackburn Lawyers or Slater and Gordon Lawyers stating the reasons for your challenge.

If you have not already retained Maurice Blackburn Lawyers or Slater and Gordon Lawyers and/or signed a funding agreement with ILFP or IMF and you do nothing, your rights (if any) may be determined without your participation.

3 What is a class action?

A class action is an action that is brought by one person (an **Applicant**) on his or her own behalf and on behalf of a class of people (**class members**) against another person or persons (**Respondents**) where the Applicant and the class members have similar claims against the Respondents.

Class members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the Applicant is responsible for the costs.

Class members are "bound" by the outcome in the class action, unless they have opted out of the proceeding. A binding result can happen in two ways being either a *judgment* following a trial, or a *settlement* at any time. If there is a judgment or a settlement of a class action class members *will not* be able pursue the same claims and *may not* be able to pursue similar or related claims against the Respondents in other legal proceedings. Class members should note that:

- a in a *judgment* following trial, the Court will decide various factual and legal issues in respect of the claims made by the Applicant and class members. Unless those decisions are successfully appealed they bind the Applicant, class members and the Respondents. Importantly, if there are other proceedings between a class member and the Respondents, it may be that neither of them will be permitted to raise arguments in that proceeding which are inconsistent with a factual or legal issue decided in the class action;
- b in a settlement of a class action, where the settlement provides for compensation to class members it is likely to extinguish all rights to compensation which a class member might have against the Respondents which arise in any way out of the events or transactions which are the subject-matter of the class action and may also extinguish all rights to compensation which a class member might have against the Respondents' related entities (including officers and former officers).

If you consider that you have claims against one or other of the Respondents which are based in your individual circumstances or otherwise additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action **before** the deadline for opting out (see below).

4 What is the Vocation Limited Class Action?

This class action, the Vocation Limited Class Action, is brought by the Applicant, on her own behalf and on behalf of all persons who are "class members" as defined in the proceeding.

The Applicant alleges that, among other things, Vocation Limited (the First Respondent) made misleading or deceptive statements in, and omitted information that was required to be disclosed in, its prospectus, contravened the continuous disclosure requirements of the *Corporations Act 2001* (Cth), or otherwise made statements that were misleading or deceptive, thereby causing loss to persons who acquired an interest in ordinary shares in Vocation shares during the period 27 November 2013 and 4 December 2014 (inclusive). The Applicant further alleges that PricewaterhouseCoopers (the Second Respondent) is liable to class members for loss caused by making certain statements while retained to carry out an audit of Vocation Limited's FY2014 financial report.

The allegations made by the Applicant in the class action are set out in full in the statement of claim filed in the Federal Court (see: 'Where can you obtain copies of relevant documents?' - section 9 below).

Vocation Limited and PricewaterhouseCoopers have each denied or not admitted the allegations made against them and defended the action.

Vocation Limited was placed into Liquidation on 4 January 2016. The liquidators of Vocation Limited have stated that the company holds prospectus liability policies of insurance that respond to some but not all of the claims made in the class action. Specifically, they have stated that Vocation Limited does not hold insurance policies responsive to any allegation that it breached its continuous disclosure obligations or made misleading or deceptive statements after the issue of its prospectus in November 2013. If what the liquidators have stated is correct, there may be limited ability for the Applicant and Group Members to recover from Vocation Limited in respect of some of the alleged wrongful conduct of Vocation Limited.

Vocation Limited brought a cross-claim against Johnson Winter & Slattery in relation to the continuous disclosure claims against it, but is not presently pursuing that cross-claim. PricewaterhouseCoopers has brought cross-claims against Johnson Winter & Slattery, Vocation Limited and certain former officers and directors of Vocation Limited, namely: Mark Hutchinson, Manvinder Grewal, John Dawkins, Stephen Tucker, Michelle Tredenick, and Douglas Halley (**Cross Respondents**). The allegations made by PricewaterhouseCoopers against the Cross Respondents only apply if PricewaterhouseCoopers is found to be liable for the alleged contraventions by PricewaterhouseCoopers. Certain of the Cross Respondents have also made cross claims against each other. The allegations made are set out in full in statements of claim and cross-claim filed in the Federal Court (see: 'Where can you obtain copies of relevant documents?' - see section 9 below).

5 What is 'Opt Out'?

The Applicant in a class action does not need to seek the consent of class members to commence a class action on their behalf or to identify a specific class member. However, class members can cease to be class members by opting out of the class action. An explanation of how class members are able to opt out is found below in the section headed "Option 2 - Opt out and cease to be a class member" (in section 7 below).

6 Are you a class member?

You are a class member if you:

- a** Acquired an interest in fully paid ordinary shares in Vocation Limited during the period between 27 November 2013 and 4 December 2014 (inclusive);
- b** Suffered loss or damage by reason of the conduct of the Respondents, as alleged in the Applicant's statement of claim;
- c** Are not any of the following:
 - i** A related party of Vocation Limited;
 - ii** A related body corporate of Vocation Limited;
 - iii** An associated entity of Vocation Limited;
 - iv** A director, an officer or a close associate of Vocation Limited;
 - v** John William Cruse Webster (as Trustee for the Elcar Pty Ltd Super Fund Trust) being the Plaintiff in proceedings VID 228/2017 against Vocation in the Federal Court of Australia.

If you are unsure whether or not you are a class member, you should contact:

- Maurice Blackburn Lawyers at VocationCA@mauriceblackburn.com.au or 1800 645 488; or
- Slater and Gordon Lawyers at classactions@slaterandgordon.com.au on 1800 555 777.

Alternatively, you should seek your own legal advice without delay.

7 What class members need to do

Class members have four options:

- a** register;
- b** opt out;
- c** apply to the Federal Court to vary orders regarding opt out and registration protocol; or
- d** do nothing.

There are different consequences depending on which option you choose. These options are explained below.

Option 1 - Register your interest in receiving compensation

Class members who register to participate in the class action will be bound by, and share in the benefit of, any settlement or judgment in the class action.

If you have already signed a retainer with Maurice Blackburn Lawyers or Slater and Gordon Lawyers and/or a funding agreement with ILFP or IMF in relation to this class action, you are deemed to have already registered, but are requested to provide certain information as to your purchase and/or disposal of Vocation Limited shares to Maurice Blackburn Lawyers or Slater and Gordon Lawyers if you have not already done so. The requested information is set out in orders of the Court made on 7 December 2018, and you will be contacted by Maurice Blackburn Lawyers or Slater and Gordon Lawyers to advise whether you need to provide this information to them and, if so, what information is required from you.

If you are a class member in the Vocation Limited Class Action, and have not retained Maurice Blackburn Lawyers or Slater and Gordon Lawyers and/or signed a funding agreement with ILFP or IMF **and wish to make a claim** for any loss you may have suffered by the Respondents' alleged conduct in the Vocation Class Action, you must complete the Vocation Limited Class Action Registration Form accessible:

- a** online at www.vocationclassaction.com.au; or
- b** by calling IMF Bentham Limited on 1800 016 464 or by email at 402626@imf.com.au.

If the Applicant and Respondents reach an in-principle settlement of the Vocation Limited Class Action, the settlement agreement is likely to include releases that are commonly sought in relation to the settlement of class actions. These include releases of the Respondents and their related entities (including officers and former officers) in respect of:

- a** all claims made by class members against the Respondents in the Vocation Limited Class Action;
- b** all claims class members may have against the Respondents and/or their related entities:
 - i** which are raised in the Vocation Limited Class Action;
 - ii** which were at any time the subject of the Vocation Limited Class Action or any part of the Vocation Limited Class Action; or
 - iii** which relate to the matters or issues the subject of the Vocation Limited Class Action or any part of the Vocation Limited Class Action,whether arising at common law, equity or under statute.

The effect of these will be that all group members as defined in the Vocation Limited Class Action will be bound by the settlement of that proceeding and will be prohibited from bringing a further claim against the Respondents and their related entities in relation to the same issues as are raised in the Vocation Limited Class Action.

Registration Forms must be completed before 4.00pm on 4 March 2019. Registration Forms completed after this time will not be accepted and you will be treated as having not responded to this notice (see Option 4 below).

Option 2 - Opt out and cease to be a class member

If you do not wish to remain a class member in the Vocation Limited Class Action, you must opt out of the proceeding by completing the opt out notice that is available at www.vocationclassaction.com.au.

If you opt out you will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be at liberty to bring your own claim against the Respondents, provided that you issue Court proceedings within the time limit applicable to your claim and subject to any leave required to be granted by the Court. If you wish to bring your own claim against the Respondents, you should seek your own legal advice about your claim and the applicable time limit prior to opting out.

IMPORTANT: the Opt Out Notice must reach the Court by no later than 4.00pm on 4 March 2019, otherwise it will not be effective. Opt out notices received after this time will not be accepted and you will be treated as having not responded to this notice (see Option 4 below).

Each class member seeking to opt out should fill out a separate form. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

Option 3 - Apply to the Federal Court to vary orders regarding opt out and registration protocol

If you wish to challenge the orders made by the Federal Court in relation to either Option 1 or Option 2 above, you must send a written notice to Maurice Blackburn Lawyers or Slater and Gordon Lawyers setting out the challenge you will make and the reasons for that challenge. You will be required to attend the Federal Court in Melbourne at a later date in order to have your challenge heard and decided by the Court.

Any notice challenging the Federal Court orders must be delivered to Maurice Blackburn Lawyers or Slater and Gordon Lawyers **before 4.00pm on 4 March 2019.** Any such notice received after this time will not have any effect.

Option 4 - Not respond to this Notice

If you do nothing, i.e. you do not act in accordance with Options 1, 2 or 3 above, you will remain a class member in the Vocation Limited Class Action and be bound by any judgment or settlement agreement in the proceeding. However if there is a settlement, you will not be entitled to make a claim for part of that settlement.

In other words, if you do nothing, you will lose your right to share in the proceeds of any settlement with the Respondents in relation to the matters the subject of the allegations made against the Respondents in the Vocation Limited Class Action.

If the Applicant and Respondents reach an in-principle settlement of the Vocation Limited Class Action, the settlement agreement is likely to include releases that are commonly sought in relation to the settlement of class actions. These include releases of the Respondents and their related entities (including officers and former officers) in respect of:

- a all claims made by class members against the Respondents in the Vocation Limited Class Action;
- b all claims class members may have against the Respondents and/or their related entities:
 - i which are raised in the Vocation Limited Class Action;
 - ii which were at any time the subject of the Vocation Limited Class Action or any part of the Vocation Limited Class Action; or

iii which relate to the matters or issues the subject of the Vocation Limited Class Action or any part of the Vocation Limited Class Action,

whether arising at common law, equity or under statute.

The effect of these will be that all group members as defined in the Vocation Limited Class Action will be bound by the settlement of that proceeding and will be prohibited from bringing a further claim against the Respondents and their related entities in relation to the same issues as are raised in the Vocation Limited Class Action.

8 Will you be liable for legal costs if you remain a class member?

You will **not become liable for any legal costs** simply by remaining as a class member for the determination of the common questions or by registering your interest in receiving compensation. However:

- a if the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Maurice Blackburn Lawyers, Slater and Gordon Lawyers or other lawyers to do that work for you. A copy of the terms on which Maurice Blackburn Lawyers and Slater and Gordon Lawyers are acting in this class action may be obtained from them on the numbers shown below;
- b if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Applicant in running the class action but which are not able to be recovered from the respondents. The Applicant may also seek an order that part of any compensation that becomes payable to class members who have not signed a funding agreement with ILFP or IMF is paid to ILFP or IMF in return for ILFP and IMF funding the class action.
- c class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer provided you have registered in accordance with Option 1.

9 Where can you obtain copies of relevant documents?

Copies of relevant documents, including the application, the statement of claim, the defences and the cross-claims, may be obtained by:

- a downloading them from www.vocationclassaction.com.au;
- b inspecting them, by appointment, between 9am and 5pm at one of the offices of Maurice Blackburn Lawyers or Slater and Gordon Lawyers, contact details for which are available from the web addresses above or by calling 1800 645 488 or 1800 555 777;
- c contacting a District Registry of the Federal Court (contact details are available at www.fedcourt.gov.au) and paying the appropriate inspection fee; or
- d where appropriate arrangements have been made with the Court, inspecting them on the Federal Court website at www.fedcourt.gov.au.

Please consider the above matters carefully. If there is anything of which you are unsure, you should seek your own legal advice or contact:

- Maurice Blackburn Lawyers at VocationCA@mauriceblackburn.com.au or 1800 645 488; or
- Slater and Gordon Lawyers at classactions@slaterandgordon.com.au on 1800 555 777.

You should not delay in making your decision.