



Annexure A OPT OUT NOTICE

FEDERAL COURT OF AUSTRALIA

Janlok Class Action

Kadam & Ors v MiiResorts Group 1 Pty Ltd & Ors
QUD 528 of 2016

1. Why is this notice important?

A class action has been commenced in the Federal Court of Australia by Sunanda Balkrishna Kadam, Vishal Dilip Mhetre and Abasaheb Rupnar (**Applicants**) against MiiResorts Group 1 Pty Ltd, Pearls Infrastructure Projects Limited (India), PACL Limited (India), Nirmal Singh Bhangoo, Sukhwinder Kaur, and Gurpartap Singh (**Respondents**). The Securities and Exchange Board of India (**SEBI**) (the Indian statutory regulator) and the Australian Commissioner of Taxation are interveners in the class action. This class action will be referred to in this notice as the “**Janlok Class Action**”.

SEBI has also commenced a separate but related proceeding QUD147 of 2017 which relates to some of the same matters in the Janlok Class Action (referred to in this notice as the “**SEBI Proceedings**”).

The Janlok Class Action and the SEBI Proceedings are set down to be heard and determined together on 5 February 2018.

The class action concerns the unauthorised use of funds invested with PACL Ltd for the purchase land in India. In particular, the class action concerns the transfer of some of those funds to purchase property in Australia.

The Federal Court has ordered that this notice be published for the information of persons who might be members of the class action. You have been identified as a potential class member. **You should read this notice carefully. Any questions you have about 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. What is a class action?

A class action is an action that is brought by one or more persons on their own behalf and also on behalf of a class of people (**class members**) against one or more other persons. The Applicants bring this action on behalf of the class members because they 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 Applicants are responsible for the costs.



Class members are “bound” by the outcome in the class action, unless they have opted out of the proceeding. Class members may be bound in two ways. First, if there is a *judgment* following a trial. Second if there is a *settlement* at any time.

If there is a judgment or a settlement of a class action class members *will not* be able to pursue the same claims and *may not* be able to pursue similar or related claims against the Respondents.

If you consider that you have an individual claim against one or more of the Respondents (which is different to the claim described in the Janlok Class Action) or an additional claim to the claim described in the class action, you should seek independent legal advice about the effects of the class action **before** the deadline for opting out (see below).

3. What is this class action?

The Janlok Class Action is brought by each of the Applicants Sunanda Balkrishna Kadam, Vishal Dilip Mhetre and Abasaheb Rupnar on their own behalf and on behalf of all persons who are class members as defined in the proceeding.

The Applicants’ allegations are set out in the Amended Statement of Claim in Federal Court Proceeding QUD528 of 2016. They allege that from about 1994 to 2014, Nirmal Singh Bhangoo (**Bhangoo**) operated an unregistered collective investment scheme that purported to be a legitimate investment scheme whereby PACL Ltd was purchasing and redeveloping land across India and offering plots of lands to investors across India. The Applicants allege that the scheme was fraudulent.

Of the money received by PACL Ltd, approximately 133 million Australian dollars was transferred by PACL Ltd to Pearls Infrastructure Projects Ltd (**PIPL**) in India, which was then transferred onwards to bank accounts in Australia where it was used for unauthorised purposes.

The Applicants claim that these transfers were made as part of the fraudulent scheme, or alternatively that the money was used for improper, unauthorised purposes. The Applicants claims that they and class members suffered the loss of the funds they invested with PACL Ltd as a result of the Respondents’ conduct and claim that they and class members are therefore entitled to have those funds returned. The Respondents deny the allegations and are defending the class action. SEBI and the Australian Commissioner of Taxation are interveners in the class action.

Other related proceeding brought by SEBI

In March 2017, the Securities and Exchange Board of India (**SEBI**) commenced the SEBI Proceedings. The Janlok Class Action and the SEBI Proceedings are separate but related proceedings, which are scheduled to be heard together at a preliminary trial on 5 February 2017. SEBI is also an intervener in the Janlok Class Action.

SEBI contends that it acts on behalf of all of the approximately 58.5 million Indian investors in

PACL Ltd and related companies (including the class of investors in the Janlok Class Action) and that it has commenced the proceedings to collect all of the funds transferred from PACL



Ltd to Australia (including the proceeds from the sale of any assets purchased with those funds) for distribution to the investors.

The Applicants contend that SEBI does not have standing to bring the SEBI Proceeding. The issue of SEBI's standing is currently before the Court for determination in both the Janlok Class Action and the SEBI Proceeding. You can obtain copies of court documents relating to the SEBI Proceeding by contacting a District Registry of the Federal Court (contact details are available at www.fedcourt.gov.au) and paying the appropriate inspection fee.

4. What is Opt Out?

The Applicants in a class action do 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 "How can you opt out of the proceeding?"

5. Are you a class member?

You are a class member if you are currently a member of Janlok Prathishtan of Pune, India and you were also a member at 13 July 2016, or if you executed a conditional costs agreement with Shine Lawyers in relation to these proceedings prior to 13 July 2016.

If you are unsure whether or not you are a class member, you should contact Shine Lawyers (whose contact details are set out below), or seek your own legal advice without delay.

6. 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 in the Janlok Class Action for the determination by the Court of those questions that are common to the claims of the Applicants and the class members. However if your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Shine lawyers or other lawyers to do that work for you. Contact Shine Lawyers if you want further details about this.

If any money 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 money be used to help pay a share of the costs which are incurred by the Applicants in running the class action but which are not able to be recovered from the Respondents. Class actions are often settled out of court. If this occurs, you may be able to claim from the settlement amount without retaining a lawyer.

7. What will happen if you choose to remain a class member?

Unless you opt out, you will be bound by any settlement or judgment of the Janlok Class Action. If the class action is successful you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicants and class members, although you may have to satisfy certain conditions to share in the benefit. If the action is unsuccessful or is not as successful as you might have wished, you will not be able to pursue the same claims



and may not be able to pursue related claims against the Respondents in other legal proceedings.

8. What class members need to do

a. How can you remain a class member?

If you wish to remain a class member there is **nothing you need do** at the present time. The Applicants will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Applicants and the class members. You can contact Shine Lawyers, on the number below if you want to register and receive future notices about the class action.

b. How can you opt out of the class action?

If you do not wish to remain a class member you must opt out of the class action. If you opt out you will not be bound by or receive a share in the benefit of any order, judgment or settlement in the class action but for so long as the SEBI Proceeding continues, SEBI contends that it will continue to represent the interests of all Indian investors in that proceeding, including your interests. Aspects of both proceedings are to be heard by the Court in February 2018.

If you choose to opt out of the Janlok Class Action, you may bring your own claim against the Respondents provided that you issue Court proceedings within the time limit applicable to your claim. 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.

If you wish to opt out of the class action you **must** do so by completing a “**Notice of opting out by a class member**” in the form shown below (Form 21 of the Court’s approved forms), and then return it to the Registrar of the Federal Court of Australia at the address on the form. **IMPORTANT: the Notice must reach the Registrar by no later than 4:30pm on 22 November 2017** otherwise it will not be effective.

You should submit the *Notice of opting out by a class member* if:

- (i) you qualify as a class member and you wish to opt out of the class action; or
- (ii) you believe that you have been incorrectly identified as a class member, because you do not meet the criteria set out in the section headed “Are you a class member” above.

Each class member seeking to opt out should fill out a separate form.

9. Limitation Period

Limitation periods are set by statute. If a person with an entitlement to claim does not commence legal proceedings by the time a limitation period expires, they may be barred from making a claim.

The commencement of this class action suspended the limitation periods for all class members who have not opted out. Time starts to run again once a person opts out of the class action. If you opt out of the class action and the statutory time limit on your claim expires, or



is found to have already expired because you are no longer covered by the class action, you will be barred from bringing proceedings against the Respondents.

Again, we remind you that so long as the SEBI Proceeding continues, SEBI contends that it will continue to represent the interests of all of the Indian investors in that proceeding, including your interests. If you wish to bring your own claim against the Respondents in Court, you should seek your own legal advice about your claim and the applicable time limit **prior** to opting out.

10. Where can you obtain copies of relevant documents?

Relevant documents are filed in both the class action and the SEBI Proceeding. Copies of these relevant documents, including the Amended Originating Application in the Janlok Class Action, the Originating Application in the SEBI Proceeding, the Amended Statement of Claim in the Janlok Class Action, the Statement of Claim in the SEBI Proceeding, the defence filed by MiiResorts Group 1 Pty Ltd, SEBI's reply to the defence filed by MiiResorts Group 1 Pty Ltd, and the defence filed by Sukhwinder Kaur, and Gurpartap Singh, may be obtained by:

- (a) downloading them from the website of Shine Lawyers at the URL:
<https://www.shine.com.au/service/class-actions/pearls-ponzi-scheme/>; or
- (b) inspecting them, by appointment, between 9.00am and 5.00pm at **Office No. 40, Chourang Smitshilp, Manjari Road, Mahadev Nagar, Hadpsar, Pune 412 307**, details for which are available by calling **020-65 272 737**.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact the Applicants' lawyers, Shine Lawyers, through their website at <https://www.shine.com.au/service/class-actions/pearls-ponzi-scheme/> or by calling **+61 7 3837 8415** or seek your own legal advice. You should not delay in making your decision.



Form 21
Rule 9.34

Opt out notice

No. QUD528 of 2016

Federal Court of Australia
District Registry: Queensland
Division: General

Sunanda Balkrishna Kadam and others
Applicants

MiiResorts Group 1 Pty Ltd and others
Respondents

To: The Registrar
Federal Court of Australia
Queensland District Registry
Harry Gibbs Commonwealth Law Courts Building
119 North Quay (cnr Tank Street)
Brisbane 4000

Name of class member:....., a class member in this class action, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that Name of class member:..... is opting out of the class action.

Date:.....

Signed:.....

Name:

Capacity: [eg class member or lawyer for class member]

Filed on behalf of (name & role of party)

Prepared by (name of person/lawyer)

Law firm (if applicable)

Tel Fax

Email

Address for service

(include state and postcode)

[Version 2 form approved 9/10/13]