Federal Court of Australia

District Registry: Victoria

Division: General No: VID182/2018

PARESHKUMAR DAVARIA and others named in the schedule
Applicant

7-ELEVEN STORES PTY LIMITED (ACN 005 299 427) and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE O'CALLAGHAN

DATE OF ORDER: 31 March 2022

WHERE MADE: Sydney

THE COURT NOTES THAT:

1. Pursuant to section 33ZB of the *Federal Court of Australia Act 1976* (Cth) (the **FCA Act**), the persons affected and bound by these orders are:

    a. the Applicants;

    b. any group member in the proceeding that has not opted out of the proceeding (**Group Members**);

    c. Stewart Alan Levitt trading as **Levitt Robinson** (solicitors for the Applicants);

    d. **Galactic** Seven Eleven Litigation Holdings LLC (the litigation funder); and

    e. **7-Eleven** Stores Pty Ltd (ACN 005 299 427, the First Respondent).

2. This proceeding and proceeding VID180/2018 have settled on the terms set out in the Class Action Settlement Deed dated 4 August 2021 between:

    a. the Applicants in proceeding VID180/2018 (Davaria Pty Ltd and Kaizenworld Pty Ltd), on their own behalf and on behalf of the group members in that proceeding, and the Applicants in this proceeding VID182/2018 (Mr Pareshkumar Davaria, Ms Khushbu Pareshkumar Davaria, Mr Jatinder Pal

Singh, and Ms Suman Meet Kaur) on their own behalf and on behalf of the Group Members in this proceeding;

b. Levitt Robinson;

c. Galactic; and

d. 7-Eleven.

THE COURT ORDERS THAT:

Approval of the settlement

1. Pursuant to sections 33V and 33ZF of the FCA Act that the settlement of this proceeding as against 7-Eleven be approved on the terms set out in:

   a. the Class Action Settlement Deed dated 4 August 2021 between:

      i. the Applicants in proceeding VID180/2018 (Davaria Pty Ltd and Kaizenworld Pty Ltd), on their own behalf and on behalf of the group members in that proceeding, and their directors/shareholders (Mr Pareshkumar Davaria, Ms Khushbu Pareshkumar Davaria, Mr Jatinder Pal Singh, and Ms Suman Meet Kaur) on their own behalf and on behalf of the Group Members in this proceeding VID182/2018;

      ii. Levitt Robinson;

      iii. Galactic; and

      iv. 7-Eleven; and

   b. The **Settlement Scheme** annexed to these orders.

Administration of the settlement scheme

2. Steven Nicols of the accounting firm Nicols & Brien be appointed as the Administrator of the Settlement Scheme.

Payment of the settlement sums

3. 7-Eleven to pay the **Settlement Sum** of $98,000,000 to a trust account nominated by the Administrator within 14 days of the date on which:

a. the appeal period in respect of paragraph 1 of these orders (**Approval Order**) has expired without any appeal or application for leave to appeal having been filed; or

b. any orders from an appeal from the Approval Order have been Finally Approved.

In this order, "**Finally Approved**" means that an application for leave to appeal or an appeal from the Approval Order has been filed and the ultimate outcome of that appeal (including any subsequent appeal or application for leave to appeal) is that the Approval Order is upheld or an order materially similar or substantially equivalent to the Approval Order is made.

Security for costs

4. The security for 7-Eleven's costs and any interest thereon held in the Federal Court's high-interest bearing account be paid to Levitt Robinson's trust account, to be returned to Galactic, and the Registry is so directed.

Confidentiality orders

5. In addition to Order 1 of the Court made on 15 February 2022, pursuant to ss 37AF(1)(b) and 37AG(1)(a) of the FCA Act, until further order of the Court, in order to prevent prejudice to the proper administration of justice, the documents in the Consolidated Confidentiality Schedule as Annexure A to these orders be treated as confidential, not be published or made available and not be disclosed to any person or entity except as permitted by the relevant party identified with respect to the relevant document as set out in the Consolidated Confidentiality Schedule or by order of the Court.

Costs orders

6. There be no order as to the costs of the proceeding as between the Applicants and 7-Eleven.

7. All existing costs orders in favour of the Applicants as against 7-Eleven, or in favour of 7-Eleven as against the Applicants, be vacated.

Consequential orders

8. Pursuant to section 33ZF of the FCA Act or otherwise, the Applicants be authorised *nunc pro tunc* on behalf of the Group Members bound by these orders to enter into and to give effect to the Class Action Settlement Deed and the obligations, rights, releases and transactions contemplated in it for and on behalf of those Group Members.
9. All existing undertakings (save for confidentiality undertakings provided in respect of the production of documents under subpoena) be discharged.
10. The further hearing of this proceeding be adjourned to 9.30am on 22 April 2022.
11. Liberty to apply.

Date that entry is stamped: 1 April 2022

Registrar

Annexure - Settlement Scheme

FEDERAL COURT OF AUSTRALIA

DAVARIA PTY LIMITED & ANOR
v
7-ELEVEN STORES PTY LTD & ANOR
(VID180/2018)

PARESHKUMAR DAVARIA & ORS
v
7-ELEVEN STORES PTY LTD
(VID182/2018)

7-ELEVEN CLASS ACTION SETTLEMENT SCHEME

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SETTLEMENT SCHEME

A. Introduction

1 On 4 August 2021, the Applicants and 7-Eleven entered into a Deed (**Settlement Deed**) to settle the *Davaria Pty Ltd & Anor v 7-Eleven Stores Pty Ltd & Anor* (**VID180 Proceeding**) and *Pareshkumar Davaria & Ors v 7-Eleven Stores Pty Ltd* (**VID182 Proceeding**) class action proceedings (**Class Actions**) commenced in the Federal Court (**Court**).

2 The Class Actions were settled for $98,000,000 (ninety-eight million dollars) (**Settlement Sum**), subject to the Court approving the settlement.

3 This document (**Settlement Scheme**) provides a scheme for the distribution of the Settlement Sum, which is to be paid by 7-Eleven Stores Pty Ltd (**7-Eleven**).

4 This Settlement Scheme should be read with:

(a) the orders made by the Court on 31 March 2022 and the Settlement Confirmation Notice referred to later in this document; and

(b) the confidential Settlement Deed.

5 On 31 March 2022, the Court approved the Settlement Deed, the Settlement Sum and the Settlement Scheme (**Approval Orders**).

5A. The Court is yet to make orders as to the distribution of the Settlement Sum pursuant to section 33V(2) of the *Federal Court of Australia Act 1976* (Cth) (**Distribution Orders**).

B. Group Members

6 The Approval Orders, and once made, the Distribution Orders, bind all group members in the Class Actions.

7 The group members in the VID180 Proceeding are all persons who:

(a) have not opted out of that proceeding;

(b) who at any time between 21 February 2012 and 20 February 2018 (**Relevant Period**) were or commenced to be franchisee parties (**Franchisees**) to a standard-form franchise agreement (**Franchise Agreement**) with 7-Eleven; and

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(c) who are not as at the Registration Deadline (referred to in clause 14 below), in the case of corporate group members, deregistered,

(**VID180 Group Members**).

8 The group members in the VID182 Proceeding are all persons who have not opted out of that proceeding, and:

(a) were or commenced to be the Nominated Directors identified in a Franchise Agreement with 7-Eleven at any time during the Relevant Period (**Nominated Directors**); or

(b) who provided indemnities, guarantees, mortgages or other securities (**Guarantees**) in respect of a Franchisee's obligations under a Franchise Agreement or an ANZ Bank loan contract (**Bank Loan Contract**) entered into by a Franchisee and which guarantee was extant during the Relevant Period (**Guarantors**),

(**VID182 Group Members**).

9 The VID180 Group Members and VID182 Group Members will be referred collectively to as "**Group Members**" in this Settlement Scheme, and individually as a "**Group Member**".

C. Eligible Group Members

10 Separately from the release given on their behalf in the Settlement Deed, some Group Members have entered, or may in the future enter, into deeds with 7-Eleven containing releases or covenants not to sue (**Releases**). Pursuant to the Releases, those Group Members may have already released, or will release, 7-Eleven from some or all of the claims made against 7-Eleven in the Class Actions (**Claims**).

11 A Group Member who has entered, or by the date of their Final Certificate of Loss (defined in clause 96 below) enters, into a Release with 7-Eleven will not be entitled to any compensation under the Settlement Scheme unless that Release is determined by an independent Senior Counsel appointed for the Settlement Scheme (**Independent Counsel**) to not preclude the Group Member from making a claim under the Scheme (**Ineffective Release**). The determination by the Independent Counsel does not bind 7-Eleven and will not prevent 7-Eleven from relying on the Releases in respect of any claims made by Group Members that are not covered under the Settlement Scheme.

12 All Group Members who have:

(a) registered for the Settlement Scheme in accordance with clauses 15 to 17 below; and

(b) not entered into a Release, or who have entered into a Release that is determined to be an Ineffective Release under clause 11,

are collectively referred to as **Eligible Group Members** (and individually as an **Eligible Group Member**) in this Settlement Scheme.

D. Registration of Group Members

13 Group Members must register their claims by a registration deadline in accordance with clauses 15 to 17 below in order to have their claims considered for compensation under the Settlement Scheme.

14 For the purposes of clauses 13 and 15, the registration deadline is 45 (forty-five) days after the issue of the Settlement Confirmation Notice in accordance with clauses 61 and 62 (**Registration Deadline**).

15 Any Eligible Group Member who wishes to lodge a claim in the Settlement Scheme must register by:

(a) completing the form under the heading "Registration Form" in **Annexure B** to this Settlement Scheme (**Registration Form**) and returning it to the Administrator, by the Registration Deadline together with the available supporting documentation requested in the Registration Form; or

(b) completing and submitting the Registration Form available on a website under the control of the Administrator by the Registration Deadline together with the available supporting documentation requested in the Registration Form; or

(c) otherwise registering with the Administrator and providing to the Administrator by the Registration Deadline the information requested in the Registration Form together with the available supporting documentation requested in the Registration Form.

16 For the purposes of clause 15:

(a) a VID180 Group Member or VID182 Group Member who, in the reasonable opinion of the Administrator, has:

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(i) previously provided Levitt Robinson with a loss and damage form for the purposes of the mediation of the Class Actions (**Mediation Loss and Damage Form**) and whose names are listed in Annexure A to the Settlement Deed; or

(ii) provided to Levitt Robinson substantially the same information for each question as is requested in the Registration Form or Mediation Loss and Damage Form,

is not required to take any further steps (unless reasonably requested by the Administrator) in order to effect its, his or her registration, and will be taken to have been duly registered for the purposes of this Settlement Scheme; and

(b) a Group Member will not be excluded from registration only because the person is unable to provide or substantiate some of the information or documents requested in the Registration Form, provided that the person uses all reasonable endeavours to provide as much information as they are able and that information provides a reasonable basis to fairly assess the claim made by the Group Member.

17 In the event that the Administrator, or any person appointed by the Administrator under this Settlement Scheme, is unable to verify whether a person who seeks to register for the Settlement Scheme is an Eligible Group Member, or unable to assess or estimate their entitlements under this Settlement Scheme due to lack of supporting documents or information, the Administrator may request information and documents for those purposes from 7-Eleven pursuant to clause 70 of the Settlement Scheme and clause 6.7 of the Settlement Deed. If such a request is made, then the associated costs (which includes costs payable to 7-Eleven pursuant to clause 71 of the Settlement Scheme and clause 6.8 of the Settlement Deed) must be deducted from the Settlement Sum and may be deducted from that Group Member's entitlements under this Settlement Scheme in such amount and in such proportion as the Administrator reasonably determines.

E. OVERVIEW OF THE SETTLEMENT SCHEME

I. The Settlement Sum

18 The total amount to be paid by 7-Eleven in settlement of the Class Actions, being the Settlement Sum, is $98 million inclusive of costs.

19 The Settlement Sum may include a sum to be paid to each of Davaria Pty Ltd and Kaizenworld Pty Ltd (**VID180 Lead Applicants**) and Pareshkumar Davaria, Khushbu Davaria, Jatinder Pal Singh and Suman Meet Kaur (**VID182 Lead Applicants**), each of whom is a "**Lead Applicant**", provided those payments are the subject of a Distribution Order (**Lead Applicants' Payments**).

20 Subject to the making of the Approval Orders, Steven Nicols of the accounting firm Nicols & Brien (**Nicols & Brien**), will be appointed as the person responsible for administering the Settlement Scheme (**Administrator**).

II. Allocation of the Settlement Sum

21 Allocation of the Settlement Sum pursuant to the Settlement Scheme and the making of any Lead Applicants' Payments is subject to the Court making the:

(a) Approval Orders, pursuant to section 33V(1) of the *Federal Court of Australia Act 1976* (Cth) (**Act**); and

(b) Distribution Orders, pursuant to section 33V(2) of the Act.

22 Subject to the making of the Distribution Orders, the allocation of the Settlement Sum will proceed as follows, in such order as to be determined by the Court:

(a) the Administrator will distribute and publish a Settlement Confirmation Notice in accordance with clause 61 below which will notify Group Members that the settlement has been approved by the Court;

(b) the Funder, being Galactic Seven Eleven Litigation Holdings LLC, being paid a sum as the Funder's commission in an amount approved by the Court;

(c) each of the Lead Applicants may be paid a sum, being the Lead Applicants' Payments, as a reimbursement for the significant time expended by them in the course of the Class Actions, in an amount approved by the Court;

(d) the Applicants' legal costs and disbursements for the Class Actions, the approval of the Settlement and the administration of the Settlement, will be paid out of the Settlement Sum as follows:

(i) costs and disbursements paid by Galactic on behalf of the Applicants in respect of the proceedings be reimbursed to Galactic in an amount approved by the Court; and

(ii) costs and disbursements incurred in connection with the Approval Orders and the Distribution Orders, including the costs of the Contradictor and Mr McGing, in an amount approved by the Court;

(e) Levitt Robinson's costs and expenses to be incurred in assisting in the Administration of this Settlement Scheme will be paid up to an amount approved by the Court, subject to clause 66;

(f) the Administrator's costs and expenses to be incurred in the Administration of this Settlement Scheme will be paid up to an amount approved by the Court.

23 After the Distribution Orders and the deductions referred to above, the estimated sum available for distribution to Eligible Group Members (**Estimated Net Settlement Sum**) will be calculated. Once all allowable deductions have been calculated and paid in full (in accordance with the terms of the Settlement Scheme), the amount available to distribution of Eligible Group Members will be the "**Net Settlement Distribution Fund**".

24 The Net Settlement Distribution Fund will be distributed to Eligible Group Members, in accordance with the terms of this Settlement Scheme, as follows:

(a) Between sixty percent (60%) and eighty percent (80%), with such figure to be the subject of determination by the Court prior to distribution, of the Net Settlement Distribution Fund (**VID180 Settlement Sum**), will be distributed to Eligible Group Members in the VID180 Proceeding (**Eligible VID180 Group Members**); and

(b) Between forty percent (40%) and twenty percent (20%), with such figure to be the subject of determination by the Court prior to distribution, of the Net Settlement Distribution Fund (**VID182 Settlement Sum**) will be distributed to Eligible Group Members in the VID182 Proceeding (**Eligible VID182 Group Members**); and

(c) in the event that the total of the weighted claims made by Eligible VID182 Group Members described in clauses 36, 37 and 38 is less than the VID182 Settlement Sum, then the balance will be applied to the VID180 Settlement Sum.

III. Allocation to Eligible VID180 Group Members

25 The VID180 Settlement Sum will be distributed to Eligible VID180 Group Members having regard to the following claims that were or could have been made by those Group Members:

(a) Claims made in respect of monies lost in relation to the costs of acquiring a franchise (**VID180 Loss Claims**); and

(b) Claims that 7-Eleven failed (and was obliged) to account to Franchisees for rebates received by 7-Eleven from merchandise vendors, which rebates could only be allocated to certain marketing and other costs, and otherwise were to be applied to reduce the cost of goods purchased by Franchisees (**Rebates Claims**).

26 As to those claims:

(a) Between twenty percent (20%) and ten percent (10%), with such figure to be the subject of determination by the Court prior to distribution, of the VID180 Settlement Sum (**VID180 Rebates Claims Settlement Sum**) will be distributed to all Eligible VID180 Group Members in relation to Rebates Claims on a pro rata basis, in accordance with the approach set out further below; and

(b) Between eighty percent (80%) and ninety percent (90%), with such figure to be the subject of determination by the Court prior to distribution, of the VID180 Settlement Sum (**VID180 Loss Claims Settlement Sum**) will be distributed to all Eligible VID180 Group Members in relation to VID180 Loss Claims on a pro rata basis, in accordance with the approach set out further below; and

(c) in the event that the total of the weighted claims made by Eligible VID180 Group Members described in clauses 29, 30 and 31 is less than the VID180 Loss Claims Settlement Sum, then the balance will be applied to the VID180 Rebates Claims Settlement Sum.

27 Different relative weightings will be applied in the Settlement Scheme to the VID180 Loss Claims of all Eligible VID180 Group Members, having regard to:

(a) the date when the Franchisee entered into their Franchise Agreement to acquire their franchise; and

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(b) the date when the Franchisee sold or disposed of the franchise (if they have sold or disposed of it).

28 These weightings are to be applied because it is considered that the strength of each Eligible Group Member's VID180 Loss Claims is affected by:

(a) the date when a Franchise Agreement was entered into; and

(b) when the Franchisee sold or disposed of the goodwill associated with their franchises (if they have been sold or disposed of).

29 A relative weighting of 100% will be applied to VID180 Loss Claims for Eligible VID180 Group Members whose Franchise Agreement was entered into on or after 21 February 2012, and the franchise:

(a) was sold or disposed of after 1 October 2015; or

(b) is still retained by the Eligible Group Member.

30 A relative weighting of between 33.3% and 50%, with such figure to be the subject of determination by the Court prior to distribution, will be applied to VID180 Loss Claims for Eligible VID180 Group Members whose Franchise Agreement was entered into before 21 February 2012, and the franchise:

(a) was sold or disposed of after 1 October 2015; or

(b) is still retained by the Eligible Group Member.

31 A relative weighting of between zero and 100%, with such figure to be the subject of determination by the Court prior to distribution, will be applied to VID180 Loss Claims for Eligible VID180 Group Members whose Franchise Agreement was entered into on or after 21 February 2012, and the franchise was sold or disposed of before 1 October 2015.

32 A relative weighting of zero (0) will be applied to VID180 Loss Claims for Eligible VID180 Group Members whose Franchise Agreement:

(a) was entered into before 21 February 2012, and the franchise was sold or disposed of before 1 October 2015; or

(b) was entered into after 1 October 2015.

33 Once all VID180 Loss Claims have been assessed with the above weightings applied to them, distributions will be made to VID180 Group Members on a pro rata basis from the VID180 Loss Claims Settlement Sum in accordance with the terms of this Settlement Scheme. As noted in clause 26, in the event that the

total of the weighted claims made by Eligible VID180 Group Members in clauses 29, 30 and 31 is less than the VID180 Loss Claims Settlement Sum, then the balance will be applied to the VID180 Rebates Claims Settlement Sum.

IV. Allocation to Eligible VID182 Group Members

34 The VID182 Settlement Sum will be distributed to Eligible VID182 Group Members upon an assessment of the Claims made by those Group Members (**VID182 Claims**), having regard to:

(a) the hours the Eligible VID182 Group Member spent in operating the relevant 7-Eleven store(s);

(b) the payment they received for those hours of work; and

(c) what additional monies the Eligible VID182 Group Member might have been able to earn rather than devoting their time to operating the relevant 7-Eleven store(s).

35 As with VID180 Loss Claims, different relative weightings will be applied to VID182 Claims having regard to:

(a) the date when Eligible VID182 Group Members became Nominated Directors or Guarantors under a Franchise Agreement, or became Guarantors under a Bank Loan Contract; and

(b) the date when the relevant Franchisee sold or disposed of the franchise(s) (or if the Franchisee still retains the franchise(s)).

36 A relative weighting of 100% will be applied to the VID182 Claims made by Eligible VID182 Group Members who became Nominated Directors or Guarantors under a Franchise Agreement entered on or after 21 February 2012, or who became Guarantors under a Bank Loan Contract on or after 21 February 2012, and where either:

(a) the 7-Eleven store franchise the subject of that Franchise Agreement was sold or disposed of after 1 October 2015; or

(b) the Franchisee still retains that franchise.

37 A relative weighting of between 33.3% and 50%, with such figure to be the subject of determination by the Court prior to distribution, will be applied to the VID182 Claims made by Eligible VID182 Group Members who became Nominated Directors or Guarantors under a Franchise Agreement entered before 21

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February 2012, or who became Guarantors under a Bank Loan Contract before 21 February 2012, and where either:

(a) the 7-Eleven store franchise the subject of that Franchise Agreement was sold or disposed of after 1 October 2015; or

(b) the Franchisee still retains that franchise.

38 A relative weighting of between zero and 100%, with such figure to be the subject of determination by the Court prior to distribution, will be applied to the VID182 Claims made by Eligible VID182 Group Members who became Nominated Directors or Guarantors under a Franchise Agreement entered on or after 21 February 2012, or who became Guarantors under a Bank Loan Contract on or after 21 February 2012, and where the 7-Eleven store franchise the subject of that Franchise Agreement was disposed of before 1 October 2015.

39 A relative weighting of zero (0) will be applied to the VID182 Claims made by Eligible VID182 Group Members:

(a) who became Nominated Directors or Guarantors under a Franchise Agreement entered before 21 February 2012, or who became Guarantors under a Bank Loan Contract before 21 February 2012, and where the 7-Eleven store franchise the subject of that Franchise Agreement was disposed of before 1 October 2015; or

(b) who became Nominated Directors or Guarantors under a Franchise Agreement that was entered into after 1 October 2015, or who became Guarantors under a Bank Loan Contract after 1 October 2015.

40 Once all VID182 Claims have been assessed with the above weightings applied to them, distributions will be made to Eligible VID182 Group Members on a pro rata basis from the VID182 Settlement Sum, in accordance with the terms of this Settlement Scheme. As noted in clause 24, in the event that the total of the weighted claims made by Eligible VID182 Group Members described in clauses 36, 37 and 38 is less than the VID182 Settlement Sum, then the balance will be applied to the VID180 Settlement Sum.

V. Calculation of VID180 Loss Claims of Eligible VID180 Group Members

41 For those Eligible VID180 Group Members with claims of the type described in clauses 29, 30 and 31, the loss they have suffered (**VID180 Loss Claim**

Amount) will be calculated by an accountant (**Accountant**) appointed by the Administrator under this Settlement Scheme as follows:

(a) For Eligible VID180 Group Members who still retain their store:

(Total Acquisition Cost – True Value of the Store – Current Store Value – Net Profits – Loan Write-offs) x the applicable weighting

(b) For VID180 Group Members who no longer retain their store:

(Total Acquisition Cost – True Value of Store – Disposal Amount – Net Profits – Loan Write-offs) x the applicable weighting

Where:

"**Total Acquisition Cost**" = Goodwill value paid for store + franchise fee paid (not including GST) + stock value paid upon acquisition of the franchise + any simple interest on those sums at Court rates as determined by the Accountant;

"**True Value of the Store**" means the figure calculated by the Accountant in accordance with clause 42;

"**Current Store Value**" means the EBITDA (as defined in clause 42 below) for FY2021 multiplied by an earnings capitalisation number of 3.5;

"**Net Profits**" means the profit made by the Eligible VID180 Group Member in operating the store(s), assessed by the Accountant having regard to all available information;

"**Disposal Amount**" means any Goodwill price + any compensation (in whatsoever form) plus ex gratia payments, not including GST, received for, or in relation to, the sale, transfer or closure of the store + stock value;

"**Loan Write-offs**" means any amount of principal on a loan to fund the acquisition of a franchise that has been written off or forgiven by the lender; and

"**the applicable weighting**" means the weighting that is to be applied as identified in clauses 29, 30 and 31 (as the case may be).

42 For the purposes of clause 41, the True Value of the Store will be calculated by the Accountant as follows:

(a) the goodwill value of the Eligible VID180 Group Member's 7-Eleven store(s) as at the date of acquisition will be calculated by the Accountant on the basis of normalised earnings (net income) before interest, tax, depreciation

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and amortisation (**EBITDA**) multiplied by an earnings capitalisation number of 3.5, having regard to:

(i) the available **Store Financials**, being the income and expense statements for that store prepared by 7-Eleven, for that store for the three (3) financial years immediately prior to the date of acquisition of the store, or, if none of those statements are available, then the income and expense statements prepared by 7-Eleven for the first year of operation of the 7-Eleven store following acquisition; and

(ii) the actual figures for payroll and superannuation for the relevant the financial year(s) will be removed from the Store Financials and replaced with an assumed payroll and assumed superannuation figure (**Assumed Payroll**), calculated by a remuneration expert appointed under this Settlement Scheme (**Remuneration Expert**) based on:

(A) an average hourly award rate derived from the Award(s) applicable in the State in which that store is (or was) located that is applicable to that type of store (fuel or non-fuel) for each year that the store was operated by the Eligible VID180 Group Member (**Average Hourly Award Wage**); and

(B) the total working hours required to operate a store being 205 hours per week.

43 For those Eligible VID180 Group Members with claims of the type described in clause 32, their VID180 Loss Claim Amount will be calculated as Nil.

VI. Calculation of Rebates Claims of Eligible VID180 Group Members

44 The amount of each Eligible VID180 Group Member's Rebates Claim (**Rebates Claim Amount**) will be calculated in respect of each 7-Eleven store that traded during the period 21 February 2012 to 20 February 2018 as follows:

VID180 Rebates Claims Settlement Sum x Net Cost of Sales of Store / Total Net Cost of Sales

Where:

"**VID180 Rebates Claims Settlement Sum**" is defined in clause 26(a) above;

"**Net Cost of Sales of Store**" means the total value of all Net Cost of Sales incurred for a store operated by an Eligible VID180 Group Member during the

period 21 February 2012 to 30 June 2021 as derived from the Store Financials for that store; and

"**Total Net Cost of Sales**" means the total combined value of all Net Cost of Sales generated by all stores the subject of viable Rebates Claims operated by Eligible VID180 Group Members during the period 21 February 2012 to 30 June 2021 as derived from the Store Financials for all such stores.

VII. Calculation of Claims of Eligible VID182 Group Members

45 For those Eligible VID182 Group Members with claims of the type described in clauses 36, 37 and 38, the loss they have suffered for each year that the Eligible VID182 Group Member worked in their 7-Eleven Store (if any) (**VID182 Claim Amount**) will be calculated by the Accountant as follows:

Total Income - Hours Worked x Average Hourly Award Wage

Where:

"**Total Income**" means any sum (including any wages or other payment for work undertaken (excluding dividends)) paid to the Eligible VID182 Group Member by the relevant VID180 Group Member as disclosed in their annual individual income tax returns;

"**Hours Worked**" means the claimed average weekly hours worked (capped at 70 hours per week, to be determined by the Accountant having regard to all available information) x the relevant number of weeks worked;

"**Average Hourly Award Wage**" means the figure calculated by the Independent Remuneration Expert.

46 For those Eligible VID182 Group Members with claims of the type described in clause 39, their VID182 Claim Amount will be calculated as Nil.

VIII. Information to be used by the Accountant

47 For the purposes of making the calculations referred to in clauses 41, 44 and 45, the Accountant will consider (as they deem appropriate, in consultation with the Administrator if necessary):

(a) In the case of Eligible VID180 Group Members:

(i) the Store Financials supplied by the Eligible VID180 Group Member or by 7-Eleven pursuant to clause 70 below;

(ii) their financial statements;

(iii) their tax returns;

(iv) any documents recording the amounts paid by each Eligible VID180 Group Member upon acquisition of their 7-Eleven Store supplied by the Group Member or by 7-Eleven pursuant to clause 70 below;

(v) any documents recording the amounts received by each Eligible VID180 Group Member upon disposal of their 7-Eleven store supplied by the Group Member or by 7-Eleven pursuant to clause 70 below; and

(vi) any other information provided in the relevant Registration Form which is, in the opinion of the Accountant, relevant and reliable.

(b) In the case of Eligible VID182 Group Members:

(i) their tax returns;

(ii) the financial statements and income tax returns of the Eligible VID180 Group Member in respect of whom they were a Nominated Director or a Guarantor;

(iii) any documents recording the hours worked by the Eligible VID182 Group Member in their 7-Eleven store(s) supplied by the Group Member or by 7-Eleven pursuant to clause 70 below; and

(iv) any other information provided in the Registration Form which is, in the opinion of the Accountant, relevant and reliable.

IX. Calculations of Estimated Payment Amounts for Eligible VID180 Group Members

48 Subject to the calculation of the Net Settlement Distribution Fund and the completion of any Reviews conducted pursuant to clause 87, it is anticipated that each Eligible VID180 Group Member with a claim of the type described in clauses 29, 30 and 31 will be paid a share (being their **Anticipated VID180 Loss Payment Amount**) of the Net Settlement Distribution Fund calculated by the Accountant in accordance with the following formula:

[VID180 Loss Claim Amount / Total VID180 Loss Claims Amount] x VID180 Loss Claims Settlement Sum

Where:

"**Total VID180 Loss Claims Amount**" means the total of the VID180 Loss Claim Amounts of all Eligible VID180 Group Members.

49 The final VID180 Loss Payment Amount for each Eligible VID180 Group Member (**Final VID180 Loss Payment Amount**) will be determined by the Accountant once all reviews (if any) outlined in clause 87 have been completed and the Accountant has calculated:

(a) all individual VID180 Loss Claim Amounts;

(b) the Total VID180 Loss Claims Amount;

(c) the Net Settlement Distribution Fund;

(d) the VID180 Settlement Sum; and

(e) the VID180 Loss Claims Settlement Sum.

50 Subject to the calculation of the Net Settlement Distribution Fund and the completion of any Reviews conducted pursuant to clause 87, it is anticipated that each Eligible VID180 Group Member will be paid a share of the Final Net Settlement Distribution in respect of their Rebates Claim (**Anticipated Rebates Payment Amount**) in accordance with the following formula:

[Rebates Claim Amount / Total Rebates Claims Amount] x VID180 Rebates Claims Settlement Sum

Where:

"**Total Rebates Claims Amount**" means the total of the Rebates Claim Amount of all Eligible VID180 Group Members.

51 The final Rebates Payment Amount for each Eligible VID180 Group Member (**Final Rebates Payment Amount**) will be determined by the Accountant once all reviews (if any) outlined in clause 87 have been completed and the Accountant has calculated:

(a) all individual Rebates Claim Amounts;

(b) the Total Rebates Claims Amount;

(c) the Net Settlement Distribution Fund; and

(d) the VID180 Settlement Sum; and

(e) the VID180 Rebates Claims Settlement Sum.

52 Subject to the calculation of the Net Settlement Distribution Fund and the completion of any Reviews conducted pursuant to clause 87, it is anticipated that each Eligible VID182 Group Member with a claim of the type described in clauses 36, 37 and 38 will be paid a share (**Anticipated VID182 Payment Amount**) of the Net Settlement Distribution Fund calculated by the Accountant in accordance with the following formula:

[VID182 Claim Amount / Total VID182 Claims Amount] x VID182 Settlement Sum

Where:

"**Total VID182 Claims Amount**" means the total of the VID182 Claim Amount of all Eligible VID182 Group Members.

53 The final VID182 Payment Amount for each Eligible VID182 Group Member (**Final VID182 Payment Amount**) will be determined by the Accountant once all reviews (if any) outlined in clause 87 have been completed and the Accountant has calculated:

(a) all individual VID182 Claim Amounts;

(b) the Total VID182 Claims Amount;

(c) the Net Settlement Distribution Fund; and

(d) the VID182 Settlement Sum.

54 Eligible Group Members will be provided with an opportunity to apply to the Administrator for a Review of their individual VID180 Loss Claim Amount, Rebates Claim Amount or VID182 Claim Amount, as the case may be, in accordance with clause 87.

F. OPERATIVE PROVISIONS

I. Scheme Administrator

55 The Settlement Scheme will be administered by Steven Nicols as Administrator. It is proposed that Brett Richard Imlay, special counsel at Levitt Robinson, will be primarily responsible for the work to be carried out on behalf of the Administrator under the control and direction of the Administrator. The Administrator, at his discretion, may utilise the services of any persons engaged by him such as barristers (including the Independent Counsel), accounting or other experts (including the Accountant and the Review Accountant) in administering the Settlement Scheme.

56 The Administrator will fulfil his obligations under the Settlement Scheme in the interests of all Group Members.

(a) The Administrator will, subject to and in accordance with this Settlement Scheme, hold the Settlement Sum and interest earned thereon on trust until the Net Settlement Distribution Fund is distributed; and distribute the Net Settlement Distribution Fund, as expeditiously as possible.

(b) The Administrator in discharging any function, or exercising any discretion conferred by this settlement scheme, shall administer this scheme fairly and according to its terms, as a duty owed to the Court.

(c) If any conflict arises between the Administrator's duties as trustee and Levitt Robinson's duties as the solicitor for the Lead Applicants and Group Members, the Administrator shall apply to the Court for directions in that regard.

(d) The Administrator and the Administrator's staff, in discharging any function or exercising any power or discretion conferred by this Settlement Scheme, shall not be liable for any loss to Group Members arising by reason of any mistake or omission, provided such mistake or omission is made in good faith or of any other matter or thing except wilful neglect and individual fraud and wrongdoing on the part of the Administrator or the Administrator's staff who are sought to be made liable.

57 Following the Distribution Order and the transfer of the Settlement Sum into an interest-bearing trust account controlled by the Administrator called the 7-Eleven Class Actions Distribution Fund Account (**Settlement Distribution Account**) the Administrator will hold the Settlement Sum on behalf of the Group Members in the Settlement Distribution Account subject to and in accordance with the provisions of this Settlement Scheme.

58 Notwithstanding anything elsewhere in this Settlement Scheme, the Administrator may at any time correct any error, slip or omission occurring during the course of the administration of this Settlement Scheme.

II. The Accountant

59 Andrew Perkins of Williams Hall Chadwick Brisbane will be appointed by the Administrator as the Accountant, to:

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(a) calculate the VID180 Loss Claim Amount of each Eligible VID180 Group Member;

(b) calculate the Rebates Claim Amount of each Eligible VID180 Group Member;

(c) calculate the VID182 Claim Amount of each Eligible VID182 Group Member;

(d) prepare the Preliminary Certificates of Loss;

(e) calculate the Net Settlement Distribution Fund; and

(f) prepare the Final Certificates of Loss.

III. Review Accountant

60 Simon Cathro of the accounting firm Cathro & Partners (**Review Accountant**) will be appointed by the Administrator to conduct any Review of the Preliminary Certificates of Loss that is applied for by any Eligible Group Member.

IV. Settlement Confirmation Date

61 Within 7 (seven) days of the Distribution Orders being made (**Settlement Confirmation Date**), the Administrator and Levitt Robinson will take all reasonable steps to send a notice in the form of **Annexure A** (**Settlement Confirmation Notice**) to Group Members by:

(a) sending by email, or where a working email address is not available, by ordinary post, a copy of the Settlement Confirmation Notice;

(b) publishing a copy of the Settlement Confirmation Notice on a website under the control of the Administrator; and

(c) publishing a copy of the Settlement Confirmation Notice on Levitt Robinson's website.

62 The Settlement Confirmation Notice must include a Registration Form in the form of **Annexure B** to this Settlement Scheme.

V. Payment of legal costs, administration costs and the Lead Applicants' Payments

63 If the Lead Applicants' Payments have been the subject of the Distribution Order, the Administrator will, as soon as practicable after the Settlement Confirmation Date, make the Lead Applicants' Payments in the amounts approved by the Court by issuing a cheque made payable to each of the Lead Applicants.

64 As soon as practicable after the Settlement Confirmation Date, the following amounts will be paid from the Settlement Distribution Fund to Levitt Robinson:

(a) the unpaid costs and disbursements approved by the Court pursuant to the Distribution Orders (as part of the Approved Costs), namely the:

(i) unpaid costs and disbursements rendered by Levitt Robinson in relation to the conduct or preparation of the Class Actions Proceedings (**Unpaid Costs**); and

(ii) costs and disbursements incurred by Levitt Robinson in relation to the conduct or preparation of the Class Actions but not billed as at the date of the Approval and/or Distribution Orders (**Unbilled Costs**); and

(b) the unpaid costs and disbursements incurred by Levitt Robinson in connection with obtaining the Approval and/or Distribution Order (**Approval Costs**) approved by the Court pursuant to the Approval or Distribution Orders.

65 After the Settlement Confirmation Date, the reasonable costs and disbursements (including the costs of any expert advisers and the Independent Counsel) incurred by:

(a) the Administrator; and/or

(b) Levitt Robinson,

in connection with the administration of this Settlement Scheme, up to the amount approved by the Distribution Orders (**Administration Costs**) will be paid from the Settlement Distribution Fund as they fall due.

66 Administration Costs may be invoiced monthly and will fall due on the date of the invoice, subject in the case of Levitt Robinson's invoices to approval by the Administrator.

67 The Administrator may apply to the Court for an increase in approved Administration Costs at any time during his administration of the Settlement Scheme should it become apparent that the Administration Costs will be insufficient to facilitate the administration of the Settlement Scheme.

VI. Obligation of Group Members to provide Registration Form by Registration Deadline

68 As noted at clauses 13 to 15, each Group Member seeking to be recognised as an Eligible Group Member must provide to the Administrator a completed Registration Form in the form of **Annexure B** to this Settlement Scheme prior to the Registration Deadline, together with the information and documents sought in the Registration Form, or such information and documents available to that Group Member or that can be reasonably obtained by them by the Registration Deadline. The extent to which a Group Member must supply information to the Administrator is subject to the operation of clause 16.

69 Subject to otherwise complying with clauses 13 to 15, unless a Group Member provides a Registration Form by the Registration Deadline, they will not be considered an Eligible Group Member or permitted to make any claim upon the Settlement Sum or Settlement Distribution Fund.

VII. Request for documents from 7-Eleven

70 Within 60 (sixty) days after the Distribution Orders being made, the Administrator may make a single written request from 7-Eleven for the following documents for each Eligible Group Member, should in the reasonable opinion of the Administrator, any of those documents will be needed by the Accountant in order to perform the calculations required to be made by the Accountant under this Settlement Scheme:

(a) Franchise Agreements and exhibits;

(b) Income and Expense Statements (or Store Financials) for the period that the Eligible Group Member operated the store(s) and for the three (3) years prior to the Franchise Agreement date;

(c) Balance Sheets for the period that the Eligible Group Member operated the Store;

(d) Letter of Transmittal upon the Franchisee's entry into the Store; and

(e) For Group Members who have sold their store(s), the Letter of Transmittal for the incoming Franchisee.

71 The costs incurred by the Administrator in making the request referred to in clause 70 (**Request Costs**) will be allocated to Eligible Group Members:

(a) who the requests relate to; and

(b) to the extent, and in such share and amount, as is determined by the Administrator acting fairly and reasonably.

72 The Administrator's decision concerning allocation of Request Costs to Eligible Group Members will be final and binding. Any Request Costs allocated to a particular Eligible Group Member will be deducted from the relevant Final VID180 Loss Payment Amount, Final Rebates Payment Amount or Final VID182 Payment Amount, as the case may be, before they are paid to that Eligible Group Member.

VIII. Appointment of the Independent Counsel

73 In accordance with clause 11, the Administrator will as soon as possible after the Approval Order, appoint a senior counsel who the Administrator reasonably determines to be suitably qualified and experienced for the role, as the Independent Counsel. Independent Counsel will determine whether any Release provided by a Group Member is, in all the circumstances, an Ineffective Release.

74 As soon as possible after the Registration Deadline, the Administrator will brief the Independent Counsel with the Releases entered into by any Group Members that have registered for the Settlement Scheme, together with any other information which the Administrator considers to be relevant (**Releases Brief**) for the determination by the Independent Counsel of whether any of those Releases are Ineffective Releases (**Ineffective Releases Determination**).

75 Within 28 (twenty-eight) days of receiving the Releases Brief, or such additional time as is reasonably required, the Independent Counsel is to give the Administrator notice in writing of any additional material required in order to make the Ineffective Releases Determinations (**Further Releases Brief**).

76 The Administrator must provide the Further Releases Brief to the Independent Counsel as soon as reasonably possible after the request is made.

77 Within 42 (forty-two) days of receiving the Further Releases Brief (or receiving the Releases Brief if no Further Releases Brief is requested), Independent Counsel is to provide the Administrator with an Ineffective Releases Determination together with written reasons for the conclusions for each Group Member that has provided a Release and has registered for this Settlement Scheme by the Registration Deadline.

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78 The Ineffective Releases Determinations are for the purposes of this Settlement Scheme only, not binding on 7-Eleven and cannot be relied upon by the Group Members in any proceedings or claim against 7-Eleven.

IX. Remuneration Expert

79 Christopher David Hart will be appointed by the Administrator as the Remuneration Expert.

80 As soon as practicable after the Registration Deadline, the Administrator will instruct the Remuneration Expert to calculate Assumed Payroll for each Eligible VID180 Group Member's 7-Eleven store and the Average Hourly Award Wage for each applicable year and in such States as in the opinion of the Administrator will be necessary in order for the Accountant to carry out their functions in accordance with the Settlement Scheme.

81 As soon as possible after receiving the instructions from the Administrator referred to in clause 80, the Remuneration Expert will perform those calculations and provide them to the Administrator.

X. Preliminary Certificates of Loss

82 As soon as practicable after the Registration Deadline, the Administrator will supply the Accountant with the available information reasonably required by the Accountant to calculate the:

(a) VID180 Loss Claims Amount;

(b) Rebates Claim Amount;

(c) VID182 Claims Amount;

(d) Anticipated VID180 Loss Payment Amounts;

(e) Anticipated Rebates Payment Amounts; and

(f) Anticipated VID182 Payment Amounts,

of all Eligible Group Members, as the case may be.

83 The Accountant will use all reasonable endeavours to prepare, as soon as possible after the receipt of the information pursuant to clause 82 above, certificates recording their calculations identified in clause 82 (**Preliminary Certificates of Loss**).

84 The Preliminary Certificates of Loss will record (amongst any other information deemed by the Administrator to be necessary) for each Eligible Group Member:

(a) the identity of the Eligible Group Member;

(b) the amount of the Eligible Group Member's VID180 Loss Claim Amount, Releases Claim Amount and/or VID182 Claim Amount, as the case may be;

(c) the preliminary Total VID180 Loss Claims Amounts, Total Rebates Claim Amounts and/or Total VID182 Claim Amounts, as the case may be;

(d) the preliminary Net Settlement Distribution Fund and a breakdown showing how that sum has been calculated; and

(e) their Anticipated VID180 Loss Payment Amount, Anticipated Rebates Payment Amount, and/or Anticipated VID182 Payment Amount, as the case may be.

85 The Administrator will provide a copy of the Preliminary Certificate of Loss to the relevant Eligible Group Member as soon as reasonably possible after receiving it from the Accountant.

86 Each Preliminary Certificate of Loss will be final and binding on each Group Member, subject to any Review.

XI. Review

87 The Preliminary Certificate of Loss shall be deemed to be accepted as accurate by the Eligible Group Member to whom it relates, unless the Eligible Group Member within 21 (twenty-one) days of receiving the Preliminary Certificate of Loss delivers to the Administrator a written request (**Review Request**) for a review of the Preliminary Certificate of Loss (**Review**) together with copies of all documents on which the Eligible Group Member relies for the purposes of the Review, including any statement of reasons for making the Review Request.

88 It is anticipated that the cost of each Review will be approximately $1,500 to $2,000 plus GST.

89 If an Eligible Group Member makes a Review Request in accordance with clause 87, then subject to clause 90, the Administrator shall, within 7 (seven) days of receiving the Review Request, refer it (and any supporting documentation) to the Review Accountant for consideration.

90 Where the Administrator forms the view that the Eligible Group Member's Final VID180 Loss Payment Amount, Final Rebates Payment Amount and/or Final VID182 Payment Amount (as the case may be) will likely be less than $2,000, the Eligible Group Member must on written request by the Administrator pay the sum of $2,000 plus GST into the Settlement Distribution Account within 14 (fourteen) days of being requested to do so, failing which the request for Review will lapse.

91 Within 21 (twenty-one) days of receiving the Review Request, the Review Accountant, will consider the Review Request and if satisfied there is an error, slip or omission in the Preliminary Certificate of Loss for that Eligible Group Member, will notify the Accountant and Administrator in writing of that fact (**Review Determination**), and the Accountant will correct the Preliminary Certificate of Loss to which the request relates (**Amended Preliminary Certificate of Loss**) and provide a copy to the Administrator.

92 A Review Determination under clause 91 shall be final and binding.

93 The Administrator must provide a copy of the Amended Certificate of Loss or otherwise inform the Eligible Group Member of the outcome of their Review as soon as practicable after receiving the Review Determination and/or Amended Preliminary Certificate of Loss.

94 If the Review Request does not result in the requesting Eligible Group Member receiving $500 more than they would have received but for the Review Request, then the Eligible Group Member must pay the costs of the Review, which will be deducted from the Eligible Group Member's Final VID180 Loss Payment Amount, Final Rebates Payment Amount or Final VID182 Payment Amount, as the case may be, or if this amount is insufficient, from any sum paid by the Eligible Group Member pursuant to clause 90.

XII. Distribution of the Net Settlement Distribution Fund

95 As soon as practicable after:

(a) all Preliminary Certificates of Loss have been sent to Eligible Group Members;

(b) all periods of Review from all Preliminary Certificates of Loss have expired and any Review Requests made by Eligible Group Members have been finally determined and Amended Preliminary Certificates of Loss have been sent to Eligible Group Members; and

(c) Unpaid Costs, Unbilled Costs, Approval Costs, and Administration Costs have been deducted from the Settlement Distribution Fund,

the Administrator will distribute the Net Settlement Distribution Fund in accordance with clauses 100 to 102.

96 As soon as practicable after the events referred to in clause 95 have occurred, the Accountant will prepare, and the Administrator will cause to be distributed, a further certificate to each Eligible Group Member (**Final Certificate of Loss**) recording:

(a) the identity of the relevant Eligible Group Member;

(b) their VID180 Loss Claim Amount, Rebates Claim Amount and/or VID182 Claim Amount, as the case may be;

(c) the Total VID180 Loss Claims Amounts, Total Rebates Claim Amounts and/or Total VID182 Claim Amounts, as applicable;

(d) the Net Settlement Distribution Fund and a breakdown showing how that sum has been calculated; and

(e) their Final VID180 Loss Payment Amount, Final Rebates Payment Amount, and/or Final VID182 Payment Amount, as the case may be, being their distribution from the Net Settlement Distribution Fund.

97 Save for any slip or omission on the face of the document, the Final Certificates of Loss will be final and binding on the Group Members.

98 Any slip or omission on the face of the Final Certificates of Loss must be notified to the Administrator within 14 (fourteen) days of the date on which the Final Certificate of Loss was sent to the relevant Eligible Group Member (**Final Review Date**), failing which the Final Certificate of Loss will be deemed correct.

99 If satisfied, after receipt of a notification pursuant to clause 98, that a Final Certificate of Loss discloses an error, slip or omission on its face, the Accountant will correct the Final Certificate of Loss to which the request relates and make all necessary incidental or consequential amendments to any other Final Certificate of Loss to any and all affected Eligible Group Members.

100 Within 28 (twenty-eight) days of the later of the expiration of the Final Review Dates of all Eligible Group Members, or the correction of any Final Certificates of Loss, the Administrator will distribute the Final VID180 Loss Payment Amounts, Final Rebates Payment Amounts and Final VID182 Loss Payment Amounts to

each of the Eligible Group Members (calculated based on the amount of the Net Distribution Fund as at the date of the distribution), as the case may be.

101 If the Administrator is unable to distribute the Net Settlement Distribution Fund within the time prescribed in clause 100 above, he will do so as soon as practicable thereafter and in any event by the date which is six (6) months after the Settlement Confirmation Date or such later date as the Court may order on the application of the Administrator (**Final Distribution Date**).

102 Any amounts which have not been paid in cleared funds to an Eligible Group Member within three (3) months of the Final Distribution Date and any interest accrued on such amounts will:

(a) if a further distribution of those funds to the relevant Eligible Group Members would result in each of those Eligible Group Members receiving a further distribution in excess of $100, be distributed to those Eligible Group Members; or

(b) if a further distribution of those funds to the Eligible Group Members would result in each of those Eligible Group Members receiving a further distribution of less than $100, be donated to the Sydney Children's Hospital.

103 Any amounts which have not been paid in cleared funds to an Eligible Group Member within three (3) months of any further distribution pursuant to clause 102, will be donated to the Sydney Children's Hospital.

104 The completion of distributions made pursuant to clauses 100 and 102 (including distributions made by cheques that either remain un-presented for 60 (sixty) days or which remain un-presented by the Final Distribution Date, whichever first occurs) will satisfy the claims of the Applicants and all Group Members, including those Group Members who are not Eligible Group Members.

G. Supervision by the Court

105 The Administrator may refer any issues arising in relation to the Settlement Scheme or the administration of the Settlement Scheme to the Court for determination.

106 Any costs incurred in any such referral to the Court made by the Administrator will be deemed to be a part of the Administration Costs, subject to Court approval.

H. Notice

107 Any notice or document to be given or delivered pursuant to this Settlement Scheme shall be deemed to be given or delivered and received for all purposes associated with this Settlement Scheme if it is:

(a) addressed to the person to whom it is to be given; and

(b) either:

(i) delivered or sent by pre-paid mail to that person's postal address, being in respect of any Group Member, the address notified in that Group Member's Registration Form or failing that the address of that Group Member last known to the Administrator;

(ii) (where applicable) sent by fax to that person's fax number being in respect of any Group Member, the fax number notified in that Group Member's Registration Form (or failing that the fax number of that Group Member last known to the Administrator) and the machine from which it is sent produced a report that states that it was sent in full; or

(iii) sent by e-mail to that person's e-mail address being in respect of any Group Member, the e-mail address notified in that Group Member's Registration Form or failing that the e-mail address of that Group Member last known to the Administrator.

108 A notice or document that complies with clause 107 will be deemed to have been given or delivered and received:

(a) if it was sent by mail to an addressee in Australia, two (2) clear business days after it was sent;

(b) if it was sent to an addressee outside of Australia, five (5) clear business days after it was sent;

(c) if it was delivered or sent by fax, at the time stated on the report that is produced by the machine from which it was sent; and

(d) if it was sent by e-mail, at the time it is sent.

109 If the Group Member is not a natural person and where one person has been completed the Registration Form for that Group Member or where one Group Member has been nominated in the Registration Form as the contact in respect of several Group Members, it is sufficient for the purposes of giving notice that

any of the provisions of clause 107 are complied with in relation to that nominated person.

I. GLOSSARY

110 The following is a glossary of terms defined in the Settlement Scheme:

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VID180 Settlement Sum ... 8
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VID182 Claims ... 11
VID182 Group Members ... 4
VID182 Lead Applicants ... 7
VID182 Proceeding ... 3
VID182 Settlement Sum ... 8

ANNEXURE A TO SETTLEMENT SCHEME – CONFIRMATION OF SETTLEMENT NOTICE

7-ELEVEN CLASS ACTIONS
DATE OF NOTICE: [INSERT]

THE IMPORTANCE OF THIS NOTICE

This Notice contains important information regarding the settlement of representative proceedings (or class actions) brought against 7-Eleven. If you are a Group Member, you have legal rights that are affected by the settlement. Please read this Notice carefully.

On 31 March 2022, the Federal Court of Australia approved a settlement of the class action proceedings in *Davaria Pty Ltd & Anor v 7-Eleven Stores Pty Ltd & Anor* (VID180/2018) and *Pareshkumar Davaria & Ors v 7-Eleven Stores Pty Ltd* (VID182/2018), also known as the 7-Eleven Class Actions.

The **Settlement Amount** of $98 million has now been paid by **7-Eleven** Stores Pty Ltd to the Administrator of the Settlement Scheme, Mr Steven Nicols (of the accounting firm Nicols & Brien).

The Settlement Amount plus any accrued interest less any fees and tax is available for distribution by the Administrator to Group Members who are entitled to make a claim on the Settlement Distribution Fund.

All Group Members are entitled to make a claim on the Settlement Distribution Fund.

In order to make a claim:

(a) You will need to register by doing one of the following by [45 days from date of issue]:

  (i) completing the attached Registration Form and returning it to the Administrator at **steve@nicolsandbrien.com.au**, by the Registration Deadline together with the available supporting documentation requested in the Registration Form; or

  (ii) completing and submitting the Registration Form available on **https://www.nicolsandbrien.com.au/** by the Registration Deadline together with the available supporting documentation requested in the Registration Form; or

  (iii) otherwise registering with the Administrator and providing to the Administrator by the Registration Deadline the information requested in the Registration Form together with the available supporting documentation requested in the Registration Form; or

(b) It is necessary for the Administrator to reasonably form the opinion that you have duly registered within the terms of clause 16 of the Settlement Scheme.

The Settlement Distribution Fund will be distributed in accordance with a Settlement Scheme annexed to orders of the Court made on 31 March 2022 after the deduction of certain costs as set out in orders of the Court made on [date of Distribution Order] 2022. The Settlement Scheme contains important information about registration and participation in the Settlement Distribution Fund.

If you think you are entitled to claim on the Settlement Distribution Fund and do not have a copy of the Settlement Scheme, it can be accessed at www.levittrobinson.com and **steve@nicolsandbrien.com.au**.

ANNEXURE B TO SETTLEMENT SCHEME – REGISTRATION FORM

Davaria Pty Ltd -v-7-Eleven Stores Pty Ltd & Ors
Federal Court Proceedings VID180/2018 and VID182/2018

SETTLEMENT SCHEME
REGISTRATION FORM

Instructions to Complete this Form

If you are a Franchisee (companies, sole traders, partnerships and trustees of trusts)

For a current or former 7-Eleven franchisee (usually a company that operated a store), please complete all the sections of this form marked "*Everyone to complete*" and "*Franchisees only to complete*". The person lodging the form on behalf of the franchisee must sign and date the form on the last page and state the capacity in which they are authorised to do so (for example Director, Partner or Trustee).

If you have (or have previously) operated multiple stores during the time period 20 February 2012 to 30 June 2021, please complete the same details for each store. **Section E** of this form contains sections for additional stores.

If you are a Nominated Director and/or Guarantor (usually individuals)

For a **nominated director** named in a store agreement between a franchisee and 7-Eleven; or a **guarantor** (who provided a guarantee to 7-Eleven in a store agreement or a guarantee in favour of ANZ Bank for that store agreement), please complete all of the sections of this form marked "*Everyone to complete*" and "*Directors/Guarantors only to complete*". You must also sign and date the form on the last page.

If you are lodging a claim on behalf of both a franchisee and a nominated director or guarantor, please complete the whole form.

If there is more than one **nominated director** or more than one **guarantor** for a franchisee, each person must lodge their own form and sign and date on the last page. You can obtain additional forms by making copies of this form or sending an email to **steve@nicolsandbrien.com.au.**

YOU MUST PROVIDE ALL OF THE SUPPORTING DOCUMENTS REQUESTED IN THIS FORM IN ORDER FOR YOUR CLAIM TO BE ASSESSED. A CHECKLIST OF THESE DOCUMENT IS SECTION OUT IN SECTION G OF THIS FORM

How do you fill out this form?

Everyone to complete

- ☐ Section A
- ☐ Section E
- ☐ Section F

☐ Section G

Franchisees to also complete (companies, sole traders, partnerships and trustees of trusts)

☐ Section B

☐ Section C

Nominated Directors/Guarantors to also complete (individuals)

☐ Section D

Everyone to sign and date the form on the last page.

SECTION A: Registration and contact details *If you have (or have previously had) more than one store during the period, please complete the section at **Section E** of this form for each additional store*	
Franchisee name & ACN	
Store number (4 digits + 1 letter):	☐☐☐☐☐
Store Location (suburb):	
Store Type (fuel or non-fuel):	
Date of Store Agreement (and any dates of renewals):	
Sale Date (if franchisee has sold the store):	
Names of each of the Nominated Directors over the relevant period:	1. 2. 3. 4.
Names of guarantors (as stated in the Store Agreement):	1. 2. 3. 4.

SECTION B: Investment by Franchisee *If you have (or have previously had) more than one store during the period, please complete the section at **Section E** of this form for each additional store*	
Goodwill paid to former franchisee	$
Goodwill paid to 7-Eleven (if you bought a corporate	$
store)Franchise Fee paid to 7-Eleven	$
Application Fee paid to 7-Eleven	$
Stock paid to 7-Eleven	$
Legal advice	$
Accounting	$
Company registration	$
Any other amounts (please specify)	$
GST paid on any of the above amounts that were	$
not returned as GST input tax credits	$
Total	**$**
Sale / disposal amount (if franchisee has sold the store) (excluding GST)	**$**

SECTION C: Business Loans *If more than one loan was obtained, please complete **Section F** in relation to any additional loans.*	
Was money borrowed to purchase the store? *If no, move onto next section*	☐ Yes ☐ No
Name of Lender:	

Name of Borrower:	
Date of Loan:	
Total amount borrowed:	
Was any portion of the loan used for personal reasons?	☐ Yes – approximately % ☐ No
Term of the loan (number of years):	
Were the repayments made by the franchisee?	☐ Yes ☐ No – made by
What was the initial interest rate?	
What are or were the amount of the monthly repayments?	
How much is left outstanding on the loan (if any)?	
Total interest paid on this loan to date:	
Total fees paid on this loan to date:	
If you have sold your store, was the loan paid back in full at the time of sale?	☐ Yes ☐ No – reason and amount outstanding at time of sale:

SECTION D: Your Income	
What employment were you qualified to seek at the time you acquired your 7-Eleven store?	
Where did you work in the three years prior to acquiring your 7-Eleven store?	
Did you carry out paid employment in the three years prior to acquiring your 7-Eleven store(s)?	☐ Yes (*If yes, complete Table 1)* ☐ No
Did you receive any income in the three years prior to acquiring your 7-Eleven store(s)?	☐ Yes (*If yes, complete Table 1)* ☐ No
Did you work in your 7-Eleven Store(s)?	☐ Yes (*If yes, complete Table 2)* ☐ No
Did the franchisee pay you any wages for your work in the store(s)?	☐ Yes (*If yes, complete Table 2)* ☐ No

Table 1: Income pre-franchise

	Financial Year ended 30 June	Average hours per week	Total (annual) hours	Total Gross Income
1.				
2.				
3.				

Table Two: 7-Eleven franchise income

	Financial Year ended 30 June	Average hours per week	Total (annual) hours	Total Gross Income
1.	2012			
2.	2013			
3.	2014			
4.	2015			
5.	2016			
6.	2017			
7.	2018			
8.	2019			
9.	2020			
10.	2021			
11.	2022			

SECTION E: Additional Stores *If you have (or have previously had) more than one store during the period, please complete the section at **Section E** of this form for each additional store*	
Store number (4 digits + 1 letter):	☐☐☐☐☐
Store Location (suburb):	
Store Type (fuel or non-fuel):	
Date of Store Agreement (and any dates of renewals):	
Names of each of the Nominated Directors over the relevant period:	1. 2. 3. 4.

Names of guarantors (as stated in the Store Agreement):	1. 2. 3. 4.
Sale Date (if franchisee has sold the store):	
Total initial Investment (when franchisee bought the store)	$ Amount (excluding GST)
Goodwill Received (when franchisee sold the store)	$ Amount (excluding GST)

SECTION F: Additional Loans

If you/the franchisee has either:
(a) Entered into more than one loan to finance buying the store(s); or
(b) Borrowed money after buying the store to finance the ongoing costs of the store;
please complete this section in relation to any additional loans. In each case you should refer to documents obtained from your (current or former) lender..

Was money borrowed to purchase the store?	☐ Yes ☐ No (*If no, move onto next section)*
Name of Lender:	
Name of Borrower:	
Date of Loan:	
Total amount borrowed:	
Was any portion of the loan used for personal reasons?	☐ Yes – approximately % ☐ No
Term of the loan (number of years):	
Were the repayments made by the franchisee?	☐ Yes ☐ No – made by
What was the initial interest rate?	
What are or were the amount of the monthly repayments?	
How much is left outstanding on the loan (if any)?	
Total interest paid on this loan to date:	
Total fees paid on this loan to date:	
If you have sold your store, was the loan paid back in full at the time of sale?	☐ Yes ☐ No – reason and amount outstanding at time of sale:

SECTION G: Document Checklist	
I have provided copies of all of the company's financial statements and tax returns for the years that it operated a 7-Eleven store.	☐ Yes ☐ No
I have provided a copy of all Income and Expense Statements for the period that the franchisee operated a 7-Eleven store.	☐ Yes ☐ No
I have provided a copy of all Income and Expense Statements for the 3-year period immediately prior to the period that the franchisee commenced operating a 7-Eleven store.	☐ Yes ☐ No
I have provided my personal tax returns (as lodged with the Australian Taxation Office (ATO)) and notices of assessment by the ATO for all of the time periods referred to in Section D above.	☐ Yes ☐ No
I have provided documents to evidence any monetary sums identified in section B and section F, including: • Agreements and/or Deeds for the purchase of the franchise; • Agreements and/or Deeds for the sale or transfer of the franchise, including any vendor finance; • Agreements and/or Deeds providing for any compensation concerning the termination of a franchise or the closure of a 7-Eleven store; • Agreements and/or Deeds providing for any compensation during or concerning the operation of a 7-Eleven store; and • Bank statements showing amounts paid.	☐ Yes ☐ No
I have provided documents to evidence the loans described in Section C and F, including: • The initial loan letter from the lender; • Annual interest statements; • Letter from Lender confirming the details of the loan terms; and • Proof of repayments being made by anyone other than the franchisee.	☐ Yes ☐ No
I have provided any Kronos reports available for the period the franchisee operated a 7-Eleven store.	☐ Yes ☐ No

Execution

Franchisee	**Director/Guarantor**
Signature	Signature
Print Name and state Capacity to Sign (BLOCK LETTERS)	Print Name (BLOCK LETTERS)
Date	Date

Annexure A

Consolidated Confidentiality Schedule

	Document	Part of document	Parties permitted disclosure
1.	Confidential Affidavit of Nigel David Jones dated 29 October 2021 (including annexure(s))	Whole	Applicants, 7-Eleven, Galactic, Contradictor
2.	Confidential Affidavit of Fredrick Schulman sworn 1 February 2022	[64]-[70]	Applicants, 7-Eleven, Galactic, Contradictor
3.	Confidential Exhibit FS-2	Pp 34 to 392	Applicants, 7-Eleven, Galactic, Contradictor
4.	Affidavit of Jatinder Pal Singh dated 12 November 2021	[11] (first sentence)	Applicants, Galactic, Contradictor
5.	Affidavit of Pareshkumar Chhaganlal Davaria dated 12 November 2021	[12] (second sentence)	Applicants, Galactic, Contradictor
6.	Affidavit of Stewart Alan Levitt dated 17 December 2021	[17] (the words between "Verma" and "Viresh"), [19] (the words between "Yu" and "Hemang")	Applicants, Galactic, Contradictor
7.	Affidavit of Brett Richard Imlay dated 22 March 2022	Exhibit BRI-53 pg 53-158	Applicants, Galactic, Contradictor
8.	Affidavit of Brett Richard Imlay dated 24 March 2022	[8], [12]-[13], [17]-[19], Exhibit BRI-55 pp 315-397, Confidential Exhibit BRI-56 pp 399-403	Applicants, Galactic, Contradictor
9.	Applicants' submissions dated 21 December 2021	[125] (the words between "store franchises" and "secondly"), [127]	Applicants, Galactic,

		(2nd sentence, after "applicants,"), [136(a)] – and associated footnotes	Contradictor
10.	Applicants' submissions dated 21 December 2021	[95]-[99], [101], [104]-[107] (until "day of mediation"), [111], [113], [118]-[122], [128]-[129] – and associated footnotes	Applicants, 7-Eleven, Galactic, Contradictor
11.	Affidavit of Elizabeth Mary Harris dated 31 January 2022, Annexure EMH-4	[35] (2nd line, between "raised" and "Counsel"), [46]-[48], [49] (1st and 2nd sentences), [54] (1st sentence), [71] (3rd sentence), [72], [73] (2nd – 3rd line, from after "legal costs"), [86] (4th sentence), [89] (1st and 2nd sentence), [99]	Applicants, Galactic, Contradictor
12.	Contradictor's submissions dated 9 March 2022	[10] (3rd sentence), fn 2, fn 9, [35] (2nd sentence and extract), [43] (1st sentence, after "conduct claims"; 2nd sentence; 3rd sentence between "placed" and "are") , [44] (between "applications" and "these are"), fn 14-15, [50] (after "Having said that" to the end of the 2nd line), fn 19-21, fn 26-28, [62] (4th sentence), [63] (between "Sixthly" and "the context in"), [64] (between "Finally" and "A more general observation"; between "be the fact" and "7-Eleven itself knew"; final sentence), [65] (between "*Commission Act 2001* (Cth)" and "we consider"), [66] (between "straightforward way" and "the case advanced"), fn 37, [69] (between "the above" and "the unconscionable";	Applicants, Galactic, Contradictor

		between "Specifically" and "notwithstanding"), fn 44-45, [72] (between "respectfully agree" and "that the claim"; between "prospects of success" and "In particular,"), [84] (between "*Seventhly*, whilst" and "the unconscionable conduct claim"; between "it does not appear" and "that the unconscionable conduct claim"), fn 64-65, [88] (1st sentence; between "However" and "there is limited"), fn 69 (after "[28]"), fn 70-71, [89], [91] (last sentence), fn 73-76, [97] (1st line, between "if" and "there is"), [98] (3rd – 5th line, between "However" and "it appears"), fn 86, [99] (between "concerned" and "The claims appeared"), [101] (last sentence), [102] (2nd sentence and block quote), [106] (1st – 4th line, before "damages for loss"; 6th line, between "and" and "in such claims"), fn 97-99, [112] (4th – 5th line, between "disagrees" and "that if"; between "liability" and the full stop), [130] (1st – 8th lines, before "it seems that Mr Meredith"), fn 120-121, [140] (4th – 5th line, between "calculations" and "of the estimated losses"), fn 131-132, [145] (first line, before "individual"), [152] (3rd line after "[125])"; 4th – 8th line, after "well-reasoned"), [155] (2nd	

		sentence), [156] (2nd, 4th, 5th and 6th sentences), [162] (3rd – 4th line, between "trial counsel" and "As part of"), [166] (first five lines, before "VID180 losses arise"; 6th and 7th lines, before "By comparison"; 7th line, between "By comparison" and "there is greater"; 12th line, between "We" and "suggest"; para (a), after "speculative", [167] (4th – 5th line, between "convinced" and "that there would"), [169], fn 148-149, [170] (last sentence), fn 151-153, fn 155-156, [175] (2nd sentence), fn 158, [178] (after "[19]", including the block quote), [179], fn 160, [181], fn 161, [198] (1st – 3rd lines entirely), [240] (5th – 7th line, between "(b)" and "(c)"), [273] (2nd – 5th sentences), fn 194, [275], [276] (4th line, between "referred above)" and "especially"), fn 195, [280] (before "it is open to"), [281]-[282], [283] (before "the Contradictor remains"), [284] (1st – 2nd line, between "ANZ Claims" and "but it is unclear"), [298] (after "this request"), – and associated footnotes	
13.	Affidavit of Ambika Nand dated 23 March 2022	[21], [22], [23] (1st – 2nd lines, between "Corrections Notice" and "and so did not"), [25] (3rd – 4th line), [37], [41], Exhibit AN-1 pp 97-100, 129-132, 146-153, 171-174	Applicants, Contradictor

14.	Applicants' submissions in reply dated 25 March 2022	[23] (4th – 5th lines, between "7-Eleven and," and "further reason"; after "and Metcash"), [24], [25] (2nd sentence), [26] (3rd line, after "Rebates Claim"), [42] (3rd – 4th lines, between "by stores" and "the less"), [47] (3rd – 4th lines, between "the matter" and "points more"), [61(b)] (5th sentence), [61(d)] (1st sentence), [99] (3rd sentence, after "and ANZ"), fn 27, fn 29, fn 55, fn 91, fn 95, fn 108	Applicants, Galactic, Contradictor
15.	Exhibit C6 – advices of Applicants' counsel	Whole	Applicants, Galactic, Contradictor
16.	Eighteenth affidavit of Jem Punthakey sworn 28 March 2022	Confidential Exhibit JJP-18	Applicants, Galactic, Contradictor
17.	Supplementary Confidential Opinion of Applicants' Counsel dated 1 November 2021	Whole	Applicants, Contradictor
18.	Exhibit C4 – Confidential Bulletin 13	Whole	Applicants, Galactic, Contradictor

Schedule

No: VID182/2018

Federal Court of Australia
District Registry: Victoria
Division: General

Second Applicant	KHUSHBU DAVARIA
Third Applicant	JATINDER PAL SINGH
Fourth Applicant	SUMAN MEET KAUR
Second Respondent	GALACTIC SEVEN ELEVEN LITIGATION HOLDINGS LLC