

**FEDERAL COURT OF AUSTRALIA**

**SETTLEMENT NOTICE**

**Federal Court of Australia Proceedings VID180 of 2018**

**Davaria Pty Limited and Kaizenworld Pty Ltd v 7-Eleven Stores Pty Limited, 7-Eleven Inc.  
and Australia and New Zealand Banking Group Limited**

**1. Why is this notice important?**

A class action has been commenced in the Federal Court of Australia by Davaria Pty Limited (**Davaria**) and Kaizenworld Pty Ltd (the **Applicants**) against **7-Eleven** Stores Pty Limited, 7-Eleven Inc (the American Master Franchisor) and Australia and New Zealand Banking Group Limited (**ANZ**). 7-Eleven Inc. has not been served with the documents commencing these proceedings and as such, no claims are actively pursued against it. In the class action, Davaria makes representative claims on behalf of group members against ANZ.

**You should read this notice very carefully if:**

- (a) you were a 7-Eleven Franchisee at any time between 20 February 2012 and 19 February 2018; and
- (b) you borrowed money during the period 20 February 2012 and 19 February 2018 from ANZ to buy a 7-Eleven franchise; and
- (c) you had not entered into a deed of release as at 20 February 2018 of all of your claims against 7-Eleven and ANZ arising out of the conduct of 7-Eleven and ANZ described in the Further Amended Statement of Claim (**Release**); and
- (d) you did not opt out of the class action.

This Notice contains important information about the settlement of the part of the class action against ANZ. Section [2] below explains what the terms of the settlement with ANZ are. Section [4] below explains how you can object to the settlement.

**If you did not borrow money from ANZ to buy a 7-Eleven franchise, you may disregard this notice.**

**If you have opted out of this proceeding, you may disregard this notice.**

The Federal Court has ordered that this notice be published. Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in the notice that you do not understand, you should seek legal advice.

**2. Proposed settlement with ANZ**

Davaria and ANZ have agreed to settle the proceedings against ANZ, subject to Court approval. In effect, the settlement will mean that Davaria can continue to pursue its claims against 7-Eleven and decide later if it still wishes to sue ANZ.

The main terms of the settlement are that:

- (a) Davaria discontinues its claims against ANZ;
- (b) ANZ agrees to suspend the limitation periods for the case against it. This means that ANZ will not count the time that passes until the suspension is terminated towards working out whether any

claim you want to bring against it is too late. This suspension will be terminated either 6 weeks after the Court delivers its reasons for decision following the trial of common issues in the proceedings against 7-Eleven, or by 6 months' written notice by either party, whichever comes first;

- (c) Davaria and/or current group members may commence a new class action against ANZ once the suspension of the limitation period is terminated. However, the parties to the new proceeding must consent to orders that the costs incurred by ANZ and Davaria in the current proceeding being costs of the new proceeding;
- (d) the current security for ANZ's costs paid by the litigation funder is to be returned to the funder. If a new class action is commenced against ANZ by Davaria or another group member then the lead applicant in the new class action will have to provide the same security for ANZ's costs;
- (e) ANZ and Davaria will otherwise bear their own costs of the current proceeding against ANZ;
- (f) group members have had an opportunity to opt-out of the proceeding, in which case they will not be bound by the settlement. If 7 or more group members, who have claims against ANZ and have not entered into a Release in the period from the commencement of the class action up to and including 12 March 2019, opted out, then ANZ had the right to terminate the deeds of settlement. ANZ has not terminated the deeds of settlement;
- (g) if ANZ commences an enforcement action in relation to a loan that ANZ provided to any group member for their 7-Eleven Franchise, that group member can still defend that enforcement action, including by bringing a counter claim against ANZ; and
- (h) ANZ will participate in any Court-ordered mediation of the proceedings against 7-Eleven.

### 3. Need for Court Approval

The settlement with ANZ must be approved by the Court. If you are a group member, you have a right to object to that settlement.

The application by Davaria for the Court's approval of the settlement with ANZ, will take place at a hearing at the Federal Court, 305 William Street in Melbourne on Friday 7 August 2020 at 10:15 am (**Approval Hearing**). In determining the application for approval, the Court will consider whether the settlement is fair and reasonable having regard to the interests of the group members.

If the settlement with ANZ is approved by the Court at the Approval Hearing, the settlement will be binding on every group member who has not opted out. You will however still be able to take part in any new class action commenced against ANZ. Under the settlement with ANZ you will only be able to participate in a class action or bring an individual claim against ANZ at a later date if the limitation period applicable to your claim has not expired and the limitation is no longer suspended.

**If the settlement is not approved by the Court following the Approval Hearing, the class action against ANZ will continue at the same time as the class action against 7-Eleven.**

### 4. What You Must Do

If you are in favour of the proposed settlement, there is nothing you need to do at this time.

If you wish to object to the proposed settlement, you must file a written NOTICE OF OBJECTION TO PROPOSED SETTLEMENT with the Federal Court in the form attached to this Notice and marked "Z". You must also lodge a copy with your nearest Federal Court Registry office and provide a copy of your notice to Levitt Robinson Solicitors at the address below, by no later than **4 pm on 14 July 2020**.

If you file a Notice of Objection to Proposed Settlement, you or your legal representative may attend the Approval Hearing on Friday 7 August 2020 at 10:15 am and make further submissions to the Court in support of your objection.

#### **5. What happens if the Settlement is approved?**

If the proposed settlement is approved by the Court, the class action will still continue against 7-Eleven and **you will be bound by the outcome of the class action against 7-Eleven and the settlement with ANZ.**

Once the class action against 7-Eleven is finished, Davaria or another group member may still decide to sue ANZ in a class action that you can be part of. You will not be able to sue ANZ about the matters alleged in the class action by yourself without first giving a written notice to ANZ terminating the suspension of the limitation period. If ANZ commences an enforcement action against you in relation to a loan that ANZ provided you for your 7-Eleven Franchise, then nothing in this settlement will stop you from defending that enforcement action, including by issuing any counterclaim against ANZ.

#### **6. What happens if the Settlement is not approved?**

If the proposed settlement is not approved by the Court, the class action will still continue against both 7-Eleven and ANZ and you will be bound by the outcome.

**Please consider the above carefully. If there is anything of which you are unsure, you should contact Levitt Robinson (whose contact details are set out below) or seek your own legal advice as discussed at section [1] above.**

Contact Details of Levitt Robinson Solicitors:

Address: Ground Floor, 162 Goulburn Street, Surry Hills NSW 2010

Phone: (02) 9286 3133

Email: [711@levittrobinson.com](mailto:711@levittrobinson.com)

#### **7. Where can you obtain copies of relevant documents?**

Copies of relevant documents, including the second further amended application, the second further amended statement of claim, the defences filed by 7-Eleven and ANZ and any replies to the defences, may be obtained by:

- (a) downloading them from [www.levittrobinson.com](http://www.levittrobinson.com);
- (b) by e-mailing [711@levittrobinson.com](mailto:711@levittrobinson.com) and requesting copies;
- (c) by contacting a District Registry of the Federal Court (contact details are available at [www.fedcourt.gov.au](http://www.fedcourt.gov.au)) and paying the appropriate inspection fee; or
- (d) inspecting them on the Federal Court website at <http://www.fedcourt.gov.au/law-and-practice/class-actions/class-actions>.

The deed of settlement between Davaria and ANZ may be obtained by e-mailing [711@levittrobinson.com](mailto:711@levittrobinson.com) and requesting a copy.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Levitt Robinson Solicitors on 02 9286 3133 or [711@levittrobinson.com](mailto:711@levittrobinson.com) or seek your own legal advice. **You should not delay in making your decision.**

“Z”

**Notice of Objection to Proposed Settlement with ANZ**

Federal Court of Australia  
District Registry: Victoria  
Division: General

No: VID180/2018

**Davaria Pty Limited** and another named in the schedule

Applicants

**7-Eleven Stores Pty Ltd** and others named in the schedule

Respondents

**NOTICE OF OBJECTION TO PROPOSED SETTLEMENT**

TO: The Registrar, Federal Court of Australia  
Victorian Registry  
Owen Dixon Commonwealth Law Courts Building  
305 William Street  
Melbourne Victoria 3000

Name of Group Member:

(If a company, insert  
COMPANY name) \_\_\_\_\_

**Tick this box to confirm that you borrowed money from ANZ to buy a 7-Eleven franchise**

I am a Group Member in these Proceedings and I object to the proposed settlement of these Proceedings on the terms proposed because [*set out below the reasons for objection or attach additional pages as required*]:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of person signing notice: \_\_\_\_\_

Position within company (if any): \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_ E-mail: \_\_\_\_\_