**OPT OUT NOTICE**

**FEDERAL COURT OF AUSTRALIA**

**Class Action against OZ Minerals Limited**

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

A class action has been commenced against OZ Minerals Limited (**OZ Minerals**) in the Federal Court of Australia by a former shareholder of Zinifex Limited (**Zinifex**), Tobias Mitic, as a representative party on behalf of himself and all former Zinifex shareholders who:

(i) acquired shares in OZ Minerals on 1 July 2008 as a result of the merger between Oxiana Limited (now OZ Minerals) and Zinifex;

(ii) suffered loss and damage as a result of the conduct of OZ Minerals (as alleged); and

(iii) have not settled their claims with OZ Minerals.

Such persons are defined as **group members**.

The Federal Court has ordered that this notice be published for the information of persons who might be group members and thus may be affected by the action. You have been identified as a potential group member. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in it that you do not understand, you should seek legal advice.

1. **What is a class action?**

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

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

Group members are bound by any judgment or settlement entered into in the class action unless they have opted out of the proceeding. This means that:

(a) if the class action is successful, group members may be eligible for a share of any settlement monies or Court-awarded damages;

(b) if the class action is unsuccessful, group members are bound by that result; and

(c) regardless of the outcome of the class action, group members will not be able to pursue their claims against the Respondent in separate legal proceedings unless they have opted out.

1. **What is Opt Out?**

The Applicant in a class action does not need to seek the consent of group members to commence a class action on their behalf or to identify a specific group member. However, group members can cease to be group members by opting out of the class action. An explanation of how group members are able to opt out is found below in the section headed “What Group Members must do”.

1. **What is this class action?**

This class action against OZ Minerals is brought by Mr Mitic on behalf of himself and group members.

In summary, the Applicant alleges that OZ Minerals (formerly Oxiana Limited) engaged in misleading or deceptive conduct, and breached its continuous disclosure obligation to keep the Australian Securities Exchange (**ASX**) informed of all information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of OZ Minerals’ shares, by failing to disclose its current liability position and its refinancing risks in early 2008 which had a material impact on the price or value of the shares of Oxiana Limited (and later OZ Minerals) on the ASX.

OZ Minerals denies the allegations and is defending the class action. As a further defence by OZ Minerals and in a series of related proceedings involving claims and cross-claims, OZ Minerals alleges that if it is liable to group members (which it denies), then so too, in whole or in part, are the following persons or entities:

* Grant Samuel & Associates Pty Limited;
* Zinifex;
* former directors and officers of Zinifex;
* former directors and officers of OZ Minerals (formerly Oxiana Limited);
* Clayton Utz;
* Allens;
* KPMG; and
* KPMG TS Pty Limited,

(collectively, the **alleged concurrent wrongdoers**).

The Applicant’s claim in this proceeding is as against OZ Minerals and he has not made claims against the alleged concurrent wrongdoers or sought any relief against them. The significance to group members of OZ Minerals’ allegations that the alleged concurrent wrongdoers are also liable to the Applicant and group members, if OZ Minerals is liable for the Applicant and group members’ loss, is that on that basis OZ Minerals alleges that it should only be liable for a proportionate share of that loss.

1. **Are you a group member?**

As noted above, you are a group member if you are a former Zinifex shareholder who acquired shares in OZ Minerals on 1 July 2008 as a result of the merger between Zinifex and Oxiana Limited (now OZ Minerals) and you suffered loss and damage as a result of OZ Minerals’ conduct (as alleged) and have not settled your claims with OZ Minerals.

If you are unsure whether or not you are a group member, you should contact ACA Lawyers on +61 2 9216 9898 or email [info@acalawyers.com.au](file:///C%3A%5CUsers%5Cmonica.allen.MTRX%5CAppData%5CLocal%5CTemp%5C252%5CWBGX%5CWDQS%5Cinfo%40acalawyers.com.au) or seek your own legal advice without delay.

1. **Will you be liable for legal costs?**

You will **not become liable for any legal costs** simply by remaining as a group member for the determination of the common questions. However:

(a) if the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage the Applicant’s lawyers, ACA Lawyers, or other lawyers to do that work for you. A copy of the terms on which ACA Lawyers are acting in the class action may be obtained from them on the number shown below;

(b) if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Applicant in running the class action but which are not able to be recovered from OZ Minerals; and

(c) class actions are often settled out of court. If this occurs in the OZ Minerals class action, you may be able to claim from the settlement amount without retaining a lawyer.

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

Unless you opt out, you will be bound by the outcome of the class action. If the class action is successful, and if you have registered in accordance with “Option A” below, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and group members. If the action is unsuccessful or is not as successful as you might have wished, you will not be able to bring proceedings or take action against OZ Minerals in respect of the matters the subject of the class action.

**Note**: Group members who retain ACA Lawyers and enter into a funding agreement with Harbour Litigation Funding Ltd before 4pm AEST on Monday 25 January 2016, or who have already retained ACA Lawyers and entered into a funding agreement with Harbour Litigation Funding Ltd, will register to participate in the class action through ACA Lawyers and may disregard this notice.

1. **What Group Members must do**

If you are a group member in the OZ Minerals class action, and you wish to remain a group member but have not retained ACA Lawyers, you must select one of the following options:

***Option A – Register your interest in receiving compensation***

If you wish to make a claim for any loss you may have suffered as a result of OZ Minerals’ conduct, as alleged, you must complete the “Group Member Registration Form” on the ACA Lawyers website, which is accessible at <http://www.acaclassactions.com.au/oz-minerals-class-action>.

Registrations must be completed and submitted online before **4:00pm AEST on Monday 25 January 2016**. Registrations received after this time will not be accepted with the result that you will be treated as having not responded to this notice (see Option C below).

As set out below, you will find copies of the court papers which detail the claims made in the OZ Minerals class action at this website.

***Option B – Opt out and cease to be a group member***

If you do not wish to remain a group member in the OZ Minerals class action, you must opt out of the proceeding by completing the "Opt Out Notice" below. If you opt out of the OZ Minerals proceeding, you:

1. will not be affected by any orders made in the OZ Minerals class action;
2. will not be permitted to participate in the distribution of any damages award or settlement outcome; and
3. will be able to commence separate proceedings on your own behalf if you so wish.

Opt out forms must be submitted to the Victorian District Registry of the Federal Court of Australia before **4:00pm AEST on Monday 25 January 2016**. Opt out notices received after this time will not be accepted, and you will remain as a group member in the OZ Minerals class action but will not be permitted to participate in any compensation award (see Option C below).

***Option C – Not respond to this notice***

If you do nothing, you will remain a group member in the class action and you will be bound by any court judgment or settlement agreement, but if the court judgment or settlement agreement provides for compensation to be payable to registered group members you will not be permitted to participate in that compensation award or otherwise benefit from the judgment or settlement. Further, in that event, any cause of action you might otherwise have had against OZ Minerals in respect of the matters the subject of the class action will no longer be available to you.

In other words, if you do nothing, you will lose your right to make any claim for damages or other relief against OZ Minerals in relation to the matters the subject of the class action.

1. **Where can you obtain copies of relevant documents?**

You may access copies of the court papers which detail the relevant documents filed in connection with the OZ Minerals class action, by:

1. viewing them at the ACA Lawyers website, which is accessible at <http://www.acaclassactions.com.au/oz-minerals-class-action>;
2. inspecting them by appointment between 9.00am and 5.00pm AEST at the Sydney office of ACA Lawyers; or
3. inspecting them at the Federal Court website, which is accessible at <http://www.fedcourt.gov.au>, or by visiting a District Registry of the Federal Court in Melbourne, Sydney, Canberra, Brisbane, Perth, Adelaide, Hobart or Darwin.
4. **Questions?**

Please consider the above matters carefully. If you are unclear about whether you are a group member, or if you have any other questions regarding the OZ Minerals class action, you should contact ACA Lawyers by writing to “OZ Minerals Class Action”, Level 3, 44 Martin Place, Sydney NSW 2000, or by sending an email to [info@acalawyers.com.au](file:///C%3A%5CUsers%5Cmonica.allen.MTRX%5CAppData%5CLocal%5CTemp%5C252%5CWBGX%5CWDQS%5Cinfo%40acalawyers.com.au). Alternatively, you can seek legal advice from other solicitors. You should not delay in making your decision.

If you wish to register (Option A), but do not have access to the internet or are otherwise unable to register in accordance with Option A, please call +61 2 9216 9898 between the hours of 9:00am to 4:00pm AEST by no later than 4:00pm AEST on Monday 25 January 2016.

At the time of your call, please ensure you have all available information relevant to your trading transactions in OZ Minerals securities.

Form 21

Rule 9.34

**OPT OUT NOTICE**

Federal Court of Australia

District Registry: Victoria

Division: General

**TOBIAS MITIC**

Applicant

**OZ MINERALS LIMITED (ACN 005 482 824)**

Respondent

To: The Registrar

Federal Court of Australia

Victorian District Registry

Lev 7, 305 William Street Melbourne VIC 3000

No. VID 114 of 2014

................................................................... (print name), a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976,* that he, she or it is opting out of the representative proceeding.

Date:.................................

Signed by

.............................................. (signature)

................................................... (print name)
Group Member *I* Lawyer for the Group Member

(please complete the next page)

Address of group member:

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Telephone: ............................................................................................

Email: ............................................................................................

ACN/ABN: ............................................................................................(if a company or trustee)

HIN/SRN: ............................................................................................

If the shares were acquired on behalf of another person/entity, name of that person/entity:

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 **If you are signing as the solicitor or representative of the group member:**

Name: .............................................................................................

Capacity in which you are signing: ..........................................................

Address:

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Telephone: ............................................................................................

Email: ............................................................................................