

# FEDERAL COURT OF AUSTRALIA

## Scott & Taws v OZ Minerals class action

### NOTICE

#### SHAREHOLDER CLASS ACTION AGAINST OZ MINERALS LIMITED

(regarding shares purchased between 29 February 2008 and 1 December 2008)

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

On 24 August 2010, a representative proceeding was commenced in the Supreme Court of New South Wales against OZ Minerals Limited (“**OZ Minerals**”). On 17 September 2010, by order of the Supreme Court of New South Wales the proceeding against OZ Minerals was transferred to the Federal Court of Australia, NSW District Registry.

The Scott & Taws v OZ Minerals class action is brought by Anthony Scott and Nicola Taws. The Applicants allege that OZ Minerals breached the Australian Securities Exchange (“**ASX**”) Listing Rules, the *Corporations Act 2001* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth) by failing to disclose to the ASX information that a reasonable person would expect to have a material effect on the price or value of OZ Minerals securities.

The allegations are made in a Statement of Claim dated 26 November 2010.

OZ Minerals rejects the allegations and will defend the Scott & Taws v OZ Minerals class action on a number of grounds, including that OZ Minerals did not fail to disclose appropriate information to the ASX as required.

The Federal Court has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the Scott & Taws v OZ Minerals class action is brought and may be affected by the class action. If you think you may be a class 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.

#### 2. What is a class action?

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

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

Class members are bound by 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, class members may be eligible for a share of any settlement monies or Court-awarded damages;
- (b) if the class action is unsuccessful, class members are bound by that result; and
- (c) regardless of the outcome of the class action, class members will not be able to pursue their claims against the Respondent in separate legal proceedings unless they have opted out.

### 3. What is Opt Out?

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

### 4. What is this class action?

This class action, the Scott & Taws v OZ Minerals class action is brought by Anthony Scott and Nicola Taws (“**the Applicants**”) on their own behalf and on behalf of all persons who are class members as defined in the proceeding (and summarised below).

The Applicants allege in the Statement of Claim in Federal Court proceeding NSD 1433 of 2010 that OZ Minerals breached the ASX Listing Rules, the *Corporations Act 2001* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth) by failing to disclose to the ASX information that a reasonable person would expect to have a material effect on the price or value of OZ Minerals securities.

The Applicants’ claim is made on their own behalf and on behalf of class members (defined below) and is for damages for loss allegedly arising from:

1. the purchase of securities in OZ Minerals (“**OZ Minerals securities**”) between (and including) 23 July 2008 and 1 December 2008; and/or
2. the purchase of securities in Oxiana Limited (“**Oxiana securities**”) between (and including) 29 February 2008 and 22 July 2008 (with the exception of those securityholders of Zinifex Limited who became securityholders of Oxiana Limited on 1 July 2008 by reason of the merger between Zinifex Limited and Oxiana Limited).

The respondent to the class action is OZ Minerals. The respondent does not admit the allegations and is defending the class action.

### 5. Are you a class member?

You are a class member in the class action if:

1. You purchased:
  - I. OZ Minerals securities between (and including) 23 July 2008 and 1 December 2008; and/or
  - II. Oxiana securities between (and including) 29 February 2008 and 22 July 2008 (with the exception of those securityholders of Zinifex Limited who became securityholders of Oxiana Limited on 1 July 2008 by reason of the merger between Zinifex Limited and Oxiana Limited).
2. You suffered loss and damage by or resulting from the alleged conduct of OZ Minerals set out above.
3. You are not carrying on nor are you represented in any other Court proceedings against the Respondent in relation to the loss or damage suffered by or resulting from the alleged conduct of OZ Minerals set out above, **including proceedings NSD 1127 of 2009 titled *Hobbs Anderson Investments Pty Ltd v OZ Minerals Ltd***.

### 6. What is about to happen?

The Federal Court has ordered that a mediation be held in the proceeding.

To enable the Applicants and OZ Minerals to know which class members actually want to claim compensation against OZ Minerals in the proceeding, the Court has ordered that

class members must **register** with the Applicants' solicitors. Class members who **do not register** may not be able to pursue any claims **unless** they choose to opt out of the Scott & Taws v OZ Minerals class action under Option B below.

## 7. What Class Members Must Do

If you fit the definition of a "class member" in the Scott & Taws v OZ Minerals class action you must choose one of the following options:

**Option A:** **If you wish to remain a class member** and make a claim for any losses you claim to have suffered as a result of the events described in the Statement of Claim, you should complete the "Class Member Registration Form" below (and return to Slater & Gordon) or register online at <http://classaction.slatergordon.com.au>.

Class members who register with the Applicants' solicitors will be bound by the outcome of the Scott & Taws v OZ Minerals class action. If the Scott & Taws v OZ Minerals class action is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicants and class members. (You may have to satisfy certain conditions before your entitlement arises.)

If the Scott & Taws v OZ Minerals class action is unsuccessful, or is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceedings.

**Option B:** **If you do not wish to be a class member** you should opt out of the proceeding by completing the "Notice of Opting Out" below. If you opt out then you will not be affected by any orders made in the Scott & Taws v OZ Minerals class action.

You will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the Scott & Taws v OZ Minerals class action, but you will be at liberty to bring your own claim against the Respondent, provided that you issue Court proceedings within the time limit applicable to your claim.

If you wish to bring your own claim against the Respondent, you should seek your own legal advice about your claim and the applicable time limit **prior** to opting out.

**Option C:** **If you do nothing**, (ie. you do not complete an opt out notice and do not register to make a claim), you will be prevented from making a claim by a separate proceeding and from making a claim against OZ Minerals at a later stage in these proceedings. In other words if you do nothing you will lose your rights to bring any claim for damages against OZ Minerals in relation to the allegations made in the Scott & Taws v OZ Minerals class action.

**Option D:** **If you want to challenge the orders** made by the Court requiring the registration of claims for compensation, you must send a written notice to the Applicants' solicitors setting out the challenge you want to make and the reasons for that challenge. You may then be required to attend the Court at a later date to have your challenge heard.

**You must decide what to do BEFORE 4:00pm on 20 January 2011.** If you want to opt out you must send your “Notice of Opting Out” to the Federal Court so that it arrives before that deadline. Alternatively, if you wish to register as a class member you must send your “Class Member Registration Form” to the Applicants’ solicitors, Slater & Gordon, so that it arrives at Slater & Gordon before the deadline or register online at <http://classaction.slatergordon.com.au>. If you want to challenge the orders requiring the registration of claims for compensation, you must send your written reasons for the challenge to Slater & Gordon by the deadline.

It is important that you take extreme care when completing the Class Member Registration Form as this will provide the basis upon which any entitlement to compensation that you may have will be determined.

### **8. Will you be liable for legal costs?**

Note, you will **not become liable** for any legal costs simply by registering your claim for compensation as a class member under Option A.

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 Slater & Gordon or other solicitors to do that work for you. You may be liable for costs associated with the determination of issues concerned only with your claim. A copy of the terms on which Slater & Gordon are acting in the class action may be obtained from them on the number/s 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 Applicants in running the class action but which are not able to be recovered from the Respondent; and
- (c) class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer.

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

Copies of relevant documents, including the Statement of Claim may be obtained by:

- (a) downloading them from [www.slatergordon.com.au](http://www.slatergordon.com.au);
- (b) inspecting them between 9am and 5pm at one of the offices of Slater & Gordon, contact details for which are available from the Applicants’ solicitors (Slater & Gordon) at Level 11, 51 Druitt Street, Sydney NSW 2000, or by calling 1800 555 777 or by email to [newclientservices@slatergordon.com.au](mailto:newclientservices@slatergordon.com.au);
- (c) inspecting them on the Federal Court website: [www.fedcourt.gov.au](http://www.fedcourt.gov.au) or by visiting a District Registry of the Federal Court in Sydney, Canberra, Melbourne, Brisbane, Adelaide, Perth, Hobart or Darwin: the addresses for these registries are available at [www.fedcourt.gov.au](http://www.fedcourt.gov.au) or by calling the New South Wales District Registry on 02 9230 8567.

A copy of the Defence will be available from the above sources shortly after 17 December 2010.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Slater & Gordon on 02 8267 0600 or seek your own legal advice. You should not delay in making your decision.

This Notice is published pursuant to Orders made by the Federal Court on 22 October 2010 and 23 November 2010.



	<b>ASX Code (OZL, OXL)</b>	<b>Date</b>	<b>Quantity</b>	<b>Price Per Share (excluding brokerage)</b>
<b>All shares SOLD from 29 February 2008 to 1 December 2008</b>				

Signed: .....

Date: .....

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

Name: .....

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

Telephone: .....

Email: .....

Address: .....

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**OPTION B**  
**NOTICE OF OPTING OUT**

**IN THE FEDERAL COURT OF AUSTRALIA**  
**NEW SOUTH WALES DISTRICT REGISTRY**  
**GENERAL DIVISION**

**No. NSD 1433 of 2010**

**BETWEEN:                    ANTHONY SCOTT AND NICOLA TAWS**  
**Applicants**

**AND:                         OZ MINERALS LIMITED**  
**Respondent**

TO:    The Registrar  
       Federal Court of Australia  
       Sydney Registry  
       Level 17, Law Courts Building  
       Queens Square  
       Sydney NSW 2000  
       By fax: (02) 9230 8295

**Notice of opting out by class member**  
**(Order 73, rule 6)**

....., a class member in the Scott & Taws v OZ Minerals class action, gives notice under section 33J of the *Federal Court of Australia Act 1976* (Cth), that he, she or it is opting out of the class action.

Date: .....

.....  
Signature of class member or his or her or its  
solicitor or representative

(please complete the next page)

Address of class member: .....

Telephone: .....

Email: .....

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

HIN/SRN: .....

Entity in which shares were acquired: .....

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

.....

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

Name: .....

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

Telephone: .....

Email: .....

Address: .....