

**GALACTIC SEVEN ELEVEN LITIGATION HOLDINGS LLC**  
**(a Wyoming Corporation)**

## **Disclosure Statement**

**To Members and Prospective Members of the Proposed Representative Action against 7-Eleven Stores Pty Limited, 7-Eleven Inc. (a Texas Corporation) and ANZ Bank ('proposed representative action')**

### **1. Introduction**

- 1.1 This Disclosure Statement is relevant to you if:
  - (1) You are a Prospective Member of the proposed representative action.  
(hereinafter "**Prospective Proceedings**").  
(Herein referred to as "**you**")
- 1.2 This Disclosure Statement is provided to you by GALACTIC SEVEN ELEVEN LITIGATION HOLDINGS LLC, which within this document will be referred to as the "**Funder**".
- 1.3 This Disclosure Statement is provided to you pursuant to the *Corporations Regulations* 2001 (Cth), which will be referred to as the "**Regulations**", and the Funder's Conflicts Management Policy, which will be referred to as the "**Policy**".
- 1.4 The purpose of this document is to provide:
  - (1) full disclosure to you about the Funder;
  - (2) an explanation of the divergent interests between you, the Funder and the Lawyers who will act for you (Levitt Robinson Solicitors, herein referred to as the "**Lawyers**"); and,
  - (3) an explanation of when such interests may conflict and how the Funder will deal with such conflicts of interest if and when they do arise.
- 1.5 Pursuant to the Policy and the Regulations, the Funder will provide to you updated timely, prominent and specific disclosure of any change in circumstance that gives rise to a new potential or real conflict of interest.
  - (1) If disclosure cannot be made of new 'conflict of interest' say for reasons of confidentiality, the Funder will ascertain the best way to manage such conflict of interest.

- (2) Any disclosure will contain enough detail in a clear, concise and effective manner for You to understand the potential impact of any divergent interests between the Funder the Lawyers and You, and for You to be able to make an informed decision about how the conflict affects You.
- 1.6 If this Disclosure Statement is amended, the Funder will provide the amended Statement to you in a timely and prominent manner.

## 2. Who the Funder is

- 2.1 The Funder is a company which is in the business of litigation funding. The Funder can be contacted at:

Company Name:	<b>GALACTIC SEVEN ELEVEN LITIGATION HOLDINGS LLC (a Wyoming Corporation)</b>
Senior Person:	<b>Marcy Frawley</b>
Company Address:	<b>400 Rella Boulevard, Suffern, New York USA 10901</b>
Company Telephone Number:	<b>0011 1 212 444 1300</b>
Company Email:	<b>mrawley@rcxcapital.com</b>

- 2.2 The Funder recognises that within the litigation funding business, there are many potential and real conflicts of interest which may exist between the Funder, the Lawyers and you.
- 2.3 The Funder is not a law firm, and does not provide legal advice. The Funder's operations in the litigation funding business are limited to providing finance to individuals and/or entities who have a legal claim for compensation, in return for payment of a percentage of that compensation to the Funder in the event those people or entities are awarded such compensation through their claim or as a consequence of a negotiated settlement of the claim. Simply, the Funder invests in legal claims.
- 2.4 As the Funder is not a law firm, it is important to note the following:

*The Funder cannot and will not provide legal advice to you with respect to any offer for finance the Funder provides to you. You should obtain independent legal advice with respect to any agreement you enter into with the Funder.*

### Person Responsible for handling the Policy and your complaints

- 2.5 **Marcy Frawley** has been appointed as the Senior Person for the management, review and implementation of the Funder's Policy. Accordingly, she is responsible for handling any issues that you may have regarding any conflicts of interest.

- 2.6 You must contact Marcy Frawley at the earliest opportunity if you consider that there is a legitimate reason why the Funder and the Lawyers can no longer represent your interests.

### 3. The Funding Agreement

- 3.1 If you have not been provided with a Funding Agreement already, one will be provided to you. You **must read the Funding Agreement** before you agree to be bound by it.
- 3.2 The Funding Agreement broadly specifies that the Funder will pay your legal costs for you to advance your legal claim, and in the event that you receive an amount in compensation, a percentage of that compensation will be paid to the Funder as consideration for the Funder funding your claim. The Funder will also be reimbursed all legal costs and disbursements outlaid with respect to the claim.
- 3.3 The Funding Agreement can therefore be considered to be a “no win-no fee” agreement, whereby no fee will be payable to the Funder, unless you receive some compensation in respect of your claim which is the subject of the Funding Agreement.
- 3.4 Importantly, the Funding Agreement contains the following terms:
- (1) Provision for providing a “cooling-off period” after you have executed the Funding Agreement, meaning you will be provided with a period of time within which you may opt out of the Agreement.
  - (2) A provision obliging the Funder to comply with the Regulations, with ASIC Regulatory Guidelines and with any other relevant legal requirements, and to provide timely disclosure to you of any breach of the Regulations or any other law by either the Funder or Lawyers.
  - (3) If the Lawyers are party to the Funding Agreement:
    - (i) an obligation for the Lawyers to give precedence to your instructions, as the Clients, and to pay particular heed to the instructions of the lead applicant;
    - (ii) provides a mechanism for the resolution of differences of opinion and disputes between the Lawyers, the Funder and you.
  - (4) A procedure to be applied to have any proposed Settlement Agreement in your case independently reviewed.
  - (5) An obligation for you to be informed of the terms of any proposed Settlement Agreement.
- 3.5 You have rights to terminate the Funding Agreement in certain situations. If you do terminate the Funding Agreement and then you are subsequently awarded compensation

or you receive compensation as a consequence of a negotiated settlement of your claim, you may still be required to reimburse the Funder for some of its costs under the Funding Agreement.

- 3.6 Pursuant to the Funding Agreement, the Funder will pay your legal costs, court costs, and necessary third party disbursements.
- 3.7 You may be provided the opportunity to ‘opt out’ of the legal proceedings. However, under the Funding Agreement, if you subsequently recover any compensation, you will still be liable to pay the Funder its entitlements, as prescribed by that Funding Agreement.

#### **4. The Interests of the Funder, the Lawyers and you**

##### The interests of the Funder

- 4.1 The Funder has these primary interests:
  - (1) to maximise the quantum of any recovery of damages and costs (the Funder, through the Funding Agreement, will obtain a percentage of your compensation) in the most cost-effective and expeditious way;
  - (2) that the legal costs payable to the Lawyers in your proceedings represent an efficient and productive investment on your behalf.

The Funder’s primary objective is to realise a profit and the Funder will only profit if the payment of the percentage of compensation it receives from you is greater than the legal costs incurred by you in advancing your claim.
- 4.2 The Funder therefore has an interest in your legal claim being resolved quickly, so as to keep legal costs low.
- 4.3 Factors that the Funder would ordinarily consider when determining whether to fund your claim include:
  - (1) The merits of your claim, or the merits of the claims of other group members, if your claim is part of a representative action;
  - (2) The law under which the claim is being made;
  - (3) The total value of the claim;
  - (4) In representative proceedings, the number of group members who are participating in the claims, and the quantum of damages which could plausibly be recovered;
  - (5) The identity and resources of the prospective defendants;
  - (6) The jurisdiction in which the claim will be made;
  - (7) The foreseeable legal costs and complexity of the claim;

- (8) The likelihood that the prospective defendant would be able to pay an order against it for compensation;
  - (9) The time the case is likely to take;
  - (10) The prospects of settlement; and,
  - (11) The novelty of the law involved.
- 4.4 It is not in the Funder's interest for you to receive no compensation from your claim, or for you to discontinue your claim after legal work has been done. As the terms of the Funding Agreement can simply be considered a "no win-no fee" agreement, meaning unless you are paid compensation, the Funder will receive no benefit.

#### The interests of the Lawyers

- 4.5 Lawyers ordinarily charge on a time-basis, meaning the more work that they undertake, the more money that will be paid to them.
- 4.6 Lawyers have a material interest both in optimising your recovery and in hedging against your claim failing.
- 4.7 The Lawyers also have an interest in keeping the Funder satisfied, as it is the Funder who ensures that the Lawyers are receiving remuneration for their work.
- 4.8 However, you as the Lawyers' clients, are owed a fiduciary duty by the Lawyers. This means that the Lawyers are obliged to act in your best interest. Further, it is a term of the Policy, and a term of the Funding Agreement that the Lawyers are ordinarily required to give precedence to your instructions, or in the case of a representative action, the instructions of the Lead Applicant, over the Funder's instructions.

#### Your interests

- 4.9 Generally, your interest is to maximise the sum of compensation ultimately available to you, which would involve containing legal costs and the Funder's premium.
- 4.10 In this claim, we understand that there are varying interests between You and other prospective members.

### **5. Pre-existing relationships between Lawyers and Funder**

- 5.1 The Lawyers, Levitt Robinson Solicitors, have a pre-existing relationship with the Funder, having advised them on setting up a litigation funding business in Australia and drawn and settled the necessary documentation.

## **6. Divergent Interests between the Funder, Lawyers and You, and potential and actual Conflicts of Interests**

### Divergent interests existing at the time of entering the Funding Agreement

6.1 At the time of entering the Funding Agreement:

- (1) the Funder has an interest in maximising the influence it can have over the Prospective Proceedings;
- (2) you have an interest in reconciling the Funder's influence over the Prospective Proceedings with your own interests; and
- (3) you and the Lawyers have an interest in ensuring that funding for the Prospective Proceedings is secured for the duration of the whole matter.

6.2 You and the Lawyers have an interest in ensuring that the Funder is obliged to fund the Prospective Proceedings for as long as possible. The Funder has an interest in limiting its obligations to you, and making it easier for itself to exit the Funding Agreement, if it wishes to do so.

### Potential conflicts of interest that may arise while advancing a claim

6.3 During the advancement of your claim, you, the Funder, and the Lawyers may have conflicting views on how it is best for your dispute to proceed.

6.4 The Lawyers have an obligation to follow your instructions, however, they may have a conflict of interest in trying to keep the Funder satisfied, as the Funder is paying the Lawyers' fees.

### Potential conflicts that may arise during settlements negotiations

6.5 You, the Funder and the Lawyers may have conflicting views when deciding whether to accept a settlement offer, or not.

6.6 The Funder has an interest in maximising the compensation payable to you, while minimising the length of time that the dispute proceeds, while you have an interest in maximising your compensation, and you may not mind how long it takes to obtain payment of that maximum compensation. Accordingly, you and the Funder may disagree on whether to settle your dispute at a particular point in time, according to the timing of the settlement offer.

6.7 Other factors which may cause a divergence in interests while negotiating a settlement of your dispute include:

- (1) difference in your views about the prospects of success of your claims;

- (2) the fact that the Funder is exposed to a cost-order if your case loses at hearing, while you are not at risk of being subject to such an order;
  - (3) you may think that the settlement offer has been made too early, and would like to continue with the dispute to try to obtain a greater offer, while the Funder may like to minimise the risk and potential costs by settling the dispute early; and,
- 6.8 There may be conflicts of interest between you and other members of the representative action, such as:
- (1) your claim may be stronger or weaker than the average group member's, which could create a divergence of interests between group members during settlement negotiations; and,
  - (2) you may want relief in the form of monetary compensation, while other group members may wish to be provided with alternative relief.

#### Potential conflicts of interest that may arise at the end of the Funding Agreement

- 6.9 The Funding Agreement may conclude before your dispute proceedings have concluded. In that circumstance, there may be a divergence in interests between the Lawyers, the Funder and you. The following are examples of what may happen:
- (1) The Funder may not want to enter into a new Funding Agreement with you to continue to fund your claim if it seems like there is no longer any commercial gain to be received by the Funder, while you and the Lawyers may want the Funder to continue to fund the dispute until a result is achieved.
  - (2) In the converse, at the conclusion of the Funding Agreement, you and the Lawyers may decide that you wish to find an alternative funder, for your own specific reasons, and choose not to enter a new funding agreement with the Funder, against the Funder's wishes.
  - (3) There may be an appeal, which the Funder is reluctant to fund.

## **7. Handling Conflicts of Interest and Dispute Resolution**

- 7.1 When a conflict of interest arises in the conduct of your dispute proceedings, the Lawyers have an obligation to act in your best interests.
- 7.2 The Funding Agreement provides for a funder's premium to be paid and for the funder to recover its costs.
- 7.3 The Funding Agreement provides a mechanism for dispute resolution.

- 7.4 As aforementioned, the Lawyers owe a fiduciary duty to you. Therefore, as provided for in the Funding Agreement, in the event that you and the Funder provide to the Lawyer conflicting instructions, the Lawyer is to carry out your instructions, subject to the terms of the Funding Agreement.

Dispute regarding acceptance of a proposed Settlement Offer

- 7.5 The Funding Agreement sets out the procedure for resolving a dispute over a settlement offer and whether it should be made or accepted.