**OPT OUT NOTICE**

**FEDERAL COURT OF AUSTRALIA**

**LINCHPIN AND ENDEAVOUR CLASS ACTION (NSD939/2020)**

**WHY IS THIS NOTICE IMPORTANT?**

**This is an important notice approved by the Federal Court of Australia and issued to you because you are likely to be a group member in the Linchpin and Endeavour Class Action.**

As explained below, you may do one of two things in response to this notice:

1. **Do nothing** and remain a group member of the Linchpin and Endeavour Class Action; or
2. **Opt out** of the Linchpin and Endeavour Class Action by 6 October 2022 at 4.00 pm (Sydney time) and lose a right to get any money compensation out of the Linchpin and Endeavour Class Action (but keep your right to try to get some money compensation in an action you start yourself against the respondents).

**A. SOME THINGS YOU SHOULD KNOW ABOUT THE CLASS ACTION**

*What is the class action about?*

1. A class action (the **Linchpin and Endeavour Class Action**) has been commenced in the Federal Court of Australia by J & J Richards Super Pty Ltd as trustee for the J & J Richards Superannuation Fund (**Applicant**)against Linchpin Capital Group Ltd (In Liquidation) ACN 163 992 961 (**Linchpin**), Paul Nielsen (**Nielsen**), Ian Comrie Williams (**Williams**), Paul Anthony Raftery (**Raftery**), Peter Eugene Daly (**Daly**) and Endeavour Securities (Australia) Ltd (In Liquidation) ACN 079 998 819 (**Endeavour**) (together, the **Respondents**).
2. The Linchpin and Endeavour Class Action seeks compensation (that is, money) for persons (the **Group Members**) who made investments in either:
   1. an unregistered managed investment scheme called the ‘Investport Income Opportunity Fund’ (the **Unregistered Fund**), of which Linchpin was the trustee; and/or
   2. a registered managed investment scheme, also called the ‘Investport Income Opportunity Fund (the **Registered Fund**), of which Endeavour was the responsible entity,

and who have signed a litigation funding agreement with LCM Funding Pty Ltd (**LCM**).

1. The solicitors acting for Group Members are Corrs Chambers Westgarth (**Corrs**).
2. The Respondents’ insurers, AIG Australia Limited ACN 004 727 753 (**AIG**) and RiverStone Managing Agency Limited for and on behalf of all the underwriting members of Lloyd’s Syndicate 2014 (**RiverStone**) (together, the **Insurers**), have also been joined as parties to the class action proceeding. The Insurers have been joined to the proceeding as they have either declined to extend coverage to the Respondents or say that no occasion has yet arisen to confirm or deny coverage under certain policies of insurance provided to the Respondents (with the exception of RiverStone, who have advanced Defence Costs to some of the Respondents under one policy subject to the terms, exclusions, limitations and conditions of that policy and certain reservations of rights), which Corrs and the Applicant seek to challenge in the class action proceeding.
3. LCM is currently funding the case by paying the lawyers and covering any exposure to pay the costs of the Respondents.
4. The Federal Court has ordered that this notice be published for the information of Group Members on whose behalf the Linchpin and Endeavour Class Action is brought. You have been identified as a Group Member*.*
5. **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.

*What is a class action?*

1. A class action is an action that is brought by one person (the “**applicant**”) on his or her own behalf and on behalf of Group Members against another person or people (the “**respondents**”). Class actions are commenced in circumstances where the applicant and other persons have similar claims.

*Is a Group Member liable for any costs and charges?*

1. Group Members are not, and will not be, liable for any “out of pocket” legal costs by being Group Members. The costs of running it are being borne in the first instance by LCM and Corrs to be distributed upon the resolution of this proceeding as set out in paragraphs 10 and 11 below.
2. If the class action is successful (that is, if money compensation is recovered), the amounts recovered will be distributed in accordance with the litigation funding agreement signed by Group Members. The Court may also be asked to make orders in connection with the distribution of funds recovered. The effect of any such order, if made, would be that all Group Members who benefit will contribute to the legal and funding costs.
3. If the class action is unsuccessful, Group Members will have no liability to pay any legal and funding costs.

**B. YOUR OPTIONS**

*Option 1 - Remain a group member of the Linchpin and Endeavour Class Action*

1. If you wish to remain a group member of the Linchpin and Endeavour Class Action, there is nothing you need to do at the present time. You are not required to respond to this notice.
2. The Applicant will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Applicant and the Group Members.
3. Unless you opt out (as explained in paragraphs 16 to 19 below), you will be bound by any settlement or judgment in the Linchpin and Endeavour Class Action. If the class action is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and Group Members, although you may have to satisfy certain conditions before your entitlement arises.
4. If the action is unsuccessful or is not as successful as you may have wished, you will not be able to pursue the same claims and may not be able to pursue related claims against the Respondents in other legal proceedings.

*Option 2 - Opt out of the Linchpin and Endeavour Class Action*

1. If you do not wish to remain a Group Member, you must opt out of the Linchpin and Endeavour Class Action by 4.00 pm on 6 October 2022. If you opt out of the class action, you will not be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and Group Members against the Respondents. However, if you opt out, you may be at liberty to bring your own claim against the Respondents, provided that you file court proceedings within the time limit applicable to your claim. If you wish to opt out or bring your own claim, you should seek your own legal advice about your obligations under your funding agreement, your claim and any time limits prior to opting out.
2. If you wish to opt out of the Linchpin and Endeavour Class Action, you must do so by completing an “Opt out notice” (**Opt Out Notice**) in the form shown below, then returning it to the Registrar of the Federal Court of Australia at the address on the form, doing so by 4.00 pm on 6 October 2022.
3. You should only submit the Opt Out Notice if:
   1. you qualify as a Group Member and you wish to opt out of the Linchpin and Endeavour Class Action; or
   2. you believe that you have been incorrectly identified as a Group Member, because you do not meet the criteria set out in paragraph 2 above.
4. Each Group Member seeking to opt out should fill out a separate form. If you are opting out on behalf of a company or business, please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

**C. WHERE CAN YOU OBTAIN FURTHER INFORMATION?**

1. Copies of relevant documents, including the Amended Originating Application, the Second Further Amended Statement of Claim, any defences and any other pleadings filed in the Linchpin and Endeavour Class Action may be obtained by:
   1. inspecting them at the Federal Court by visiting a District Registry of the Court in Sydney, Canberra, Melbourne, Brisbane, Adelaide, Perth, Hobart or Darwin. The addresses for these registries are available at <http://www.fedcourt.gov.au> or by calling the New South Wales District Registry on 1300 720 980; or
   2. sending an email requesting those documents to IIOF.class.action@corrs.com.au.

Form 21

Rule 9.34

**Opt out notice**

No. NSD 939 of 2020

Federal Court of Australia

District Registry: New South Wales

Division: General

**J & J Richards Super Pty Ltd ACN 169 275 156 as trustee for the J & J Richards Superannuation Fund**

Applicant

**Linchpin Capital Group Limited (In Liquidation) ACN 163 992 961** **and others named in the Schedule**

Respondents

To: The Registrar

Federal Court of Australia

New South Wales District Registry

Level 17, Law Courts Building

184 Phillip Street

Queens Square

Sydney NSW 2000

[Name of group member], a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that [Name of group member] is opting out of the representative proceeding.

Date: [Insert date]

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| --- |
| Signed by [Name]  [Insert capacity eg group member / Lawyer for the group member] |

**Schedule**

No. NSD 939 of 2020

Federal Court of Australia

District Registry: New South Wales

Division: General

**Respondents**

Second Respondent: Paul Nielsen

Third Respondent: Ian Comrie Williams

Fourth Respondent: Paul Anthony Raftery

Fifth Respondent: Peter Eugene Daly

Sixth Respondent: Endeavour Securities (Australia) Ltd (in Liquidation) ACN 079 988 819

Seventh Respondent: AIG Australia Limited ACN 004 727 753

Eighth Respondent: RiverStone Managing Agency Limited for and on behalf of all the underwriting members of Lloyd’s Syndicate 2014