

**CLASS REGISTRATION NOTICE SUPREME COURT OF NEW SOUTH WALES**

**Famularo – Westpac (St.George Bank) Class Action**

*Supreme Court Proceeding No. 2016/35575*

**THIS NOTICE IS VERY IMPORTANT – PLEASE READ IT CAREFULLY, AS IT MAY AFFECT YOUR LEGAL RIGHTS**

**YOUR OPTIONS:**

**If you are a class member in the class action, your options are as follows:**

- (a) **register with Levitt Robinson by 14 September 2018** – there is no cost to register, and if you do so, you will remain a class member in the class action, and may be entitled to receive compensation from any settlement or judgment in the proceeding (see the section below headed '*Option 1 – Register your interest in receiving compensation from any settlement*'); or
- (b) **object to the Supreme Court's orders by 14 September 2018** (see the section below headed '*Option 2 – Apply to the Supreme Court to vary orders regarding registration*'); or
- (c) **do nothing** – if you do not take either of the steps referred to above by 14 September 2018, you will remain a class member in this proceeding, but will not be entitled to receive compensation from any settlement reached in the proceeding before the trial commences, and you will not be entitled to pursue your rights separately (see the section below headed '*Option 3 – Not respond to this notice*').

**What is this notice?**

A class action has been brought in the Supreme Court of NSW against Westpac Banking Corporation (which in 2010 became responsible for the liabilities of St.George) (**Westpac**). The action relates to investments made by clients of the late Mr Anthony ('Tony') Famularo.

This notice tells people who are class members in the class action how they can register if they want to obtain compensation from any settlement of the class action. It also tells them what they can do if they do not agree with the Court's orders about the class registration process.

The Supreme Court has ordered that this notice should be published for the information of people who might be class members. If you made investments acting on Tony Famularo's  
jops A0143448779v3 120463871

advice, you should read this notice carefully. If there is anything in the notice that you do not understand, you should seek legal advice.

**Key points to be aware of**

1. If you wish to obtain compensation from any settlement of the Famularo class action, you must complete and submit the Class Action Member Registration Form (see below) **by 14 September 2018. If you fail to submit your registration in time you will NOT be eligible to participate in any settlement of this class action that is reached before the trial commences.**
2. If you wish to challenge the orders of the Supreme Court described below, you must write to Levitt Robinson with your reasons by **14 September 2018.**
3. If you do not take one of the above steps by 14 September 2018, your rights against Westpac (if any) may be determined without your participation. **You will not receive any compensation if there is a settlement in the proceeding before the trial commences.** However, you will retain any entitlement to share in any settlement agreed after the trial commences, or an award of damages if there is no settlement and the Plaintiffs subsequently succeed at trial.

**What is a class action?**

A class action (also called 'representative proceedings') is a lawsuit that is brought by one or more people (who are called the 'Plaintiffs') on behalf of a class of people (who are called the 'class members') against one or more other people (who are called the 'Defendants'). It is a class action if the Plaintiffs and the class members have similar claims against the Defendant.

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

1. If the class action is successful, class members may be eligible for a share of any settlement monies or Court-awarded damages;
2. If the class action is unsuccessful, class members are bound by that result; and
3. Regardless of the outcome of the class action, class members will not be able to pursue their claim against the Defendant in separate legal proceedings unless they have opted out.

The Plaintiffs do not need to seek the consent of class members to commence a class action on behalf of those persons.

**What is this class action?**

In this class action, the Plaintiffs are Diana O’Dea and Thomas Vaarzon-Morel. The Defendant is Westpac, which is the 'successor in law' to St.George Bank because it took over St.George Bank in 2010.

The Plaintiffs say in the amended statement of claim that from about 2005 until 2008, Tony Famularo was working as a financial advisor and running a managed investment scheme without the licenses and approvals that he needed. They also say that St.George Bank knew about Mr Famularo’s scheme and was involved in Mr Famularo's breaches of the law because it lent money to him and his companies.

The Plaintiffs also say that Mr Famularo took their money and used it to pay off his companies’ loans with St.George without their authority, and that St.George knew that Mr Famularo was acting without authority. The Plaintiffs say that they and the class members suffered losses because of the Defendants’ conduct and should be paid compensation by them.

Westpac denies the allegations against it and is defending the class action.

**Are you a class member?**

You might be a class member if you claim that:

1. you received financial advice or other financial services from Mr Famularo or a person or entity related to Mr Famularo; and
2. pursuant to that advice:
  - (a) you borrowed money from St.George Bank and used that money to make investments that were recommended to you by Mr Famularo; and/or
  - (b) you provided money or property to, or purchased or were issued shares in, a company controlled by Mr Famularo and that company had a margin loan account with St.George Bank, or it transferred the money or property to another company controlled by Mr Famularo which had a margin loan with St.George Bank; and
3. you suffered loss or damage as a result; and
4. you have not settled your claim that is the subject of the class action.

If you are unsure whether or not you are a class member, you should contact Levitt Robinson, the lawyers for the Plaintiffs, on 02 9286 3133 or email famularo@levittrobinson.com, or seek your own legal advice without delay.

**What class members must do**

You must select and complete one of the following options by 14 September 2018:

***Option 1 – Register your interest in receiving compensation from any settlement***

If you wish to make a claim to participate in any settlement that may be reached in respect of the Famularo class action before the trial commences, you must register your interest by 14 September 2018. There is no cost to register, and you may do so by:

- completing the Famularo Class Member Registration Form via Levitt Robinson's website, accessible at <http://levittrobinson.com/famularo/>, and returning it to Levitt Robinson by email ([famularo@levittrobinson.com](mailto:famularo@levittrobinson.com)) or post to the following address:

PO Box 850, Darlinghurst NSW 1300; or

- alternatively, completing the Famularo Class Member Registration Form attached to this Notice and returning it to Levitt Robinson by email ([famularo@levittrobinson.com](mailto:famularo@levittrobinson.com)) or post to the following address:

PO Box 850, Darlinghurst NSW 1300

Your registration must be completed and received by Levitt Robinson by 14 September 2018. 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 3 below).

***Option 2 – Apply to the Supreme Court to vary orders regarding registration***

If you wish to challenge the orders made by the Supreme Court in relation to Option 1 above, you must send a written notice to Levitt Robinson setting out the challenge you will make and the reasons for that challenge. You may then be required to attend the Supreme Court of New South Wales in Sydney at a later date to have your challenge heard and decided by the Court.

Any notice challenging the Supreme Court's orders must be delivered to Levitt Robinson by **14 September 2018**. Any such notice received after this time will not have any effect and you will be treated as having not responded to this Notice (see Option 3 below).

***Option 3 – Not respond to this notice***

If you do nothing (i.e. you do not act in accordance with Options 1 or 2 above before **14 September 2018**, you will remain a class member in the Famularo class action and be

bound by any orders made in the Famularo class action, including any judgment or approved settlement agreement in the proceeding.

**HOWEVER**, if you do nothing and a settlement is reached before the trial commences, you will not receive any payment from the settlement and you will be prohibited from bringing a further claim against Westpac in relation to the same issues as are raised in the Famularo class action.

You will not, however, lose your rights to participate in the proceeds of any settlement that is reached after the trial commences, or any judgment that may be awarded if there is no settlement and the case is successful before the Court.

### **Will you have to pay legal fees?**

You will not have to pay any legal fees just because you remain as a class member and register your interest in receiving compensation from any settlement.

If the class action settles or if it goes to trial and you wish to participate in a damages award or settlement payment (if any), it might be necessary for you to satisfy certain conditions before you are entitled to any damages award or settlement payment. It might be necessary or convenient for you to hire a lawyer to help you with that.

The law firm Levitt Robinson is representing the Plaintiffs and some of the class members. Levitt Robinson's contact details are set out below in this notice.

If you want a lawyer to represent you, you do not need to hire Levitt Robinson and you are free to hire another lawyer.

If you get any compensation in the class action, the court might order that some of that compensation will be used to help pay for some of the costs that the Plaintiffs have to pay for running the class action.

### **Questions**

If you are unclear about whether you are a class member, or if you have any other questions regarding the Famularo class action, you should contact Levitt Robinson at famularo@levittrobinson.com, by telephone on 02 9286 3133, or by writing to Levitt Robinson at PO Box 850, Darlinghurst NSW 1300.

Alternatively, you can seek legal advice from other solicitors.

**Complete this form if you intend to choose Option 1 above, and register to participate in any settlement of this proceeding.**

**If you have already registered with Levitt Robinson and provided the information requested in this form, you DO NOT have to complete the form. You may wish to do so anyway to make sure that Levitt Robinson have the information they need from you.**

**CLASS MEMBER REGISTRATION FORM**

**FAMULARO WESTPAC (ST GEORGE BANK) CLASS ACTION**

**O'Dea & Anor v Westpac Banking Corporation (2016/35575)**

To: Levitt Robinson  
PO Box 850  
Darlinghurst NSW 1300

The class member named below provides the following information in respect of their claim in the Famularo class action. You must use your best efforts to provide all of the requested information. Attach additional pages if the space provided below is not sufficient.

The information you provide in this form is confidential and without prejudice, and cannot be used for any purpose other than negotiating a settlement of the class action.

<b>Name of class member:</b>	.....
<b>Person completing this form (print):</b>	.....
<b>Authority of person completing this form (eg., company director, lawyer):</b>	.....
<b>Telephone contact:</b>	.....
<b>Postal address:</b>	..... .....
<b>Email address:</b>	.....
<b>Form continues on the following page</b>	

<p><b>Did you provide third party security on behalf of any "Famularo Entity" (as listed at Schedule A to the Plaintiffs Further Amended Statement of Claim) in relation to any margin loan that the company took out from St. George Bank.</b></p> <p><b>Third party security is security granted over a person's property, shares or other assets to support a loan owed by another borrower.</b></p>	<p><b>Yes / No</b></p> <p>If you answered yes, please provide the details of the third party security you provided to Mr Famularo (including dates)</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>Did you provide money or transfer property (such as shares) to Tony Famularo or an entity/person specified by him to make investments?</b></p>	<p><b>Yes / No</b></p> <p>If you answered yes, please provide the details of the cash amount(s) or property you provided to Mr Famularo (including dates).</p> <p>Attach copies of any supporting documents (such as bank statements, share transfer certificate or other records) of the cash payment(s) or transfer(s) of property you made.</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

<p><b>Did you purchase shares in a company specified by Mr Famularo (including any entity listed at Schedule A to the Plaintiffs' Further Amended Statement of Claim)?</b></p>	<p><b>Yes / No</b></p> <p>If you answered yes, please provide the details of:</p> <ul style="list-style-type: none"><li>• which company the shares were in;</li><li>• the date(s) of purchase,</li><li>• the amount you paid for the shares; and</li><li>• if you sold the shares, the sale price and date.</li></ul> <p>Attach copies of any supporting documents, such as records of your shareholder interest.</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>Did you enter into a written agreement with Tony Famularo in which he agreed to advise you on the making of any financial investments?</b></p>	<p><b>Yes / No</b></p> <p>If you answered yes, please attach a copy of any written agreement(s) you entered into with Mr Famularo.</p>



<p><b>Did you ever apply any funds borrowed from St. George Bank (for example, a home loan) to make investments that were recommended to you by Tony Famularo?</b></p>	<p><b>Yes / No</b></p> <p>If you answered yes, please provide the details of any funds you borrowed from St. George Bank (for example, a home loan) to make investments that were recommended to you by Mr Famularo (including dates, the mortgage or loan number and the amount of the loan).</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>Did Mr Famularo provide you with any returns on your investment(s) advised by him, including cash or property.</b></p>	<p><b>Yes / No</b></p> <p>If you answered yes, please:</p> <ul style="list-style-type: none"> <li>• specify the date and amount of any payments you received as returns on your investment;</li> <li>• specify any property you received as returns on your investment and the date on which the property was transferred to you; and</li> <li>• attach a copy of any written record of the returns you received on your investment, such as bank account statements and statements of investment you might have received from Mr Famularo.</li> </ul>
<p><b>Have you been unable to recover some or all of the funds you provided to Tony Famularo (or someone on his behalf)?</b></p>	<p><b>Yes / No</b></p> <p>If you answered 'yes', what is the amount that you have been unable to recover?</p> <p>.....</p>

I confirm that the information I have provided in this form is true and complete

Date:

Name:

Signature: