

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
GROUP PROCEEDINGS LIST**

S ECI 2020 01590

BETWEEN

**BRETT STALLARD AS TRUSTEE FOR THE STALLARD  
SUPERANNUATION FUND**

First plaintiff

and

**STEVEN NAPIER**

Second plaintiff

and

**TREASURY WINE ESTATES LTD (ACN 004 373 862)**

Defendant

**ORDER**

**JUDGE:** The Honourable Justice Nichols

**DATE MADE:** 30 October 2023

**ORIGINATING PROCESS:** Writ filed 31 March 2020

**HOW OBTAINED:** By consent

**ATTENDANCE:** Not applicable

**OTHER MATTERS:** Nil

**THE COURT ORDERS BY CONSENT THAT:**

- 1 The opt out and claim registration notice set out in Annexure A to the orders made 26 October 2023, and approved by order 2 of the orders made 26 October 2023, be varied and approved in the form set out in Annexure A to these orders.
- 2 Orders 3 and 13 of the orders made 26 October 2023 are varied such that the date of 1 November 2023, each time it appears in those orders, is changed to 3 November 2023.

**DATE AUTHENTICATED:** 30 October 2023



**The Honourable Justice Nichols**



ANNEXURE A



**THIS NOTICE IS SENT BY ORDER OF  
THE SUPREME COURT OF VICTORIA**

**NOTICE TO GROUP MEMBERS: OPT OUT OR REGISTRATION**

**TREASURY WINE ESTATES CLASS ACTION**  
Proceeding No. S ECI 2020 01590

**Brett Stallard as trustee for the Stallard Superannuation Fund and Steven  
Napier v Treasury Wine Estates Limited**

The Supreme Court of Victoria has ordered that you receive this notice because you may be a group member in the Treasury Wine Estates Class Action.

If you are a group member:

- (a) You **must** register by **4:00pm AEDT on 20 December 2023** in order to be eligible to receive any compensation if there is a **settlement** reached at the mediation in July 2024 or before the start of the trial. To participate in any such settlement, you must register your interest before the deadline.
- (b) If you do not want your rights determined by the class action, you may opt out by **4:00pm AEDT on 20 December 2023**. If you opt out, your claim will not be resolved as part of the Treasury Wine Estates Class Action but you may pursue such rights as you may have independently.
- (c) If you do nothing, you will remain a group member in the class action but, subject to further order of the Court, you **will not** be permitted to participate in any settlement reached at mediation or that occurs before trial.

If there is anything in this Notice that you do not understand, you should use the contact information at Section 6 below to make enquiries or seek independent legal advice.

**IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY  
BECAUSE IT MAY AFFECT YOUR LEGAL RIGHTS**

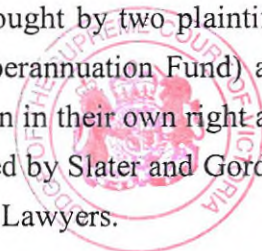


## 1 WHY HAVE YOU RECEIVED THIS NOTICE?

- 1.1 You have been sent this Notice because you have been identified as someone who may be a **group member** in the Treasury Wine Estates Class Action according to information contained in the share register of Treasury Wine Estates Limited (**TWE**) or because you have provided your contact details to the solicitors for the joint plaintiffs.
- 1.2 The purpose of this notice is to inform you of a class action in the Supreme Court of Victoria brought against TWE and to provide you with options regarding your participation in the class action.
- 1.3 You are a group member if you:
- (a) at any time during the period from 30 June 2018 to the close of trade on 28 January 2020 (inclusive) (**Claim Period**) entered into a contract (whether by yourself or by an agent or trustee) to acquire an interest in fully paid ordinary shares in TWE (**TWE Shares**);
  - (b) you have suffered loss or damage by reason of the conduct of TWE alleged in the class action; and
  - (c) you are not:
    - (i) a related party, related body corporate, associated entity, or officer or close associate of TWE; or
    - (ii) a Justice or the Chief Justice of the Supreme Court of Victoria, or a Justice or the Chief Justice of the High Court of Australia.
- 1.4 If you believe that you meet the above description of a group member, you should read this Notice carefully as it will affect your rights. If you are unsure whether you are a group member, you should seek your own legal advice without delay.
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## 2 ABOUT THE TREASURY WINE ESTATES CLASS ACTION

- 2.1 The Treasury Wine Estates Class Action is being jointly brought by two plaintiffs, Brett Stallard (in his capacity as trustee for the Stallard Superannuation Fund) and Steven Napier. The joint plaintiffs are bringing the class action in their own right and also on behalf of all group members. Mr Stallard is represented by Slater and Gordon Lawyers and Mr Napier is represented by Maurice Blackburn Lawyers.





- 2.2 The class action claims that TWE engaged in misleading or deceptive conduct and breached its continuous disclosure obligations to the market as a company listed on the ASX. The class action alleges that, because of this conduct, group members who purchased TWE Shares at any time during the period from 30 June 2018 to the close of trade on 28 January 2020 (inclusive) paid more than would have been the case had TWE complied with its obligations. The class action also alleges that some group members would not have purchased TWE Shares had the alleged wrongdoing not occurred. The class action alleges that shareholders are entitled to compensation for losses they allegedly suffered as a result of their purchases of TWE Shares during the Claim Period.
- 2.3 TWE denies the claims made against it and is defending the class action.
- 2.4 The Court has ordered the parties in the Treasury Wine Estates Class Action to attend a mediation which is to commence in the week commencing **22 July 2024 (Court Ordered Mediation)**. The Court has also fixed a date for the initial trial to commence on **14 October 2024**, on an estimate that it will run for 6 to 7 weeks.
- 2.5 The Supreme Court of Victoria has ordered that this Notice be distributed for the information of persons who may be affected by the Treasury Wine Estates Class Action.
- 2.6 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.

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### 3 YOUR OPTIONS

- 3.1 You have the following options that you may elect to take in response to this Notice.

**OPTION 1 – REGISTER YOUR INTEREST TO RECEIVE COMPENSATION**

- 3.2 You must register if you wish to be eligible to claim money from any settlement of the Treasury Wine Estates Class Action reached between the parties at the Court Ordered Mediation or before the first day of the initial trial.

**What is registration?**

- 3.3 You may register your claim by either:

- (a) completing the online registration process available at:  
<https://classaction.mauriceblackburn.com.au/TWEShareHolder>.



If you are having difficulty registering on the website, please email [treasuryclassaction@mauriceblackburn.com.au](mailto:treasuryclassaction@mauriceblackburn.com.au) or call 1800 519 720; or

- (b) completing an “**OPTION 1: REGISTRATION FORM**” at Schedule 1 to this Notice and returning it to Slater and Gordon Lawyers or Maurice Blackburn Lawyers:

- (i) by post to:

PO Box A266  
Sydney South 1235

- (ii) or by email to [treasuryclassaction@mauriceblackburn.com.au](mailto:treasuryclassaction@mauriceblackburn.com.au);

3.4 You must register your claim by **4.00pm AEDT on 20 December 2023** to be eligible to participate in any settlement reached at the Court Ordered Mediation or before the first day of the initial trial.

3.5 If you register for the Treasury Wine Estates Class Action you will become a **Registered Group Member**. This means that:

- (a) if an in-principle settlement is reached between the parties at the Court Ordered Mediation or before the first day of the initial trial, you will be eligible to receive compensation as part of the settlement (provided that the settlement is approved by the Court and you satisfy any other eligibility requirements); and
- (b) if an in-principle settlement is not reached at the Court Ordered Mediation or before the first day of the initial trial, then subject to any further order of the Court you may be eligible to receive compensation from any future settlement or judgment;
- (c) you will be bound by any resolution of the class action (meaning that you will not be permitted to bring any future claims related to the subject matter of the class action).

3.6 Becoming a Registered Group Member does not mean that:

- (a) you enter into a contract with the solicitors for the joint plaintiffs;





(b) you will be liable to pay any “out of pocket” costs to Slater and Gordon Lawyers or Maurice Blackburn Lawyer simply by registering for the Treasury Wine Estates Class Action.

3.7 If you have already retained either of Maurice Blackburn Lawyers or Slater and Gordon Lawyers to act for you in relation to this proceeding or if you have already registered with either of Maurice Blackburn Lawyers or Slater and Gordon Lawyers for the purpose of this proceeding, you do not need to register again. Maurice Blackburn Lawyers or Slater and Gordon Lawyers may contact you in order to re-confirm your details or to request further information from you.

**OPTION 2 – OPT OUT AND CEASE BEING A GROUP MEMBER**

3.8 If you do not want to remain a group member in the Treasury Wine Estates Class Action, you must opt out.

**What is opting out?**

3.9 A group member can opt out by completing an “**OPTION 2: OPT OUT FORM**” at Schedule 2 to this Notice. Each group member seeking to opt out should fill out a separate opt out form. Opt out forms must be returned directly to the Commercial Court Registry of the Supreme Court of Victoria:

- by post to:

Commercial Court Registry  
Supreme Court of Victoria  
210 William Street  
Melbourne VIC 3000

- or by email to [treasurywineestates@supcourt.vic.gov.au](mailto:treasurywineestates@supcourt.vic.gov.au)

3.10 You must opt out by **4.00pm AEDT on 20 December 2023**. Opt out notices received after the deadline will not be accepted without leave of the Court and you will remain a group member.

**What are the consequences of opting out?**

3.11 If you opt out of the class action:

(a) you will cease to be a group member in the Treasury Wine Estates Class Action;



- (b) you will not be bound by the outcome of the Treasury Wine Estates Class Action and will not be entitled to share in the benefit of any order, judgment or settlement in favour of the joint plaintiffs and group members; and
- (c) you may be at liberty to bring your own claims against TWE, provided that you file court proceedings within the time limit applicable to your claims.

3.12 If you are unsure how opting out will affect your rights or the applicable time limit prior to opting out, you should seek independent legal advice.

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#### 4 WHAT IF I DO NOTHING?

4.1 If you do nothing following receipt of this Notice (i.e. neither opt out or register), and you are not already a Registered Group Member:

- (a) You will remain an **unregistered** group member in the Treasury Wine Estates Class Action.
- (b) **If an in-principle settlement is reached** between the plaintiffs and the defendants at the Court Ordered Mediation or by the first day of the initial trial, you **will not** be entitled to participate in that settlement. Further, you will be bound by the terms of the settlement including any releases (despite not being eligible to participate in the settlement). This means that your right to bring a claim against TWE (and potentially its related entities and officers) for matters related to those canvassed in the Treasury Wine Estates Class Action will be extinguished;
- (c) **If there is no settlement** at the Court Ordered Mediation or before the first day of the initial trial, you will be bound by the final judgment, and you will be entitled to obtain compensation and/or damages (if you satisfy the eligibility criteria set down by the Court) in the event that the Court finds in favour of the plaintiffs and group members. If the Treasury Wine Estates 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;
- (d) It is open to the plaintiffs and the defendant to apply to the Court for a further Court Ordered Mediation or to extend the period during which only registered group members are permitted to seek any benefit pursuant to any subsequent settlement. It is unknown whether this will occur, and unknown what further notice, if any, the Court may order to be provided to group members at that

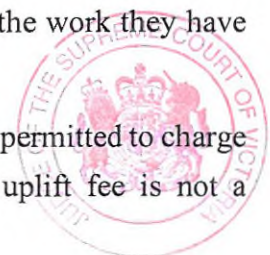


point. Accordingly, it is possible that if you remain an unregistered group member, you will not, without leave of the Court, be permitted to seek any benefit pursuant to any settlement of the Treasury Wine Estates Class Action even if that settlement occurs after the first day of the initial trial of the proceeding.

- 4.2 If you do not want to risk missing out on the option to participate in any settlement of the Treasury Wine Estates Class Action, you should register your claim as per Option 1 above.
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## 5 FUNDING OF THE TREASURY WINE ESTATES CLASS ACTION

- 5.1 Group members are not and will not be required to pay any “out of pocket” expenses by participating in the class action. This position will not change, even if there are changes in the way that the TWE shareholder class action is being funded.
- 5.2 The lawyers for both of the plaintiffs are currently conducting the TWE shareholder class action on a “no win, no fee” basis. This means that all costs associated with the class action are borne by the lawyers for the joint plaintiffs unless and until there is a successful outcome. The legal costs agreements between the joint plaintiffs and their lawyers contemplate that these arrangements might change in the future.
- 5.3 Whether the TWE shareholder class action proceeds under the current funding arrangements or proceeds under a different funding arrangement, any legal costs payable will never exceed the amount of compensation to which group members are entitled and therefore group members will never have to pay any costs out of their own pocket.
- 5.4 **If the class action is successful:**
- (a) any legal costs that are payable to the lawyers for the joint plaintiffs will be deducted from the amount of compensation that is recovered for group members.
  - (b) no amounts paid to the joint plaintiffs’ lawyers will exceed the money recovered for the joint plaintiffs and group members.
  - (c) no amounts will be paid to the joint plaintiffs’ lawyers for the work they have done unless and until the Court approves such payments.
  - (d) the joint plaintiffs’ lawyers may also apply to the Court to be permitted to charge an “uplift” fee of no more than 25% of their bills. An uplift fee is not a





percentage of the compensation recovered for group members. Instead, it is a percentage of the legal fees approved by the Court.

**5.5 If the class action is unsuccessful:**

- (a) Group members will not pay any costs.

**Alternative funding arrangements**

- 5.6 The joint plaintiffs have indicated they intend to apply to the Court for a “**group costs order**”. This order would mean that the legal costs payable to the lawyers for the joint plaintiffs will be calculated as a percentage of any settlement or judgment sum recovered for group members at the end of the class action (rather than calculated using time-based billing for professional fees and disbursements charged at cost). The percentage deduction would be set by the Court.
- 5.7 If the Court makes a group costs order, the liability for payment of the legal costs will be shared between the joint plaintiffs and all group members, regardless of whether or not those group members have entered into contracts with the lawyers for the joint plaintiffs for representation. This will ensure that every group member who benefits from the proceeding will contribute equally for the payment of costs.
- 5.8 A group costs order would involve one single deduction (for payment to the lawyers for the joint plaintiffs for the legal work they have undertaken) from any money recovered for the joint plaintiffs and group members from a settlement or judgment. This deduction is subject to the approval of the Court and will also not exceed the money recovered for the joint plaintiffs and group members. A group costs order will only be made by the Court if it is appropriate or necessary to ensure that justice is done in the proceeding.
- 5.9 If a group costs order is made, the lawyers for the joint plaintiffs will also bear any costs that may be payable to TWE in the class action and provide security for those costs.
- 5.10 If the group costs order application is unsuccessful, the way that the Treasury Wine Estates Class Action is being funded may change. In particular, third-party litigation funding may be sought in order to pay for some of the legal costs of the class action. This would involve a litigation funder paying for some of the legal work that is done in the class action and, if there is a successful outcome, seeking repayment of the amounts paid plus an additional amount at the end of the class action if there is a successful outcome in recognition of their funding of the class action. These amounts would be

paid out of any money recovered for group members from a settlement or judgment, and would also be subject to Court approval.

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## 6 FURTHER QUESTIONS

6.1 Please consider the above matters carefully.

6.2 If there is anything of which you are unsure, or you have any questions or comments about the Notice, in the first instance you should contact Treasury Wine Estates Class Actions team at [treasuryclassaction@mauriceblackburn.com.au](mailto:treasuryclassaction@mauriceblackburn.com.au), or alternatively by telephone on 1800 519 720.

6.3 You may also seek your own legal advice. You should not delay in making your decision.

6.4 Please do not contact the Court for legal advice, as it will be unable to assist you.

6.5 Copies of relevant documents, including this notice and other court documents, may be obtained by:

(a) accessing the Treasury Wine Estates Class Action website:

<https://www.mauriceblackburn.com.au/class-actions/join-a-class-action/treasury-wine-estates-class-action/>; and/or

(b) accessing the Supreme Court of Victoria website:

<https://www.supremecourt.vic.gov.au/areas/group-proceedings/treasury-wine-estates>





## SCHEDULE 1

TREASURY WINE ESTATES CLASS ACTION – Proceeding No. S ECI 2020 01590

**Brett Stallard as trustee for the Stallard Superannuation Fund and Steven Napier  
v Treasury Wine Estates Limited**

### OPTION 1: GROUP MEMBER REGISTRATION FORM

If you would like to **REGISTER** for the Treasury Wine Estates Class Action please return this form to Slater and Gordon Lawyers and Maurice Blackburn Lawyers by email or post at the below addresses by **4:00pm AEDT on 20 December 2023**.

**Alternatively**, you may complete an online version of this registration form at:  
<https://classaction.mauriceblackburn.com.au/TWEShareHolder>.

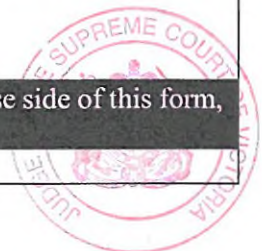
By post: PO Box A266  
Sydney South 1235

By email: [treasuryclassaction@mauriceblackburn.com.au](mailto:treasuryclassaction@mauriceblackburn.com.au)

If you would like to **REGISTER** for the Treasury Wine Estates Class Action, you will need to provide details of **all** acquisitions and disposals of fully paid ordinary TWE shares for the time period **30 June 2018 to 25 February 2020 (inclusive)** in the manner specified in the table(s) below. If you need to list details of further acquisitions and/or disposals, please provide those on the reverse side of the form below, or attach additional versions of the tables to the back of the form.

The below-named group member registers as a group member entitled to participate in any settlement of the proceeding.

CONTACT DETAILS	
Salutation (Mr/Ms/Miss/Mrs/Dr):	
First name:	
Last name:	
Address:	
Email address:	
Telephone number:	
SECURITY REGISTERED OWNER DETAILS	
Name of registered owner(s):	
HIN/SRN/Reference number:	
The number of fully paid ordinary TWE shares held by the Group Member at the commencement of trading on 30 June 2018:	
ACQUISITION DETAILS (list details of further acquisition events on the reverse side of this form, or attach further tables with those details)	
Date of acquisition:	



Quantity of fully paid ordinary TWE shares acquired:	
Share Price:	
Brokerage Paid:	
<b>DISPOSAL DETAILS (list details of further disposal events on the reverse side of this form or attach further tables with those details)</b>	
Date of sale or disposal:	
Quantity of fully paid ordinary TWE shares disposed of:	
Share Price:	
Brokerage Paid:	

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_ Name: \_\_\_\_\_

**DETAILS OF FURTHER ACQUISITION EVENTS:**

<b>ACQUISITION DETAILS (list details of further acquisition events on the reverse side of this form, or attach further tables with those details)</b>	
Date of acquisition:	
Quantity of fully paid ordinary TWE shares acquired:	
Share Price:	
Brokerage Paid:	

<b>ACQUISITION DETAILS (list details of further acquisition events on the reverse side of this form, or attach further tables with those details)</b>	
Date of acquisition:	
Quantity of fully paid ordinary TWE shares acquired:	
Share Price:	
Brokerage Paid:	

<b>ACQUISITION DETAILS (list details of further acquisition events on the reverse side of this form, or attach further tables with those details)</b>	
Date of acquisition:	
Quantity of fully paid ordinary TWE shares acquired:	
Share Price:	
Brokerage Paid:	

<b>ACQUISITION DETAILS (list details of further acquisition events on the reverse side of this form, or attach further tables with those details)</b>	
Date of acquisition:	
Quantity of fully paid ordinary TWE shares acquired:	
Share Price:	





Brokerage Paid:	

**DETAILS OF FURTHER DISPOSAL EVENTS:**

DISPOSAL DETAILS (list details of further disposal events on the reverse side of this form, or attach further tables with those details)	
Date of sale or disposal:	
Quantity of fully paid ordinary TWE shares disposed of:	
Share Price:	
Brokerage Paid:	

DISPOSAL DETAILS (list details of further disposal events on the reverse side of this form, or attach further tables with those details)	
Date of sale or disposal:	
Quantity of fully paid ordinary TWE shares disposed of:	
Share Price:	
Brokerage Paid:	

DISPOSAL DETAILS (list details of further disposal events on the reverse side of this form, or attach further tables with those details)	
Date of sale or disposal:	
Quantity of fully paid ordinary TWE shares disposed of:	
Share Price:	
Brokerage Paid:	

DISPOSAL DETAILS (list details of further disposal events on the reverse side of this form, or attach further tables with those details)	
Date of sale or disposal:	
Quantity of fully paid ordinary TWE shares disposed of:	
Share Price:	
Brokerage Paid:	



SCHEDULE 2

TREASURY WINE ESTATES CLASS ACTION – Proceeding No. S ECI 2020 01590

Brett Stallard as trustee for the Stallard Superannuation Fund and Steven Napier v  
Treasury Wine Estates Limited

**OPTION 2: NOTICE OF OPTING OUT BY GROUP MEMBER**

ONLY RETURN THIS FORM IF YOU WISH TO OPT OUT OF THE TREASURY WINE ESTATES CLASS ACTION. IF YOU OPT OUT, YOU WILL NO LONGER BE A GROUP MEMBER.

IF YOU WISH TO REGISTER TO PARTICIPATE YOU MUST COMPLETE THE OPTION 1 FORM.

To: Commercial Court Registry  
Supreme Court of Victoria  
210 William Street  
Melbourne Victoria 3000  
[treasurywineestates@supcourt.vic.gov.au](mailto:treasurywineestates@supcourt.vic.gov.au)

I, *[print name]*.....  
am a group member in the above group proceeding.

**OR**  
am a director of *[company name]* .....*[ACN/ABN]*.....  
who is a group member in the above group proceeding.

I give notice under s 33J(2) of the *Supreme Court Act 1986* (Vic) that I am **opting out** of this proceeding.

Dated:	
Signature of group member or the group member's solicitor:	
Address:	
Email address:	
Telephone number:	
HIN/SRN:	
Position/title within company (if applicable):	
Shares acquired on behalf of another person/entity (if applicable):	<i>[name of person/entity]</i>



If you would like to **OPT OUT** of the Treasury Wine Estates Class Action please return this form to the Commercial Court Registry of the Supreme Court of Victoria by email or post at the above addresses by **4:00pm AEDT on 20 December 2023**.