**Our Ref: JWS/1280446**

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**14 July 2017**

**Mr Phil Johnston**

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**Dear Mr Johnston**

Quality

ISO 9001

**Proposed class action regarding credit cards**

**Thank you for your letter and documentation in relation to a proposed class action on behalf of credit card consumers.**

**As a firm with a long history and track record of promoting social justice and protecting the interests of vulnerable Australians, we understand your interest in researching the impact of banks' practices in issuing credit cards to individuals with lower incomes and your advocacy on behalf of these individuals.**

**We have reviewed and considered the material you provided to us, however unfortunately the circumstances outlined in your letter and accompanying materials do not meet our criteria for the pursuit of a class action.**

**Unconscionable conduct**

**The *Australian Consumer Law,* the *Australian Securities and Investments Commission Act 2001* (Cth) *(ASIC Act)* and the *Corporations Act 2001* (Cth) contain provisions prohibiting unconscionable conduct in relation to trade and commerce, goods and services, and financial services.'**

**However, the legal threshold for unconscionable conduct is difficult to establish. This was recently illustrated by the 2016 decision of the High Court of Australia in *Paciocco v Australia and New Zealand Banking Group Limited,2* where arguments regarding unconscionable conduct associated with credit card and other bank fees and charges were ultimately not accepted by the Court.**

**The generality of unconscionability provisions, as well as the effect of the High Court's decision mentioned above, mean that there are significant risks in pursuing a claim for unconscionable conduct in relation to the circumstances outlined in your letter.**

*Australian Consumer Law,* **Part 2.2;** *ASIC Act 2001* **(Cth), s 12CA;** *Corporations Act 2001 (Ctii),* **s 991A. HCA 28.**

**Maurice Blackburn**

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