



Form 59
Rule 29.02(1)

Affidavit

No. NSD616/2021

Federal Court of Australia
District Registry: New South Wales
Division: General

Westpac Banking Corporation ABN 33 007 457 141 and another named in the Schedule
Applicants

Forum Finance Pty Limited ACN 153 301 172 and others named in the Schedule
Respondents



Affidavit of: Trevor Smith
Address: Level 2, 10 Yarra Street, South Yarra, Victoria, 3141
Occupation: National Food Manager, Australian Leisure and Hospitality Group Pty Ltd
Date: 21 January 2022

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I, Trevor Smith, Level 2, 10 Yarra Street, South Yarra, Victoria, 3141, say on oath:

- I am currently employed by Australian Leisure and Hospitality Group Pty Ltd (**ALH**) as its National Food Manager. I have been in this role since January 2012. I have been employed by ALH since April 2002.

Filed on behalf of (name & role of party) Westpac Banking Corporation and Westpac New Zealand Limited, applicants
Prepared by (name of person/lawyer) Caitlin Murray
Law firm (if applicable) MinterEllison
Tel (02) 9921 8888 Fax 02 9921 8123
Email caitlin.murray@minterellison.com
Address for service Governor Macquarie Tower, 1 Farrer Place, SYDNEY NSW 2000
(include state and postcode) Our reference: CMM:AGS:1353397

Version 3 form approved 02/05/2019

2. In this role, I am based in Melbourne, Victoria.
3. ALH operates over 300 licensed venues and retail liquor outlets across Australia.
4. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit TS-1' (**TS-1**). Throughout this affidavit I refer to documents which appear within TS-1.

Origins of Relationship between ALH and Forum

5. For a number of years, ALH had been approached by various different businesses interested in selling to ALH food waste digesters to be installed in hotels operated by ALH.
6. In around 2014 or 2015, I was approach by Tas Papas from Forum Enviro Pty Ltd (**Forum Enviro**). I had not dealt with Tas previously, although I knew who he was because I had heard his name from when he worked at PFD Food Services. Tas asked if ALH would be interested in pursuing an opportunity to install ORCA waste digestion units (**ORCAs**).
7. I agreed to enter a three month trial for the installation of one ORCA at the Village Green Hotel. After this, ALH agreed with Forum Enviro to extend the trial ORCAs with the installation of ORCAs in six more of ALH's licensed venues (being the Brunswick Hotel (QLD), the Breakfast Creek Hotel (QLD), the Ettamogah Hotel (QLD), The Ranch Hotel (NSW), the Watermark Glenelg (SA), and the Manhattan Hotel (VIC) (**Trial Program**).
8. During the Trial Program, the only person I ever dealt with from Forum Enviro was Tas Papas.
9. There was no formal written agreement for the Trial Program. A Service Agreement was entered into by ALH and Iugis Pty Ltd ABN 67 632 882 243 on 1 March 2021 with respect to the machines installed at the seven venues in the Trial Program (**Service Agreement**). I signed the Service Agreement for and on behalf of ALH. A copy of the Service Agreement is at ~~pages 1 to 14 of TS-1~~. [FOG.1003.0001.0108](#)
10. In around August 2019, Tas Papas asked me for a copy of ALH's Certificate of Currency of Insurance. I do not have access to ALH's insurance documents, so I asked Peter Hardy (who I knew to be Chief Operating Officer, ALH) for a copy of ALH's Certificate of Currency of Insurance. On 15 August 2019, Peter Hardy sent me an email attached to which was a copy of ALH's Certificate of Currency of Insurance. I forwarded that email from Peter Hardy (together with its attachment) to Tas Papas. A copy of those emails

Signed: Taken by: 

together with their attachment are at ~~15 to 18 of TS-1~~. I have not emailed to Tas Papas any further certificates of currency for ALH. [SEC.5000.0053.6744](#) / [SEC.5000.0053.6746](#)

Correspondence with Westpac

11. On 23 June 2021 at approximately 9:14am (AEST), I received an email from Geoffrey Anderson from Westpac Banking Corporation. That email (bearing Document ID WES.5000.0008.8085) sought my confirmation as to whether payment schedules that were attached to the email matched ALH's records. A copy of the email with its attachments is at ~~pages 19 to 54 of TS-1~~. Also on 23 June 2021 at approximately 9:40am (AEST), I received a further email from Mr Anderson attaching further documents. A copy of the further email (bearing Document ID WES.5000.0008.8219) with its attachments is at ~~pages 55 to 97 of TS-1~~. [WES.5000.0008.8260](#)

12. The emails from Mr Anderson attached the following documents:

- [MIN.5000.0007.0001](#) (a) Customer Payment Schedule dated 28 August 2018 for the purchase of 5 ORCA OG100 and 7 ORCA OG50 (~~pages 22 to 25 of TS-1~~); [CB.F.I.1 pF.I.2 Ln 2](#)
- [Section 50 Summary of Fraudulent Transaction Documents CB.F.I.1](#) (b) Customer Payment Schedule dated 13 September 2018 for the purchase of 7 ORCA OG50, 20 ORCA OG25 and 12 ORCA OG15 (~~pages 27 to 30 of TS-1~~); [CB.F.I.1 pF.I.4 Ln 5](#)
- (c) Customer Payment Schedule dated 15 October 2018 for the purchase of 8 ORCA OG100 and 17 ORCA OG50 (~~pages 32 to 35 of TS-1~~); [CB.F.I.1 pF.I.9 Ln 15](#)
- (d) Customer Payment Schedule dated 5 December 2018 for the purchase of 7 ORCA OG50 and 14 ORCA OG25 (~~pages 37 to 40 of TS-1~~); [CB.F.I.1 pF.I.10 Ln 17](#)
- (e) Customer Payment Schedule dated 13 June 2019 for the purchase of 6 ORCA OG100, 36 ORCA OG50 and 19 ORCA OG25 (~~pages 42 to 46 of TS-1~~); [CB.F.I.1 pF.I.19 Ln 30](#)
- (f) Customer Payment Schedule dated 11 February 2021 for the purchase of 40 lugis Congo 500 and 19 lugis Tongass 250 (~~pages 58 to 62 of TS-1~~); [CB.F.I.1 pF.I.52 Ln 87](#)
- (g) Customer Payment Schedule dated 3 March 2021 for the purchase of 33 lugis Congo 500 and 10 lugis Tongass 250 (~~pages 64 to 68 of TS-1~~); [CB.F.I.1 pF.I.54 Ln 90](#)
- (h) Customer Payment Schedule dated 22 March 2021 for the purchase of 23 lugis Congo 500 and 10 lugis Tongass 250 (~~pages 70 to 73 of TS-1~~); [CB.F.I.1 pF.I.54 Ln 91](#)
- (i) Customer Payment Schedule dated 8 April 2021 for the purchase of 12 lugis Congo 500 and 20 lugis Tongass 250 (~~pages 75 to 78 of TS-1~~); [CB.F.I.1 pF.I.57 Ln 95](#)

Signed: 

Taken by: 

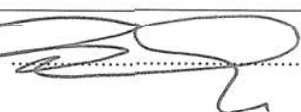
- (j) Customer Payment Schedule dated 3 May 2021 for the purchase of 9 lugis Congo 500 and 28 lugis Tongass 250 (~~pages 80 to 84 of TS-1~~); and **CB.F.I.1 pF.I.57 Ln 96**
- (k) Customer Payment Schedule dated 13 May 2021 for the purchase of 3 lugis Congo 500 and 22 lugis Tongass 250 (pages 86 to 89 of TS-1), **CB.F.I.1 pF.I.58 Ln 98**
- (together, the **Payment Schedules**).

13. Mr Anderson's emails also had attached to them:

MIN.5000.0007.0001
Section 50 Summary of
Fraudulent Transaction
Documents CB.F.I.1

- (a) a document titled Certificate of Acceptance of Delivery undated noting delivery on 28 August 2018 for the equipment referred to in the payment schedule at 12(a) above (~~page 26 of TS-1~~); **CB.F.I.1 pF.I.1 Ln 1**
- (b) a document titled Certificate of Acceptance of Delivery undated noting delivery on 13 September 2018 for the equipment referred to in the payment schedule at 12(b) above (~~page 31 of TS-1~~); **CB.F.I.1 pF.I.4 Ln 5**
- (c) a document titled Certificate of Acceptance of Delivery undated noting delivery on 15 October 2018 for the equipment referred to in the payment schedule at 12(c) above (~~page 36 of TS-1~~); **CB.F.I.1 pF.I.9 Ln 15**
- (d) a document titled Certificate of Acceptance of Delivery undated noting delivery on 5 December 2018 for the equipment referred to in the payment schedule at 12(d) above (~~page 41 of TS-1~~); **CB.F.I.1 pF.I.10 Ln 17**
- (e) a document titled Certificate of Acceptance of Delivery dated 13 June 2019 noting delivery on 13 June 2019 for the equipment referred to in the payment schedule at 12(e) above (~~page 47 of TS-1~~); **CB.F.I.1 pF.I.19 Ln 30**
- (f) a document titled Certificate of Acceptance of Delivery dated 15 February 2021 noting delivery on 11 February 2021 for the equipment referred to in the payment schedule at 12(f) above (~~page 63 of TS-1~~); **CB.F.I.1 pF.I.52 Ln 87**
- (g) a document titled Certificate of Acceptance of Delivery dated 8 March 2021 noting delivery on 3 March 2021 for the equipment referred to in the payment schedule at 12(g) above (~~page 69 of TS-1~~); **CB.F.I.1 pF.I.54 Ln 90**
- (h) a document titled Certificate of Acceptance of Delivery dated 22 March 2021 noting delivery on 22 March 2021 for the equipment referred to in the payment schedule at 12(h) above (~~page 74 of TS-1~~); **CB.F.I.1 pF.I.54 Ln 91**

Signed:



Taken by:



- (i) a document titled Certificate of Acceptance of Delivery dated 12 April 2021 noting delivery on 8 April 2021 for the equipment referred to in the payment schedule at 12(i) above (~~page 79 of TS-1~~); **CB.F.I.1 pF.I.57 Ln 95**
 - (j) a document titled Certificate of Acceptance of Delivery dated 3 May 2021 noting delivery on 3 May 2021 for the equipment referred to in the payment schedule at 12(j) above (~~page 85 of TS-1~~); **CB.F.I.1 pF.I.57 Ln 96**
 - (k) a document titled Certificate of Acceptance of Delivery dated 13 May 2021 noting delivery on 13 May 2021 for the equipment referred to in the payment schedule at 12(k) above (~~page 90 of TS-1~~); **CB.F.I.1 pF.I.59 Ln 98**
- (together, the **Delivery Certificates**).

14. Mr Anderson's emails also had attached to them:

MIN.5000.0007.0001

**Section 50 Summary of
Fraudulent Transaction
Documents CB.F.I.1**

- (a) A letter from Forum Finance Pty Ltd dated 5 September 2018 in relation to the Payment Schedule dated 28 August 2018 (~~page 48 of TS-1~~); **CB.F.I.1 pF.I.1 Ln 1**
- (b) A letter from Forum Finance Pty Ltd dated 18 September 2018 in relation to the Payment Schedule dated 13 September 2018 (~~pages 49 to 50 of TS-1~~); **CB.F.I.1 pF.I.4 Ln 5**
- (c) A letter from Forum Finance Pty Ltd dated 19 October 2018 in relation to the Payment Schedule dated 15 October 2018 (~~page 51 of TS-1~~); **CB.F.I.1 pF.I.9 Ln 15**
- (d) A letter from Forum Finance Pty Ltd dated 14 December 2018 in relation to the Payment Schedule dated 5 December 2018 (~~page 52 of TS-1~~); **CB.F.I.1 pF.I.10 Ln 17**
- (e) A letter from Forum Finance Pty Ltd dated 25 June 2019 in relation to the Payment Schedule dated 13 June 2019 (~~page 53 of TS-1~~); **CB.F.I.1 pF.I.19 Ln 30**
- (f) A letter from Forum Finance Pty Ltd dated 16 February 2021 in relation to the Payment Schedule dated 11 February 2021 (~~page 91 of TS-1~~); **CB.F.I.1 pF.I.52 Ln 87**
- (g) A letter from Forum Finance Pty Ltd dated 11 March 2021 in relation to the Payment Schedule dated 3 March 2021 (~~page 92 of TS-1~~); **CB.F.I.1 pF.I.54 Ln 90**
- (h) A letter from Forum Finance Pty Ltd dated 26 March 2021 in relation to the Payment Schedule dated 22 March 2021 (~~page 93 of TS-1~~); **CB.F.I.1 pF.I.55 Ln 91**
- (i) A letter from Forum Finance Pty Ltd dated 14 April 2021 in relation to the Payment Schedule dated 8 April 2021 (~~page 94 of TS-1~~); **CB.F.I.1 pF.I.57 Ln 95**
- (j) A letter from Forum Finance Pty Ltd dated 6 May 2021 in relation to the Payment Schedule dated 3 May 2021 (~~page 95 of TS-1~~); and **CB.F.I.1 pF.I.57 Ln 96**

Signed:

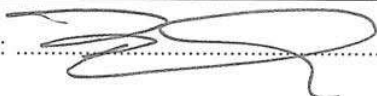


Taken by:



- (k) A letter from Forum Finance Pty Ltd dated 18 May 2021 in relation to the Payment Schedule dated 13 May 2021 (~~page 96 of TS-1~~); **CB.F.I.1 pF.I.59 Ln 98**
(together, the **Forum Letters**).
15. Each of the Payment Schedules and Delivery Certificates included an acknowledgment purportedly for and on behalf of ALH with a signature above my name in handwriting.
16. At the time that I received this email, I opened and reviewed all of the documents that were attached to the email. As Bruce Mathieson Jnr (**Mr Mathieson Jnr**) was on leave I did not raise it with him at this time. At this time Mr Mathieson Jnr was CEO of ALH, having taken over this role from Mr Bruce Laurence Mathieson (**Mr Mathieson Snr**) some years earlier. On Friday 25 June 2021, I received a call from Mr Mathieson Jnr in relation to Forum Finance as he had received a call from Mr Shane Gannon about Forum Finance. At this time Mr Gannon was the Chief Financial Officer of Endeavour Group Limited.
17. I sent an email to Mr Mathieson Jnr and Mr Gannon on Saturday 26 June 2021 at 10.44am. In my email to Mr Mathieson Jnr and Mr Gannon I expressed concern as I had not seen the documents before Mr Anderson provided them to me and it was not my signature on the documents. I sent a further email to Mr Mathieson Jnr and Mr Gannon on 26 June 2021 at 12:47pm again noting that the signature on these documents was not mine. A copy of the email chain with these two emails I sent to Mr Mathieson Jnr and Mr Gannon is at ~~pages 97 to 102 of TS-1~~. **WES.5003.0001.0011**
18. Before I sent this email, I opened all of the documents that were attached to the emails from Mr Anderson and I examined each of the signatures purporting to be mine in each of the Payment Schedules and each of the Delivery Certificates. None of the signatures in the Payment Schedules and or the Delivery Certificates are mine.
19. The Payment Schedules and Delivery Certificates identify my title as COO, a role I have never held.
20. Further, some of the addresses for equipment referred to in the Payment Schedules, such as 2 Bourke Street, Woolloomooloo (referred to in the Payment Schedule purporting to be dated 13 June 2019) is a venue that ALH no longer owns or operates the hotel and did not operate the hotel as at 13 June 2019. 366 Schute Harbour Road, Airlie Beach (referred to in the Payment Schedule purporting to be dated 5 December 2018) is a venue that has never undertaken the operation or kitchen for food catering and would never have required a food waste digestion unit.

Signed:



Taken by:

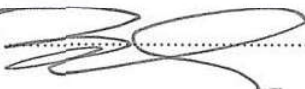


21. The first time I saw the Payment Schedules and the Delivery Certificates was on 23 June 2021 when I received the emails from Mr Anderson.
22. The Forum Letters are addressed to me. The first occasion on which I saw the Forum Letters was when they were provided to me by Mr Anderson's emails on 23 June 2021.

Other documents

23. Shown to me at the time of making this affidavit is an email purportedly sent by me to Tas Papas on 28 September 2017 at 6:49pm (bearing Doc ID EQW.5000.0001.6567) attaching a document purportedly signed by "B. L. Mathieson" (who I know to be Mr Mathieson Snr) authorising me to sign agreements with Forum Enviro for an on behalf of ALH (bearing Doc ID EQW.5000.0001.6569). A copy of the email and the attachment shown to me is at ~~pages 103 to 105 of TS-1~~. At this time Mr Mathieson Snr was the Chief Executive Officer of ALH. As to these documents:
- (a) I did not send to Tas Papas an email with the signing authority from Mr Mathieson Snr;
- (b) I have not previously seen the letter purporting to be signed by Mr Mathieson Snr;
- (c) I do not recall any occasion on which Mr Mathieson Snr provided to me a letter confirming I was an authorised signatory for ALH;
- (d) It was not Mr Mathieson Snr's practice to sign documents authorising signatories for and on behalf of ALH; and
- (e) I do not recognise the signature purporting to be Mr Mathieson Snr's signature as his true signature.
24. I have also searched the 'sent' folder of my Outlook emails and have been unable to locate a copy of an email sent to Tas Papas on 28 September 2017 or the purported attachment.
25. In my role as National Food Manager of ALH, I have access to certain books and records of ALH (including documents concerning the day-to-day food operations of ALH, but not legal documents or insurance documents. If a document is put into our database by the Legal Team, then I don't have access to those documents). When I searched the books and records of ALH to which I have access:
- (a) I did not locate any arrangements with respect to the goods referred to by serial number in the Payment Schedule; and

Signed: _____



Taken by: _____




(b) I have not located within those records a copy of the Payment Schedules, the Delivery Certificates or the Forum Letters except for the version provided to me by Mr Anderson.

26. I have never heard of a company called "Eqwe" or a company by the name of "BHD".

27. I have never met Bill Papas, although I did attend an event once in which he was pointed out to me at a distance.

28. I have also been shown documents with document identification numbers SEC.5000.0050.1033; SEC.5000.0050.1027, SEC.5000.0027.4056, SEC.5000.0027.4065, SEC.5000.0119.2936, SEC.5000.0119.2943, SEC.5000.0119.2949, SEC.5000.0119.2956, SEC.5000.0119.2963, SEC.5000.0119.2970 and SEC.5000.0050.1040), at ~~pages 106 to 183 of TS-1~~. Each of these documents purports to be signed by me. I have reviewed each of those documents and none of the signatures on those documents are mine.

Sworn by the deponent
at Melbourne
in Victoria
on 21 January 2022

)
)
) 
)
) Signature of deponent

Before me:





Signature of witness
Jane Louisa Hall
Solicitor

As a witness, I certify the following matters concerning the person who made this affidavit (**deponent**):

And as a witness, I certify the following matters concerning the person who made this affidavit (**deponent**):

1. I saw the face of the deponent.
2. I have confirmed the deponent's identity using the following identification document: Driver's License.

Signed:  Taken by: 

Schedule of Parties

No. NSD616/2021

Federal Court of Australia
 District Registry: New South Wales
 Division: Sydney

Applicants

First Applicant	Westpac Banking Corporation ABN 33 007 457 141
Second Applicant	Westpac New Zealand Limited (company registration number company number 1763882)

Respondents

First Respondent	Forum Finance Pty Limited (in liquidation) ACN 153 301 172
Second Respondent:	Basile Papadimitriou
Third Respondent	Vincenzo Frank Tesoriero
Fourth Respondent:	Forum Group Financial Services Pty Ltd (provisional liquidators appointed) ACN 623 033 705
Fifth Respondent:	Forum Group Pty Ltd (Receivers Appointed) (in liquidation) ACN 153 336 997
Sixth Respondent:	Forum Enviro Pty Ltd (provisional liquidators appointed) ACN 168 709 840
Seventh Respondent:	Forum Enviro (Aust) Pty Ltd (provisional liquidators appointed) ACN 607 484 364
Eighth Respondent	64-66 Berkeley St Hawthorn Pty Ltd ACN 643 838 662
Ninth Respondent	14 James Street Pty Ltd (in liquidation) ACN 638 449 206
Tenth Respondent	26 Edmonstone Road Pty Ltd (in liquidation) ACN 622 944 129
Eleventh Respondent	5 Bulkara Street Pty Ltd (in liquidation) ACN 630 982 160
Twelfth Respondent	6 Bulkara Street Pty Ltd (in liquidation) ACN 639 734 473
Thirteenth Respondent	23 Margaret Street Pty Ltd ACN 623 715 373
Fourteenth Respondent	1160 Glen Huntly Road Pty Ltd ACN 639 447 984
Fifteenth Respondent	14 Kirwin Road Morwell Pty Ltd ACN 641 402 093
Sixteenth Respondent	Canner Investments Pty Ltd ACN 624 176 049
Seventeenth Respondent	123 High Street Taradale Pty Ltd ACN 639 872 512

Eighteenth Respondent	160 Murray Valley Hwy Lake Boga Pty Ltd ACN 641 392 921
Nineteenth Respondent	31 Ellerman Street Dimboola Pty Ltd ACN 641 392 887
Twentieth Respondent	4 Cowslip Street Violet Town Pty Ltd ACN 639 872 352
Twenty-First Respondent	55 Nolan Street Maryborough Pty Ltd ACN 641 392 912
Twenty-Second Respondent	89 Betka Road Mallacoota Pty Ltd ACN 641 393 179
Twenty-Third Respondent	9 Gregory Street Ouyen Pty Ltd ACN 641 392 707
Twenty-Fourth Respondent	9 Main Street Derrinallum Pty Ltd ACN 639 872 736
Twenty-Fifth Respondent	286 Carlisle Street Pty Limited ACN 610 042 343
Twenty-Sixth Respondent	275 High Street Golden Square Pty Ltd ACN 639 870 545
Twenty-Seventh Respondent	Mazcon Investments Hellas IKE
Twenty-Eighth Respondent	Palante Pty Ltd ACN 135 344 151
Twenty-Ninth Respondent	Anastasios Giamouridis
Thirtieth Respondent	The Forum Group of Companies Pty Ltd (in liquidation) ACN 151 964 626
Thirty-First Respondent	Iugis Pty Ltd (in liquidation) ACN 632 882 243
Thirty-Second Respondent	Iugis (UK) Limited
Thirty-Third Respondent	Iugis Holdings Limited
Thirty-Fourth Respondent	Iugis Global Financial Services Limited
Thirty-Fifth Respondent	Iugis Finance Limited
Thirty-Sixth Respondent	Spartan Consulting Group Pty Ltd (in liquidation) ACN 168 989 544
Thirty-Seventh Respondent	Intrashield Pty Ltd (in liquidation) ACN 133 426 534
Thirty-Eighth Respondent	Tesoriero Investment Group Pty Ltd ACN 161 088 115
Thirty-Ninth Respondent	Mangusta (Vic) Pty Ltd ACN 631 520 682
Fortieth Respondent	193 Carlisle Street Enterprises Pty Ltd ACN 612 615 237
Forty-First Respondent	8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626
Forty-Second Respondent	Iugis Hellas IKE
Forty-Third Respondent	Iugis Energy SA
Forty-Fourth Respondent	Eric Constantinidis
Forty-Fifth Respondent	Giovanni (John) Tesoriero
Forty-Sixth Respondent	Moussa (Tony) Bouchahine
Forty-Seventh Respondent	Louisa Maria Agostino
Forty-Eighth Respondent	D&D Group O.E
Forty-Ninth Respondent	Aromatika Fyta Tsai Olympou Theion Ike

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 4:17:49 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v
FORUM FINANCE PTY LIMITED (IN LIQUIDATION) ACN 153 301 172
& ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 4/02/2022 4:24:08 PM AEDT

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.