

NOTICE OF FILING

Details of Filing

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Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
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File Number: NSD1220/2020
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v
MELISSA LOUISE CADDICK & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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 of the filing of the document is determined pursuant to the Court's Rules.



Form 59
Rule 29.02(1)

Confidential Affidavit

No. 1220 of 2020

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

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK

Defendant

BRUCE GLEESON AND DANIEL ROBERT SOIRE IN THEIR CAPACITY AS JOINT AND SEVERL RECEIVERS OF THE PROPERTY OF MELISSA LOUISE CADDICK

Respondent

Affidavit of: **Masiullah Zaki**
Address: 17/88 Phillip Street, Sydney NSW 2000
Occupation: Solicitor
Date: 9 December 2022

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1	Confidential Affidavit of Masiullah Zaki sworn 9 December 2022	1-27	1-7
2	Confidential Exhibit "MZ-2"	-	1-23

Filed on behalf of (name & role of party) Christian Dior Australia Pty Ltd
 Prepared by (name of person/lawyer) Masiullah Zaki
 Law firm (if applicable) Squire Patton Boggs
 Tel +61 2 8248 7894 Fax +61 2 8248 7899
 Email masi.zaki@squirepb.com
Address for service 17/88 Phillip Street, Sydney NSW 2000
 (include state and postcode)

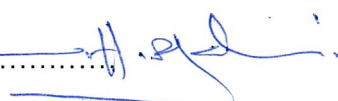
Deponent: [Signature] Witness: [Signature]


I Masiullah Zaki, of Squire Patton Boggs, Level 17, 88 Phillip Street, Sydney NSW 2000, say on oath as follows:

1. I am a Partner of Squire Patton Boggs UK LLP (**SPB**). I am the solicitor for Christian Dior Australia Pty Ltd (**CDA**) and am authorised to swear this affidavit on behalf of CDA.
2. Unless otherwise stated, the matters I depose to in this affidavit are based on my own knowledge, information and belief. Where statements are based on information I have obtained from public records, or information provided to me by another person, I have identified the source of that information and I believe that information to be true.
3. My instructors on behalf of CDA include, Ms. Songjun Han, the Chief Financial Officer, Mr. Sebastien Baudru, the General Manager, Mr. Norris Luk, Legal Counsel (**Instructors**).
4. Throughout the affidavit, I refer to various documents and page numbers. Those documents are contained within a paginated bundle of documents, which are shown to me at the time of swearing this affidavit and marked "MZ-2" (the **Exhibit**). Where I refer to documents in this affidavit, I do so by reference to their page numbers in the Exhibit.
5. The affidavit is sworn in support of the Interlocutory Application filed 14 November 2022 on behalf of CDA (**Application**).

Confidentiality

6. The information set out below and, in the Exhibit, contains confidential, commercially sensitive and proprietary information concerning CDA and Ms. Caddick. I have sought instructions from my Instructors to include this information, to provide the court with a full picture of the most up to date circumstances surrounding the Application, the source of the funds and the context in which CDA seeks the relief set out in the Application.
7. The information contained within the affidavit and the Exhibit is:
 - (a) confidential communications between CDA and the Receivers (defined in paragraph 9), including without prejudice communications concerning the funds remaining in the CDA Account on behalf of Ms. Caddick;
 - (b) proprietary information that is commercially sensitive to CDA concerning its internal systems and protocols;
 - (c) confidential information belonging to Ms. Caddick which is at the Receivers discretion to disclose as appropriate and may not be disclosed to the public at large;
 - (d) confidential information which, if disclosed to the public, has the potential to impact the trust and confidence consumers transacting with CDA place, if it were to disclose the confidential information belonging to an individual;

Deponent: 

Witness: 

- (e) price sensitive information on the pricing of goods that may provide a competitive advantage to CDA's competitors if disclosed publicly or impact future pricing and CDA's ability to set pricing in the future;
 - (f) potentially relevant to the significant interests of creditors, investors and third parties who may be prejudiced if CDA was to disclose the information contained within this affidavit; and
 - (g) information contained that ordinarily would not be provided to the public, nor is it information that is publicly available.
8. For the above reasons, CDA requests that this affidavit and the Exhibit be treated as confidential by the Court and otherwise be protected from disclosure to any party unless authorised by the Court. This affidavit has been provided on a confidential basis to the solicitors and counsel for the Receivers.

Engagement with the Receivers

9. On 9 February 2021, SPB received urgent correspondence from Jones Partners Chartered Accountants (the **Receivers**), who advised Bruce Gleeson and Daniel Robert Soire had been appointed as Joint and Several Receivers of Melissa Louise Caddick's assets (**Ms Caddick**) on 15 December 2020 (**December 2020 Orders**) (**Receivers' February 2021 Letter**). Pursuant to the December 2020 Orders, the Receivers requested CDA produce:
- (a) copies of all tax invoices and receipts for goods sold in the past ten (10) years to Ms Caddick;
 - (b) details of all payments made to CDA in the past ten (10) years by Ms Caddick, including any receipts, remittance advices or credit card receipts; and
 - (c) details of any monies or goods being held on behalf of Ms Caddick,
(the **First Request**).
10. The Receivers' letter enclosed a redacted copy of the December 2020 Orders. A copy of the Receivers' February 2021 Letter is at page 1 to 9 of the Exhibit and indicated that those orders empowered them to make the First Request.
11. On 19 February 2021, SPB responded to the Receivers' February 2021 Letter and indicated that although CDA was prepared and willing to assist the Receivers, the December 2020 Orders and specific powers identified under the *Corporations Act 2001* (Cth) (**Act**) did not appear to authorise the Receivers to compel production of CDA's documents, or its proprietary and confidential information. SPB indicated that absent a clear and proper authority which, compelled the production of records being established,

Deponent:.....



Witness:.....




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CDA respectfully declined the Receivers' request (**19 February Letter**). A copy of the 19 February Letter is at page 10 of the Exhibit.

12. SPB and CDA received no response from the Receivers and no further communication until October 2022. Due to that lack of response, CDA took no further steps in the intervening period.
13. On 12 October 2022, Swaab Lawyers (**Swaab**), the solicitors for the Receivers, wrote to SPB and indicated the Receivers' powers had been 'expanded' and provided a copy of the Court's orders of 22 November 2021 concerning Ms. Caddick and Maliver Pty Ltd (in Liquidation) (the **Company**) (**November 2021 Orders**). Swaab attached a copy of the November 2021 Orders and requested that, within 14 days, CDA provide:
- (a) copies of all tax invoices and receipts for goods sold to Ms Caddick or the Company in the period of 1 January 2010 to 30 November 2020;
 - (b) details of all payments made to CDA for the period 1 January 2010 to 30 November 2020 regarding the invoices in point (a) above, including any receipts, remittance advices or credit cards receipts; and
 - (c) details of any monies or goods held on behalf of Ms Caddick or the Company including any deposits, laybys, down payments or goods held in pending payment,
- (the **Revised Request**). A copy of Swaab's letter is at page 11 to 18 of the Exhibit.
14. On 13 October 2022, SPB responded to Swaab noting that:
- (a) CDA's position remained as set out in the 19 February Letter;
 - (b) SPB did not consider the November 2021 Orders expanded the powers of the Receivers such that CDA was compelled to produce its confidential and proprietary information, however, invited Swaab to explain precisely how the Receivers considered their "expanded powers" operated to enable them to compel CDA to produce such information; and
 - (c) the Receivers ought to re-consider and refine the scope of the Revised Request in any event, given it had the potential to include a large number of documents, and therefore be unnecessarily oppressive,
- (the **13 October Letter**). A copy of the 13 October Letter is at page 19 of the Exhibit.
15. Between 24 October 2022 and 26 October 2022, SPB and Swaab engaged in without prejudice correspondence.
16. On 27 October 2022, SPB wrote to Swaab indicating that CDA declined to provide the Receivers any confidential and proprietary information, or property in CDA's possession,

Deponent: 

Witness: 

as the recourse under s 420 of the Act, December 2020 Orders and November 2021 Orders, did not, in SPB's or CDA's view, enable the Receivers to compel production. A copy of this letter is at page 20 to 21 of the Exhibit.

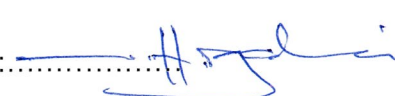
- 17. On 3 November 2022, Swaab responded to SPB's letter dated 27 October 2022 and indicated that the Receivers had powers to enquire as to whether third parties are in possession of *Receivership Property* and again requested CDA provide the information subject of the Revised Request. A copy of this letter is at page 22 to 23 of the Exhibit.

Current Position

- 18. CDA remains willing and prepared to assist the Receivers. However, absent any apparent power to compel disclosure of a potentially substantial volume of material containing confidential and proprietary information relevant to Ms. Caddick, CDA is concerned that it would not be protected (such as through the *Harman* undertaking) from any possible misuse of that information, if CDA discloses that information, and those documents, voluntarily. CDA is also concerned about possible third-party claims over the money it holds (detailed further below) and, seeks the assurance of a Court order to remove any doubt that the Receivers are entitled to require payment of those funds to them.
- 19. CDA therefore brings the Application to assist the Receivers in realising the assets and property of Ms. Caddick and the Company and, to ensure the information sought by the Receivers is provided to them, and the funds held by CDA are remitted. The exercise of the Court's powers in facilitating the proposed production serves to protect CDA from any third party claim in respect of the funds paid over, or any unwanted collateral use of its commercially sensitive and proprietary information contained in the documents to be produced.

Scope of Request

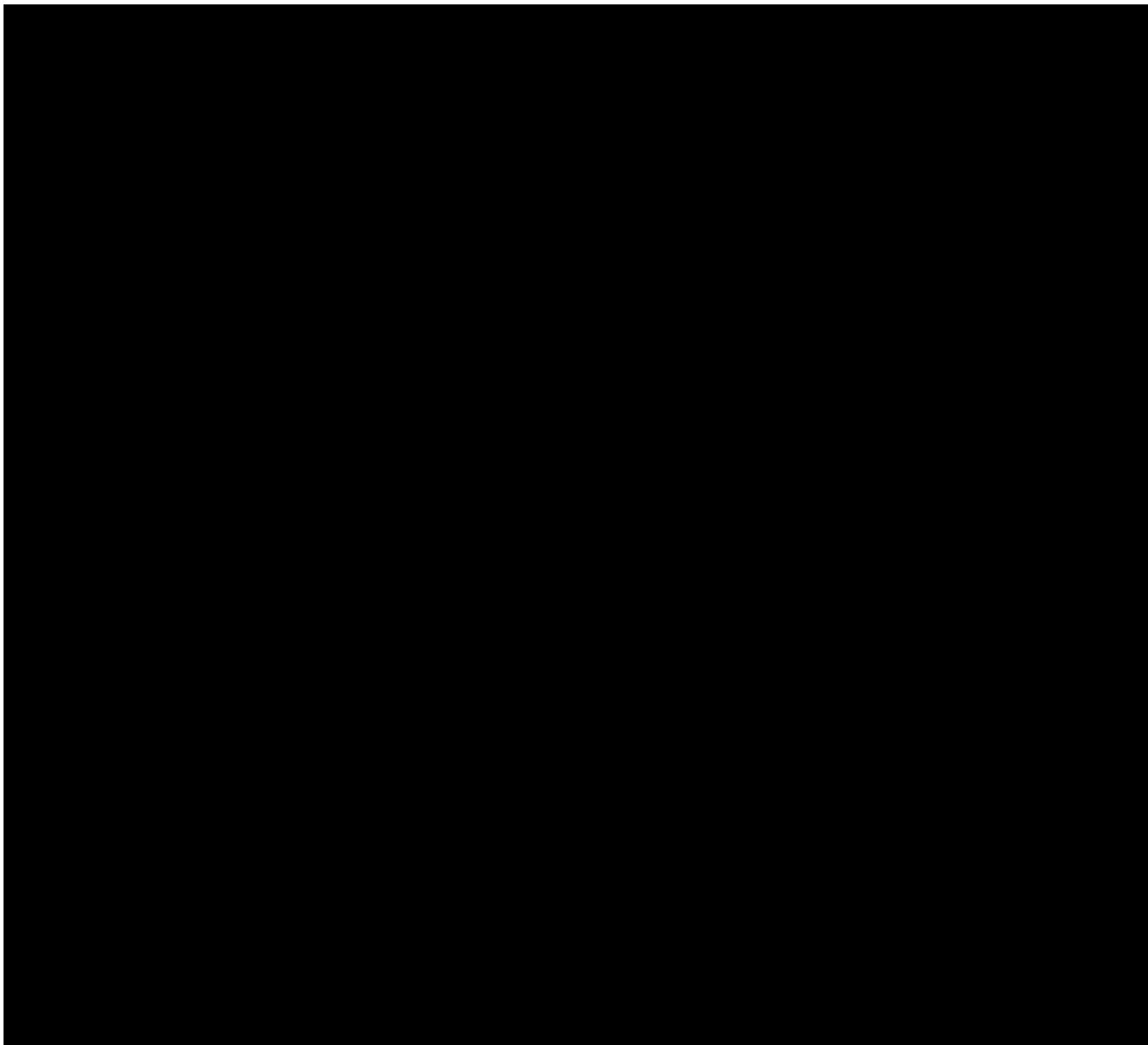
- 20. The scope of the Requested Documents and Revised Request, is substantially identical in substance, save for a slight difference in the period in which the documents are sought. However, consistently, both seek disclosure of invoices, receipts, remittance advices, credit card receipts, details of goods or funds held, over a ten (10) year period.
- 21. I am informed by my Instructors, and verily believe, that the documents set out in Annexure A to the Interlocutory Application could be produced within 14 days. However, the credit card receipts for the period sought in the Revised Request are not readily available or accessible by CDA. Significant work would be required to be undertaken, including engaging third parties, to obtain the relevant documentation for the period.

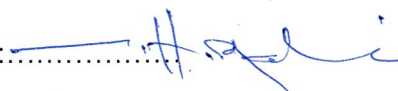
Deponent:.....

Witness:.....

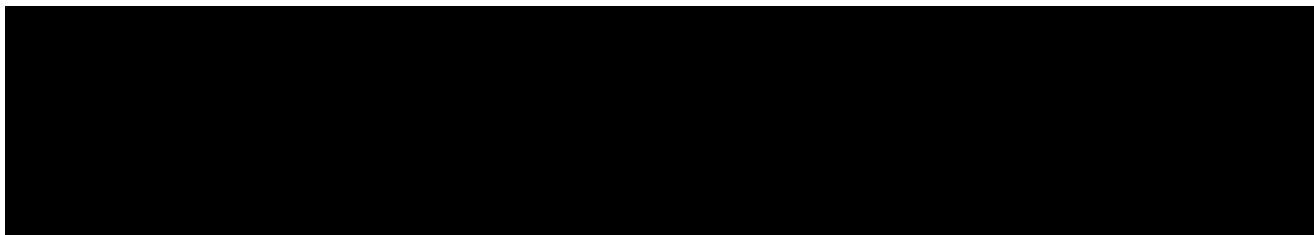
Funds held by CDA

- 22. CDA has undertaken a preliminary review of the documents and material that may fall within the scope of the Revised Request to ascertain the volume of material to be produced and the potential time to undertake a review. Upon undertaking that review, it became apparent that AUD\$262,940 was held in a CDA client account in the name of Ms Caddick.
- 23. I am instructed by my Instructors and verily believe that the amounts (in AUD) were paid into that account as follows:
 - (a) \$200,000 was transferred via electronic funds transfer; and
 - (b) \$62,940 was paid via American Express credit card.
- 24. Having regard to what has now emerged about Ms Caddick's reputed conduct in obtaining money from third parties, CDA does not know to whom this money truly belongs.



Deponent: 

Witness: 

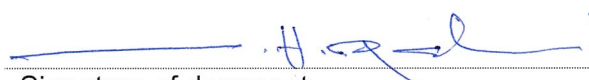



Conclusion

26. CDA has brought the Application in order to provide a Court-supervised framework within which CDA can assist the Receivers and the Court administer and realise Ms Caddick's estate, in accordance with the Court's orders and the interests of stakeholders and creditors, while at the same time protecting CDA from any collateral commercial risk in doing so. On that basis, CDA respectfully seeks that the orders set out in the corresponding Application be made, so CDA can transfer the funds in a timely manner.

Sworn by the deponent
at Sydney
in New South Wales
on 9 December 2022
Before me:

)
)
)
)
)


Signature of deponent


Signature of witness

Kathleen Spratt
Solicitor
Level 17, 88 Phillip Street
Sydney NSW 2000

Exhibit certificate

No. 1220 of 2020

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

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

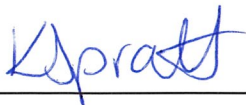
MELISSA LOUISE CADDICK

Defendant

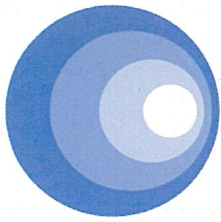
BRUCE GLEESON AND DANIEL ROBERT SOIRE IN THEIR CAPACITY AS JOINT AND SEVERAL RECEIVERS OF THE PROPERTY OF MELISSA LOUISE CADDICK

Respondent

This is the exhibit marked "**Confidential MZ-2**" now produced and shown to Masiullah Zaki at the time of swearing his confidential affidavit on 9 December 2022 before me:



Kathleen Spratt
Solicitor of the Supreme Court of NSW



9 February 2021

Dior Australia

URGENT

Attention: Songjun Han – Finance Executive
Via email only: sohan@christiandior.com

Dear Madam,

Re: The Property of Melissa Louise Caddick (Receivers Appointed)
Also known as: Melissa Caddick, Melissa L Caddick and Melissa Louise Grimley Caddick

We were appointed Joint and Several Receivers of Melissa Louise Caddick (“Ms Caddick”) on 15 December 2020 pursuant to an Order of the Federal Court of Australia. Please find attached a copy of the Court Order confirming our appointment. You will note that certain parts of the Court Order have been redacted due to confidentiality and given the nature of our appointment, however relevantly Paragraph 5 confirms our appointment.

Our investigations have revealed that Ms Caddick may have purchased goods from Dior Australia. Pursuant to the Court Order and to assist with our investigations, we request that you provide the following:

1. Copies of all tax invoices and receipts for goods sold in the past ten (10) years to Ms Caddick;
2. Details of all payments made to Dior Australia in the past ten (10) years by Ms Caddick including any receipts, remittance advices or credit card receipts; and
3. Details of any monies or goods being held on behalf of Ms Caddick.

Pursuant to the Orders as well as Section 420(1) of the Corporations Act, we require you provide the above information and documents:

- a) By email to: bgleeson@jonespartners.net.au and dsoire@jonespartners.net.au; or
- b) To “Jones Partners Insolvency & Business Recovery, Level 13, 189 Kent Street, Sydney NSW 2000”

MARKED “PRIVATE & CONFIDENTIAL TO MESSRS GLEESON & SOIRE AS RECEIVERS OF THE PROPERTY OF MELISSA LOUISE CADDICK”

c) No later than 5pm on Thursday 11 February 2021.

Sydney Level 13, 189 Kent Street, Sydney NSW 2000 Tel 02 9251 5222 Fax 02 9247 5911 Email info@jonespartners.net.au
Norwest Tel 02 9894 9966 | Narellan Tel 02 4647 7468 | Miranda Tel 02 8236 2790

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light at the end of the tunnel

www.jonespartners.net.au

Principals **MG Jones** BA, FCA **B Gleeson** B.Comm, FCA, RITF **DR Soire** B.Comm, CA **GR Davis** B.Ec, CA **MD Vu** B.Comm, CA
Senior Consultant **AG Topp** B.Bus, CA

If you have any queries, please contact Ms Vanessa Duckworth or Mr Martin Vu of this office by telephone on (02) 9251 5222 or by email at vduckworth@jonespartners.net.au.

Yours faithfully

**The Property of Melissa Louise Caddick
(Receivers Appointed)**



**Bruce Gleeson / Daniel Robert Soire
Joint and Several Receivers**



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

No: NSD1220/2020

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
Plaintiff

MELISSA LOUISE CADDICK and another named in the schedule
Defendant

ORDER

JUDGE: JUSTICE MARKOVIC

DATE OF ORDER: 15 December 2020

WHERE MADE: Sydney

For the purposes of these orders:

- “Property” means all real or personal property, assets or interests in property of any kind, within or outside Australia including, by virtue of s 1323(2A) of the *Corporations Act 2001* (Cth) (Act), any property held otherwise than as sole beneficial owner.

█ [REDACTED]
[REDACTED]

THE COURT ORDERS THAT:

[REDACTED]

- █ [REDACTED]
[REDACTED]
[REDACTED]
- █ [REDACTED]
[REDACTED]
- █ [REDACTED]
[REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

Appointment of Receivers

5. Until further order, pursuant to s 1323(1)(h)(i) of the Act, Bruce Gleeson and Daniel Robert Soire of Jones Partners of Level 13, 189 Kent St, Sydney NSW 2000 be



appointed as joint and several receivers (**Receivers**) of the Property of the first defendant for the purpose of:

- (a) identifying, collecting and securing the Property of the first defendant;
- (b) approving or making the payments from the Property of the first defendant permitted by Order 11 of the Orders made on 10 November 2020 as varied;
- (c) ascertaining the amount of money received by the first defendant from funds paid to the second defendant by investors for investment (**Investor Funds**);
- (d) identifying any Investor Funds held by the first defendant, any Property acquired by the first defendant with Investor Funds and any payments made by the first defendant to third parties with Investor Funds and any other dealings by the first defendant with Investor Funds; and
- (e) ascertaining whether any money was paid directly to the first defendant by investors for investment and identifying the matters set out in paragraph (d) above in relation to any such money.

6. For the purpose of attaining the objectives for which the Receivers are appointed, the Receivers shall have the following powers:

- (a) subject to paragraph (d) below, the powers set out in s 420(1) and s 420(2)(a), (e), (f), (k), (o), (p), (q), and (r) of the Act as if the references to corporation were references to the first defendant;

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]



- [REDACTED]
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- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Appointment of Provisional Liquidators

10. Pursuant to s 472(2) of the Act, Bruce Gleeson and Daniel Robert Soire of Jones Partners of Level 13, 189 Kent St, Sydney NSW 2000 be appointed as joint and several provisional liquidators (**Provisional Liquidators**) to the second defendant.
11. The Provisional Liquidators have the powers set out in the Act [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Date that entry is stamped: 15 December 2020

Sia Lagos
Registrar



Schedule

No: NSD1220/2020

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

Second Defendant MALIVER PTY LTD

19 February 2021

Bruce Gleeson and Daniel Robert Soire
Receivers of the Property of Melissa Louise Caddick
Jones Partners
Level 13
189 Kent Street
Sydney NSW 2000

Squire Patton Boggs (AU)
Level 17, 88 Phillip Street
GPO Box 5412
Sydney NSW 2001

O +61 2 8248 7888
F +61 2 8248 7899
squirepattonboggs.com

Masi Zaki
T +61 2 8248 7894
masi.zaki@squirepb.com

Our ref CHR.239-0021

Dear Sirs

The Property of Melissa Louise Caddick (Receivers Appointed) (Ms Caddick)

We act on behalf of Christian Dior Australia Pty Ltd (**Christian Dior**) and refer to your letter of 9 February 2021 addressed to our client.

Our client acknowledges your appointment as receivers of the property of Ms Caddick pursuant to the court's orders of 15 March 2020 (**Orders**). However, the Orders and your limited recourse under ss 420 (1) and (2) of the *Corporations Act*, do not authorise you to compel production of confidential and proprietary information which belongs to Christian Dior.

Christian Dior has not reviewed its records to ascertain whether any documents captured by your request actually exist. To the extent that they do, they will all likely:

- 1 be confidential and the property of Christian Dior;
- 2 form part of the financial books and records of Christian Dior; and
- 3 contain personal information or commercial in confidence material belonging to Christian Dior.

Accordingly, although our client is prepared to assist, absent a proper authority being established which compels the production of records, our client respectfully declines your request.

Yours faithfully



Squire Patton Boggs (AU)

45 Offices in 20 Countries

Squire Patton Boggs (AU) is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities.

Please visit squirepattonboggs.com for more information.

12 October 2022

ABN 71 028 846 652

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DX 522 Sydney NSW

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swaab.com.au

Squire Patton Boggs
Level 17, 88 Phillip Street
Sydney NSW 2000

Dear Sirs

The Property of Melissa Louise Caddick (Receivers Appointed) (Ms Caddick) & Maliver Pty Ltd (In Liquidation) (“the Company”)

We act for the Court appointed Receivers and Liquidators, Bruce Gleeson and Daniel Robert Soire. We understand that your office acts for Christian Dior Australia Pty Ltd (**Christian Dior**).

We have been provided with copies of the following correspondence from our clients:

1. Letter dated 9 February 2021 from our clients to Christian Dior; and
2. Letter dated 19 February 2021 from your office to our clients.

Since the exchange of the above-mentioned correspondence, the powers bestowed upon our clients have been expanded. Please find attached a copy of the Orders dated 22 November 2021 with respect to Ms Caddick and the Company.

In the circumstances, we request that your client provide the following to our office within 14 days:

1. Copies of all tax invoices and receipts for goods sold to Ms Caddick or the Company in the period 1 January 2010 to 30 November 2020;
2. Details of all payments made to Christian Dior for the period 1 January 2010 to 30 November 2020 regarding the invoices in point 1 above, including any receipts, remittance advices or credit card receipts; and
3. Details of any monies or goods held on behalf of Ms Caddick or the Company including any deposits, laybys, down payments or goods held pending payment.

Partner

Michael Hayter

Contact

Michael Hayter

Partner

mkh@swaab.com.au

Our ref

217242

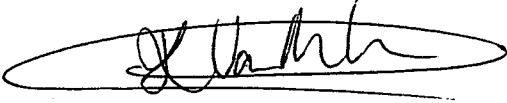
By email

masi.zaki@squirepb.com

Your Ref: CHR.239-0021

Please advise our office urgently if you no longer act for Christian Dior so this correspondence can be redirected directly to your former client.

Yours faithfully

A handwritten signature in black ink, enclosed within a hand-drawn oval. The signature is cursive and appears to read 'Kellie Van Munster'.

Kellie Van Munster



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

No: NSD1220/2020

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
Plaintiff

MELISSA LOUISE CADDICK and another named in the schedule
Defendant

ORDER

JUDGE: JUSTICE MARKOVIC

DATE OF ORDER: 22 November 2021

WHERE MADE: Sydney

In these orders:

Investor Funds means the monies received by either the first or second defendant from investors as itemised in Updated Annexure I, including amounts paid as “management fees”.

Out of Pocket Investors includes the investors whose “total estimated amount” owing is greater than zero as identified by the Receivers in the last column of Updated Annexure I.

Receivership Property means all property (as defined in section 9 of the *Corporations Act 2001* (Cth) of the first defendant.

Receivers’ Report means the report prepared by Bruce Gleeson and Daniel Robert Soire as receivers of the property of the first defendant dated 15 February 2021.

Updated Annexure I means the updated version of annexure I to the Receivers’ Report, a confidential copy of which is attached to the affidavit of Bruce Gleeson sworn 12 May 2021 in this proceeding and identified with the heading “Updated Annexure I” (as updated from time to time).

THE COURT DECLARES THAT:

1. Each of the defendants, by providing financial product advice and dealing in a financial product, contravened s 911A of the Corporations Act in that they carried on a financial services business without holding an Australian Financial Services Licence:



- (a) in the case of the first defendant, from about October 2012 and continuing until about November 2020; and
- (b) in the case of the second defendant, from about June 2013 and continuing until about November 2020.

THE COURT ORDERS THAT:

- 2. Leave be granted to the plaintiff to file and serve a third further amended originating process in the form provided to the Court on 30 June 2021, to be filed electronically by 5.00 pm on 23 November 2021.
- 3. Leave be granted *nunc pro tunc* to the plaintiff, pursuant to s 471B of the Corporations Act, to continue this proceeding against the second defendant.
- 4. Pursuant to s 1101B(1) of the Corporations Act, Bruce Gleeson and Daniel Robert Soire of Jones Partners of Level 13, 189 Kent St, Sydney NSW 2000 be appointed as joint and several receivers (**Receivers**) of the Receivership Property for the purpose of:
 - (a) identifying, collecting and securing the Receivership Property;
 - (b) to the extent necessary, ascertaining the total quantum of Investor Funds and any funds advanced by any interested party to the first defendant and the identity of all investors who, in the Receivers' view, ought to be included as an Out of Pocket Investor as well as any interested party who may be a creditor of the first defendant;
 - (c) subject to Order 6 below, taking possession of and realising the Receivership Property;
 - (d) to the extent necessary, establishing an interest-bearing account with an authorised deposit taking institution nominated by the Receivers for the purposes of holding any net proceeds of realisation of the Receivership Property (**Receivers' Trust Account**); and
 - (e) subject to Order 7 below, seeking directions in relation to the distribution of funds in the Receivers' Trust Account.
- 5. The Receivers have the following powers:



- (a) the power to do all things reasonably necessary or convenient to be done, in Australia and elsewhere, for or in connection with, or as incidental to the attainment of, the objectives for which the Receivers are appointed;
 - (b) the powers under s 1101B(8) of the Corporations Act;
 - (c) the powers set out in s 420 of the Corporations Act save for the powers set out in subs 420(2)(d), (h), (j), (m), (n), (o), (s), (t) and (u) and provided that, wherever in that section the word 'corporation' appears, it shall be taken to include reference to the first defendant;
 - (d) the power to seek directions from the Court regarding any matter relating to the exercise of the Receivers' powers; and
 - (e) the power to require, by request in writing, any employee, agent, banker, solicitor, stockbroker, accountant, consultant or other professionally qualified person who has provided services or advice to the first defendant, to provide such reasonable assistance (including access to any documents, books or records to which the first defendant has a right of access or control) to the Receivers as may be required from time to time.
6. Before taking possession of or realising any of the Receivership Property, the Receivers shall:
- (a) give notice to any interested party of their intention to do so and inform those parties in writing that they should:
 - (i) advise the Receivers within 15 business days if they object to the taking possession of or sale of any of the Receivership Property and specify the basis of their objection; and
 - (ii) provide documentary evidence in support of their objection; and
 - (b) seek directions from the Court in relation to their intention to do so.
7. Before making any distribution of funds in the Receivers' Trust Account, the Receivers shall:
- (a) give notice to any interested party of their intention to do so and inform the said parties in writing that they should:



- (i) advise the Receivers within 15 business days if they object to the distribution of funds in the Receivers' Trust Account and specify the basis of their objection; and
 - (ii) provide documentary evidence in support of their objection; and
- (b) seek directions from the Court in relation to their intention to do so.
8. The above Orders do not affect the rights of any secured creditor holding a mortgage or other security interest over any of the Receivership Property.
9. For the avoidance of doubt, nothing in these Orders is intended to limit the right of the Receivers to seek directions from the Court.
10. Immediately upon Order 4 above taking effect, the appointment of Bruce Gleeson and Daniel Robert Soire of Jones Partners of Level 13, 189 Kent St, Sydney NSW 2000 as receivers pursuant Order 5 of the Orders made on 15 December 2020 (**Interim Receivers**) be terminated.
11. Pursuant to s 461(1)(k) of the Corporations Act, the second defendant, Maliver Pty Ltd (ACN 164 334 918), be wound up.
12. Bruce Gleeson and Daniel Robert Soire of Jones Partners of Level 13, 189 Kent St, Sydney NSW 2000 be appointed as joint and several liquidators of the second defendant (**Liquidators**).
13. Order 7 of the Orders made on 10 November 2020 be varied and leave be granted to the plaintiff to provide the Liquidators with unredacted copies of the affidavits filed by the plaintiff in this proceeding.
14. The remuneration, costs and expenses of the Interim Receivers for the period from 15 December 2020 to 22 February 2021 be fixed in the sum of \$188,017.84 inclusive of GST.
15. The Receivers shall be entitled to such reasonable remuneration properly incurred in the performance of their duties arising in connection with their appointment and in the exercise of their powers, together with all costs, expenses and disbursements reasonably incurred, as may be approved by the Court on the application of the Receivers.
16. Subject to Order 15 above, the Receivers' remuneration is to be calculated on the basis of time reasonably spent by the Receivers, and any partner or employee of the



Receivers, at the rates set out in the consent of Bruce Gleeson and Daniel Robert Soire to act as receivers filed on 1 April 2021.

17. Subject to any further order, the Receivers be indemnified from funds held within the Receivers' Trust Account against any claim, liability, proceedings, cost, charge or expense however arising and whether past, present or future, fixed or ascertained, actual or contingent, known (actually or contingently) or unknown which they may incur or be subject to as a result of or in connection with any reasonable action taken by them in accordance with their appointment.
18. Paragraphs 9E, 9H, 19D and 26 of the plaintiff's third further amended originating process and paragraphs 2-4 of the Interim Receivers' interlocutory application filed on 2 March 2021 be stood over to a date to be notified.
19. Any party who wishes to make submissions in relation to the outstanding questions of costs referred to in Order 18 above is to file and serve written submissions, not exceeding four pages in length, by 13 December 2021.

THE COURT NOTES:

20. The redactions made in the copy of the reasons for judgment to be published on 24 November 2021 at 2.15 pm AEDT are made in accordance with the non-publication orders of this Court made in this proceeding.
21. The undertaking proffered by Bruce Gleeson and Daniel Robert Soire of Jones Partners that, if a possibility of conflict in or as between their roles as Receivers and Liquidators arises, they will approach the Court and give notice to the plaintiff and investors of that circumstance.

Date that entry is stamped: 22 November 2021

Sia Lagos
Registrar



Schedule

No: NSD1220/2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Interested Person BRUCE GLEESON AND DANIEL SOIRE AS PROVISIONAL
LIQUIDATORS OF MALIVER PTY LTD ACN 164 334 918
AND RECEIVERS TO THE PROPERTY OF MELISSA LOUISE
CADDICK

Second Defendant MALIVER PTY LTD

13 October 2022

By Email: mkh@swaab.com.au

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Dear Colleagues

The Property of Melissa Louise Caddick (Receivers Appointed) (Ms Caddick) & Maliver Pty Ltd (in Liquidation) (the Company)

Thank you for your letter dated 12 October 2022. We continue to act on behalf of Christian Dior Australia Pty Ltd.

- 1 Our client's position remains as per our letter of 19 February 2021. We do not consider the orders of 22 November 2021 "expand the powers" of your clients such that our client may be compelled to produce its confidential and proprietary information.
- 2 Nonetheless, we invite you to explain precisely how your clients considers their "expanded powers" operate to enable them to compel production of our client's confidential and proprietary information.
- 3 Further, even if your clients have the authority and power to compel production of the documents sought (which is denied), the sheer scope of what is sought is oppressive and ought to be reconsidered carefully before your clients take any further steps.
- 4 Although we trust it will be unnecessary, our client will rely on this letter, and our earlier communications, on the question of costs.

Yours faithfully

Squire Patton Boggs

Squire Patton Boggs (AU)

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27 October 2022

By Email: mkh@swaab.com.au

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Dear Mr Hayter,

The Property of Melissa Louise Caddick (Receivers Appointed) (Ms Caddick) & Maliver Pty Ltd (in Liquidation) (the Company)

We refer to our previous correspondence concerning Ms. Caddick and the Company and to your letter dated 26 October 2022.

- 1 Our client acknowledges the appointment of Messrs. Bruce Gleeson and Daniel Robert Soire as receivers of the property of Ms. Caddick (**Receivers**). Our clients do not wish to unnecessarily increase costs of the Receivers, or to protract or complicate the Receivers' tasks in discharging their mandate. However, as previously advised, the limited recourse under s 420 and the orders of 15 December 2020 and 22 November 2021 (**Orders**) do not, in our respectful view, enable the Receivers to compel production of:
 - (a) our client's confidential and proprietary information; and
 - (b) property in our client's possession.
- 2 It is not apparent to us what the Receivers have been doing between February 2021 (when our client was first engaged) and October 2022 when the Receivers sought to re-agitate the issue by writing to us seeking extensive disclosure. Despite obtaining orders in November 2021 which sought to "expand the powers" of the Receivers, the Receivers did not write to our client seeking disclosure until October 2022, nor have we been engaged with at any point in relation to the form, or substance, of the relief sought from the Court. Had we been engaged with, it is likely that our client could have assisted by, for example, proposing a form of order to ensure the assistance required could be lawfully and reasonably rendered. We mean no criticism by observing that the lack of progress or engagement by the Receivers or the deficiencies in the Orders. What cannot reasonably be said however, is that the Receivers' present position is the result of any conduct of our client.
- 3 Your assertions concerning the ring are noted. The first we were alerted to the ring was in your correspondence of 26 October. That the ring has not been raised in any previous correspondence with is, again, unexplained. Similarly, if the Receivers were aware of "significant payments" it is not clear why that issue has not been raised

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previously either.

- 4 The partner with conduct is presently travelling to Singapore for a hearing and will be unavailable until early next week. In circumstances where the Receivers have not sought to proceed or engage with our client with any degree of urgency, there is no basis to impose an arbitrary deadline of 5pm of 27 October 2022 for a substantive response. The imposition of a 24-hour deadline for us to obtain instructions and for our client to undertake a comprehensive review and engage in substance is, with respect, entirely unreasonable.
- 5 Our client instructs us to seek to engage with the Receivers in a timely manner following our client alerting us to the funds. However, we note that neither of the Receivers extended us the courtesy of meeting with us yesterday.
- 6 We have not been engaged in relation to any application previously and do not have copies of any of the historical court documents to the extent they may be relevant. All we have are the Orders and some letters from you which do not address the matters we have reasonably raised on behalf of our client. We again note that the Receivers have not pointed to any specific power which compels disclosure from our client. If there is a genuine urgency and prejudice to be suffered as a result of our client taking more than 24 hours to respond an onerous request, please outline that prejudice in the context of the Receivers' (lack of) engagement with our client to date.
- 7 If you intend to draw any matters concerning our client to the attention of the Court, we would be grateful if you could please ensure you draw this correspondence and our letters dated 19 February 2021, 13 and 24 October 2022 to the Court's attention. We reiterate, our client seeks to assist, but to do so its legitimate and reasonable concerns, including as to the Orders, ought to be engaged with substantively rather than be disregarded.
- 8 Although we trust it will be unnecessary, our client will rely on this letter on the question of costs.

Yours faithfully

Squire Patton Boggs

Squire Patton Boggs (AU)

3 November 2022

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Attention: Mr Masi Zaki

Dear Sir,

The Receivership Property of Melissa Louise Caddick (Receivers Appointed) (Ms Caddick) & Maliver Pty Ltd (In Liquidation) ("the Company")

Your Client: Christian Dior Australia

We refer to your letter dated 27 October 2022.

Adopting the numbering contained therein we respond as follows:

- 1 The extent of our clients' powers have been outlined in previous correspondence. Those powers extend to identifying, collecting and securing the Receivership Property. On that basis, the Receivers have powers to enquire as to whether third parties are in possession of Receivership Property.

Your letter dated 27 October 2022 is the first time that your client (despite having received correspondence from our client on 9 February 2021) has acknowledged in open correspondence that it has identified "funds" that may amount to Receivership Property.

- 2 Our clients first wrote to your client on 9 February 2021. Your client failed to identify in your letter dated 19 February 2022 that it was in possession of funds held on account for Melissa Caddick.

Had your client made appropriate enquiries at that time, being put on notice of our clients' appointment, appropriate steps would have been taken by our client to take possession of the Receivership Property at that time.

Our clients are concerned about your repeated statements in your letter that information (to which the Receivers are clearly entitled) is confidential and proprietary, but your client is prepared to assist, despite not providing any information of substance. This is a serious matter, and it represents interference with the Court appointed Receivers' conduct of the Receivership. The Court may view this as a contempt.

- 3 As identified in our letter dated 26 October 2022, our client first received notification of an alleged "ring" and significant payments being made to your client via an anonymous tip off following the filing of the Interlocutory Application on 5 October 2022.
- 4 Noted. We have no objection to your client having further time to consider the matter.

Partner

Michael Hayter

Contact

Michael Hayter
Partner

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kvm@swaab.com.au

Our ref: 217242

By email

masi.zaki@squirepb.com

Your Ref: CHR.239-0021

- 5 Noted. However, in circumstances where your client has recently identified these funds, details of that Receivership Property should be provided to our clients forthwith and the funds paid to our clients. Should your client fail to do so, we are instructed to seek Orders in the Federal Court of Australia specific to your client. Should that be necessary, this correspondence, as well as previous correspondence will be tendered on the question of costs.

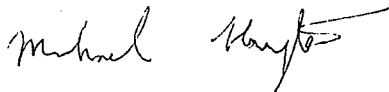
We note that a representative of the Receivers (being a Principal with over 10 years' experience and day to day carriage of the file) made themselves available immediately on the day that you sought an audience with them.

Conversely no one from your client's company attended the meeting.

- 6 Your client has not been engaged in relation to previous applications to the Court in circumstances where our clients were not aware that your client was in possession of Receivership Property because
- (a) Your client failed to adequately respond to our clients' letter dated 9 February 2021; and
 - (b) Our clients immediately addressed the matter having received an anonymous call from a member of the public on or about 7 October 2022 about the possibility that your client was in possession of Receivership Property.
- 7 Please provide confirmation by Monday 7 November 2022 that your client will, in writing:
- (a) provide the documents requested in our previous correspondence within 7 days;
 - (b) identify the amount of 'funds' held by your client as identified in paragraph 5 of your letter dated 27 October 2022; and
 - (c) confirm that your client agrees to deliver up any Receivership Property to our client and make payment of the funds in question to our clients.

We look forward to your prompt reply.

Yours faithfully



Michael Hayter