

Form 59  
Rule 29.02(1)

## Affidavit (Confidential)

No. NSD 1220 of 2020.

Federal Court of Australia  
District Registry: Sydney NSW  
Division: Commercial and Corporations

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

### MELISSA LOUISE CADDICK & ANOR

Defendants

Affidavit of: **Michael Kevin Hayter (in relation to Mr Anthony Caddick as carer for**

**[REDACTED]**

Address: Level 4, 20 Hunter Street Sydney

Occupation: Solicitor

Date: 17th February 2022

### Contents

Document number	Details	Paragraph	Page
1	Affidavit of Michael Kevin Hayter	1	1 - 2
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I, **Michael Kevin Hayter**, Solicitor, of Level 4, 20 Hunter Street, Sydney New South Wales 2000, say on oath:




Filed on behalf of	Bruce Gleeson and Daniel Robert Soire – Receivers of the Property of
Prepared by	Melissa Louise Caddick
Law firm	Michael Kevin Hayter
Tel	02 9233 5544
Fax	02 9233 5400 – Ref: 217242
Email	Mkh@swaab.com.au
Address for service	Level 4, 20 Hunter Street, Sydney NSW 2000

1. I am the solicitor on record for Mr Bruce Gleeson and Mr Daniel Robert Soire, the Liquidators of Maliver Pty Ltd (In Liquidation) and Receivers to the property of Melissa Louise Caddick (**Ms Caddick**).
2. At the time of swearing this Affidavit, an Exhibit has been prepared on my behalf and I will refer to the documents in the Exhibit in tabulated order from time-to-time throughout this Affidavit as **EX "MKH3"**.
3. I refer to the Judgment delivered by the Honour Justice Markovic in these Proceedings on 22 November 2021 (**the Judgment**).
4. I note that pursuant to Order 6 of the Judgment, the Receivers of the Receivership Property were required to give Notice to any Interested Party of their intention to possess or realise any of the Receivership Property and to inform those Parties in writing that they should advise the Receivers within fifteen (15) business days if they objected to the taking of possession or sale of any such Receivership Property, specify the basis of their objection and provide documentary evidence in support of their objection.
5. The Receivers instructed Swaab Lawyers to serve Notices upon carers of [REDACTED] [REDACTED] being the son of Ms Caddick. Mr Anthony Caddick is the biological father of [REDACTED] [REDACTED] currently resides at the property located at [REDACTED] Dover Heights NSW and has personal items at the property. Therefore, the Receivers were of the view that [REDACTED] was an Interested Party.

#### **Service of Notice on Anthony Caddick and Objections**

6. Set out below in chronological order is correspondence sent to and received from Mr Anthony Caddick, for the period from 24 November 2021 to 10 February 2022:

<b>Content</b>	<b>Date</b>	<b>Page of EX MKH3</b>
Email and letter from Swaab to Anthony Caddick attaching Notice and Orders	25 November 2021	4 – 14
Email from Anthony Caddick to Swaab	25 November 2021	15
Email from Anthony Caddick to Swaab	7 December 2021	16 – 17
Email and letter from Swaab to Anthony Caddick	8 December 2021	18 -19
Email and letter from Swaab to Anthony Caddick	14 January 2022	20 -21

Email from Anthony Caddick to Swaab	14 January 2022	22 – 23
Email and letter from Swaab to Anthony Caddick	17 January 2022	24 – 26
Email and letter from Swaab to Anthony Caddick	10 February 2022	27 - 41

7. In the email dated 7 December 2021, Mr Caddick has raised objections to the Receivers dealing with the following items:

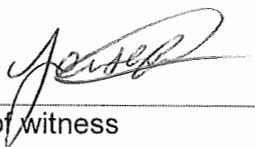
- (a) [REDACTED] clothes;
- (b) [REDACTED] shoes;
- (c) [REDACTED] bags;
- (d) [REDACTED] phone;
- (e) [REDACTED] laptop; and
- (f) [REDACTED] school or sporting equipment.

Sworn by the deponent  
 at Sydney  
 on 17th February 2022  
 Before me:

)  
)  
)  
)



\_\_\_\_\_  
 Signature of deponent



\_\_\_\_\_  
 Signature of witness  
 Solicitor  
 Level 4, 20 Hunter Street Sydney NSW 2000

## EXHIBIT NOTE MKH - 4

### COURT DETAILS

Court	Federal Court of Australia
Division	Commercial and Corporations
Registry	New South Wales
Case number	NSD1220/2020

### TITLE OF PROCEEDINGS

First plaintiff	<b>Australian Securities and Investments Commission</b>
First defendant	<b>Melissa Louise Caddick and Anor</b>
Number of defendants	<b>2</b>

This is the Exhibit marked "MKH - 4" to the Affidavit of Michael Kevin Hayter produced, shown and exhibited at the time of swearing this Affidavit before me on



Name: JONATHON PAUL YOUSEF, Solicitor  
Level 4, 20 Hunter Street, Sydney NSW 2000.

---

**From:** Kyna Messias on behalf of Michael Hayter  
**Sent:** Thursday, 25 November 2021 5:56 PM  
**To:** [REDACTED]  
**Cc:** Kyna Messias  
**Subject:** Australian Securities and Investments Commission vs Caddick 2021 FCA 1443 - Judgment Delivered 22 November 2021 [SWA-AB.FID327846]  
**Attachments:** Letter and Notice to [REDACTED] (2).pdf

Dear Mr Caddick,

Please see attached.

Kind regards,

Sent for and on behalf of

**Michael Hayter**  
Partner  
Swaab  
T +61 2 9233 5544 | F +61 2 9233 5400  
[mkh@swaab.com.au](mailto:mkh@swaab.com.au) | [www.swaab.com.au](http://www.swaab.com.au) | [Profile](#) | [vCard](#)

25 November 2021

ABN 71 028 846 652

Level 4, 20 Hunter Street  
Sydney NSW 2000

DX 522 Sydney NSW

T +61 2 9233 5544  
F +61 2 9233 5400

swaab.com.au

Anthony Caddick

Dear Mr Caddick

**Australian Securities and Investments Commission vs Caddick 2021 FCA  
1443  
Judgment Delivered 22 November 2021 ("the Judgment")**

We act for Mr Bruce Gleeson and Mr Daniel Robert Soire who pursuant to a Judgment of her Honour Justice Markovic on 22 November 2021 have been appointed Liquidators of Maliver Pty Ltd (In Liquidation) and Receivers to the property of Melissa Louise Caddick.

We write to you in your capacity as carer for [REDACTED]. Should you no longer be the carer of [REDACTED] can you please urgently confirm this and who you understand to be the carer.

We refer to the terms of the Judgment and note that prior to realisation of Receivership Property our clients are required to give notice in writing to affected parties.

We attach by way of service upon you a Notice pursuant to Order 6 of the Judgment that our clients intend to take possession of and realise Receivership Property as specified in the Judgment and identified with more particularity below. We note that pursuant to the terms of the Judgment and after receipt of the attached Notice by you, you and [REDACTED] are required to advise our clients within 15 business days if you object to the taking of possession of or sale of any of the Receivership Property and specify the basis of your objections and provide documentary evidence in support of their objections. If you choose not to raise any objections, then such matter will be advised to the Federal Court when our clients make an application (sometime after the expiration of 15 business days) authorising them to sell such Receivership Property.

**Contact**

Michael Hayter  
Partner  
mkh@swaab.com.au

Our ref  
216008

By email

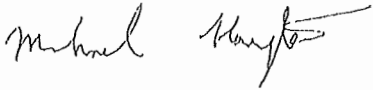
We note that a reference to the Receivership Property includes but is not limited to;

- a) The Edgecliff property registered in the name of Melissa Louise Caddick;
- b) The Vaocluse property registered in the names of Melissa Louise Caddick and Adam Grimley;
- c) All shares whether listed or otherwise in the name of Melissa Louise Caddick; and
- d) All personal effects including paintings and jewellery of Melissa Louise Caddick.

If you in your capacity as carer for [REDACTED] wish to clarify the position regarding property and / or possessions of [REDACTED] that are at the Vaocluse property, we invite you to advise us accordingly.

Please acknowledge receipt of this e-mail and attached Notice so that we don't have to arrange personal service upon you. Thank you for your assistance. If you have any queries, please feel free to contact me.

Yours Truly,



**Michael Hayter**

**NOTICE OF INTENTION TO REALISE THE RECEIVERSHIP PROPERTY**

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

**Pursuant to the Judgment of The Honour Justice Markovic in the Federal Court  
proceedings No NSD 1220 of 2020**

To: [REDACTED]  
C/- Anthony Caddick

Via email only: [REDACTED]

In accordance with an Order made by the Federal Court of Australia on 22 November 2021 by the Honourable Justice Markovic, the Court made Orders that (among other aspects):

4. *Pursuant to s1101B(1) of the Corporations Act, Bruce Gleeson and Daniel Robert Solre 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 purposes of:
 
  - (a) *identifying, collecting and securing the Receivership Property; and*
  - (c) *subject to Order 6 below, taking possession of and realising the Receivership Property.**
  
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.*

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

In accordance with Order 6(a) above, you may be an interested party and are therefore advised and given notice that we intend to take possession of and realise the Receivership Property. Receivership Property includes but is not limited to:

1. All real property registered in the name of Melissa Louise Caddick;
2. All shares listed or otherwise in the name of Melissa Louise Caddick; and
3. All personal effects including paintings and jewellery of Melissa Louise Caddick.




You, as an interested party, are to advise us within 15 business days of this Notice if you object to the taking possession of or sale of any of the Receivership Property and specify the basis of your objection. You are also required to provide any documentary evidence in support of your objection.

In the event no objection is received from you within 15 business days, we intend to seek directions from the Court to proceed with taking possession of and sale of the Receivership Property.

A full copy of the Orders is attached to this Notice for ease of reference.

If you have any questions regarding this Notice, please contact Mr Martin Vu or Ms Vanessa Duckworth of this office on (02) 9251 5222 or via email [mvu@jonespartners.net.au](mailto:mvu@jonespartners.net.au)

Dated 25 of November 2021



**Bruce Gleeson**  
Joint and Several Receiver



**Daniel Robert Soire**  
Joint and Several Receiver



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. Paragraphs 9E, 9H, 9D 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.
  16. Any party who wishes to make submissions in relation to the outstanding questions of costs referred to in Order 15 above is to file and serve written submissions, not exceeding four pages in length, by 13 December 2021.



**THE COURT NOTES:**

17. 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.
18. 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

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**From:** [REDACTED]  
**Sent:** Thursday, 25 November 2021 6:12 PM  
**To:** Michael Hayter  
**Cc:** Kyna Messias  
**Subject:** Re: Australian Securities and Investments Commission vs Caddick 2021 FCA 1443 - Judgment Delivered 22 November 2021 [SWA-AB.FID327846]  
**Attachments:** Letter and Notice to [REDACTED] (2).pdf

I acknowledge receipt and shall discuss with my son on weekend 4/5 december.

Kind regards

Anthony Caddick

Sent from my iPhone

On 25 Nov 2021, at 5:55 pm, Michael Hayter <mkh@swaab.com.au> wrote:

Dear Mr Caddick,

Please see attached.

Kind regards,

Sent for and on behalf of

**Michael Hayter**  
Partner  
Swaab  
T +61 2 9233 5544 | F +61 2 9233 5400  
mkh@swaab.com.au | www.swaab.com.au | Profile | vCard



Level 4, 20 Hunter Street, Sydney NSW 2000 | DX 522 Sydney

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**From:** [REDACTED]  
**Sent:** Tuesday, 7 December 2021 6:11 PM  
**To:** Michael Hayter  
**Cc:** Kyna Messias  
**Subject:** Re: Australian Securities and Investments Commission vs Caddick 2021 FCA 1443 - Judgment Delivered 22 November 2021 [SWA-AB.FID327846]  
**Attachments:** Letter and Notice to [REDACTED] (2).pdf

Hi Michael

Just confirming that i talked this through with my son on the weekend and he has no objection to the sale of or possession of the receivership property. He understands the likely timing of proceedings.

The only possessions that hed like to make sure he keeps are what id describe as his own peronal effects, effectively his clothes, shoes , trainers , bags, phone , laptop and school or sporting equipment that he has which would generally be in his bedroom.

Give me a quick call if you need or want to discuss further.

Kind regards

Anthony Caddick  
[REDACTED]

Sent from my iPhone

On 25 Nov 2021, at 6:12 pm, Anthony Caddick <[REDACTED]> wrote:

I acknowledge receipt and shall discuss with my son on weekend 4/5 december.

Kind regards

Anthony Caddick

Sent from my iPhone

On 25 Nov 2021, at 5:55 pm, Michael Hayter <mkh@swaab.com.au> wrote:

Dear Mr Caddick,

Please see attached.

Kind regards,

Sent for and on behalf of

**Michael Hayter**  
Partner  
Swaab  
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**From:** Kyna Messias on behalf of Michael Hayter  
**Sent:** Wednesday, 8 December 2021 2:47 PM  
**To:** Anthony Caddick  
**Cc:** Kyna Messias  
**Subject:** Australian Securities and Investments Commission vs Caddick 2021 FCA 1443 [SWA-AB.FID348319]  
**Attachments:** 20211208 - Correspondence to Anthony Caddick.pdf

Dear Mr Caddick,

Please see attached correspondence.

Kind regards,

Sent for and on behalf of

**Michael Hayter**

Partner

Swaab

T +61 2 9233 5544 | F +61 2 9233 5400

[mkh@swaab.com.au](mailto:mkh@swaab.com.au) | [www.swaab.com.au](http://www.swaab.com.au) | [Profile](#) | [vCard](#)

8 December 2021

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swaab.com.au

Anthony Caddick



Dear Mr Caddick

**Australian Securities and Investments Commission vs Caddick 2021 FCA  
1443  
Judgment Delivered 22 November 2021 ("the Judgment")**

Thank you for your email dated 7 December 2021. We confirm that in principle the request made by you on behalf of your son is acceptable to our clients. We will give you final confirmation as to the acceptability of those matters over the coming weeks. Thanks again for replying.

Yours Truly,

A handwritten signature in black ink that reads "Michael Hayter".

**Michael Hayter**

**Contact**

Michael Hayter  
Partner  
mkh@swaab.com.au

Our ref  
216008

By email

---

**From:** Kyna Messias on behalf of Michael Hayter  
**Sent:** Friday, 14 January 2022 10:05 AM  
**To:** [REDACTED]  
**Cc:** Kyna Messias; Suzi Stojanovski  
**Subject:** 20220114 - Correspondence to Anthony Caddick re [REDACTED] Bank Accounts [SWA-AB.FID348319]  
**Attachments:** 20220114 - Correspondence to Anthony Caddick re [REDACTED] Bank Accounts.pdf; 20220114 - Correspondence to Anthony Koletti regarding [REDACTED] Caddick Bank Accounts (003)\_Redacted.pdf

Dear Mr Caddick,

Please see attached correspondence.

Kind regards,

Sent for and on behalf of

**Michael Hayter**  
Partner  
Swaab  
T +61 2 9233 5544 | F +61 2 9233 5400  
mkh@swaab.com.au | www.swaab.com.au | Profile | vCard

14 January 2022

ABN 71 028 846 652

Level 4, 20 Hunter Street  
Sydney NSW 2000

DX 522 Sydney NSW

T +61 2 9233 5544  
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swaab.com.au

Anthony Caddick

Dear Mr Caddick

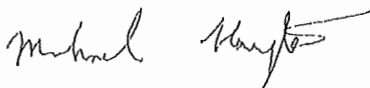
**Australian Securities and Investments Commission vs Caddick 2021 FCA  
1443  
Bank accounts in the name of [REDACTED]**

We refer to previous correspondence and attach herewith a copy of a letter sent to Anthony Koletti.

Can you confirm that [REDACTED] makes no claim to the funds held in NAB Account with account number [REDACTED]. We also confirm that our clients have received no objections to taking possession of and selling the Dover Height Property. You'll note that we have requested that Mr Koletti confirm that Mr Koletti and [REDACTED] agree to vacate the property upon receiving 21 days' notice to do so. We anticipate that such notice will not be given for at least a month.

Thank you for your assistance

Yours Truly,



**Michael Hayter**

**Contact**

Michael Hayter  
Partner

mkh@swaab.com.au

Our ref

217242

By email

---

**From:** Anthony Caddick <[REDACTED]>  
**Sent:** Friday, 14 January 2022 12:58 PM  
**To:** Michael Hayter  
**Cc:** Kyna Messias; Suzi Stojanovski  
**Subject:** Re: 20220114 - Correspondence to Anthony Caddick re [REDACTED] Bank Accounts [SWA-AB.FID348319]  
**Attachments:** 20220114 - Correspondence to Anthony Caddick re [REDACTED] Bank Accounts.pdf; 20220114 - Correspondence to Anthony Koletti regarding [REDACTED] Bank Accounts (003)\_Redacted.pdf

Hi Michael

I've spoken with [REDACTED] not Anthony Koletti in this regard. Just for the record it's my understanding that while Koletti is legally [REDACTED] step father he has no other legal rights over [REDACTED]. I am his biological father and court endorsed guardian for [REDACTED] health, schooling and anything else.

I do not want [REDACTED] joined in any proceedings whatsoever and frankly I doubt that Mr Koletti has any idea what he's doing.

After speaking with [REDACTED] today I got the impression that he didn't know that the 2 accounts youve referenced even existed and he did not convey to me any desire to make a claim in that regard and I certainly make no claim to those funds on his behalf. Those funds should be returned to the defrauded investors. Mr Koletti had not to date discussed this letter with [REDACTED]

Separately, thank you for confirming in that letter the likely dates re the vacation of the house. [REDACTED] is aware that he needs to vacate the dover heights property he just wasn't sure by what date and is not making any claim for himself to stay at the property. [REDACTED] has and will always have a room here at our house at all times and knows that we are very happy for him to live here with us full time. I don't know or care about Mr Koletti and his living arrangements. If [REDACTED] wants to continue to reside some of his time with Mr Koletti in the eastern suburbs closer to he school etc we will not object to his decision to do so but we will not be funding that in any shape or form and I will want to know the details of where when and anything else prior to that.

Lastly and for your information only my wife and I have recently come to an agreement with [REDACTED] school [REDACTED] and paid upfront all [REDACTED] outstanding and future school fees so that he can remain at [REDACTED] for the rest of his secondary schooling. [REDACTED] is aware of that.

Kind regards

Anthony Caddick

Sent from my iPhone

On 14 Jan 2022, at 10:04 am, Michael Hayter <mkh@swaab.com.au> wrote:

Dear Mr Caddick,

Please see attached correspondence.

Kind regards,

23

Sent for and on behalf of

**Michael Hayter**

Partner

Swaab

T +61 2 9233 5544 | F +61 2 9233 5400

[mkh@swaab.com.au](mailto:mkh@swaab.com.au) | [www.swaab.com.au](http://www.swaab.com.au) | [Profile](#) | [vCard](#)

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**From:** Kyna Messias on behalf of Michael Hayter  
**Sent:** Monday, 17 January 2022 11:10 AM  
**To:** [REDACTED]  
**Cc:** Suzi Stojanovski; Kyna Messias  
**Subject:** 20220117 - Correspondence to Anthony Caddick re [REDACTED] and Dover Heights Property [SWA-AB.FID348319]  
**Attachments:** 20220117 - Correspondence to Anthony Caddick re guardianship of [REDACTED].pdf; 20220114 - Email from Anthony Koletti.pdf; 20220117 - Correspondence to Anthony Koletti Redacted\_Redacted.pdf

Dear Mr Caddick,

Please see attached correspondence.

Kind regards,

Sent for and on behalf of

**Michael Hayter**  
Partner  
Swaab  
T +61 2 9233 5544 | F +61 2 9233 5400  
mkh@swaab.com.au | www.swaab.com.au | Profile | vCard

17 January 2022

ABN 71 028 846 652

Level 4, 20 Hunter Street  
Sydney NSW 2000

DX 522 Sydney NSW

T +61 2 9233 5544  
F +61 2 9233 5400

swaab.com.au

Anthony Caddick

Dear Mr Caddick

**Australian Securities and Investments Commission vs Caddick 2021 FCA  
1443**

**Bank accounts in the name of** [REDACTED]

We attach herewith a copy of the letter received from Mr Koletti on 14 January 2022 together with our reply, which has crossed over with your recent email which we have received from you.

We understand from your comments that Mr Koletti has not been appointed guardian to the affairs of your son [REDACTED]. Our clients are concerned that Mr Koletti is purporting to act on behalf of all [REDACTED]. It's our clients' preference to avoid [REDACTED] being involved in any of the proceedings.

You would appreciate that as no one is making a claim to the Dover Heights property it is inevitable that the court will authorise our clients to take possession of and sell that property, which follows that Mr Koletti and your son will need to vacate the property. We had suggested to Mr Koletti that this occur by consent (and therefore from our clients' perspective avoid the necessity to include Mr Koletti and your son as parties) however in view of Mr Koletti's position our clients may now need to seek Orders for the vacation of the property.

**Contact**

Michael Hayter  
Partner

mkh@swaab.com.au

Our ref

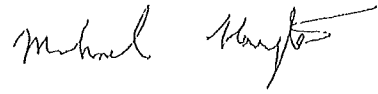
217242

By email

[REDACTED]

Should you have any queries please contact us.

Yours Truly,

A handwritten signature in black ink, appearing to read "Michael Hayter". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

**Michael Hayter**

---

**From:** Sonitha Naicker <sn@swaab.com.au>  
**Sent:** Thursday, 10 February 2022 4:16 PM  
**To:** [REDACTED]  
**Cc:** Michael Hayter  
**Subject:** 2022.02.08 - Interlocutory Application 2 Feb 2022 (Sealed on 08.02.2022).PDF;  
2022.02.08 - Affidavit of Bruce Gleeson 2 Feb 2022 (Sealed on 08.02.22).PDF [SWA-AB.FID350085]  
**Attachments:** 2022.02.08 - Interlocutory Application 2 Feb 2022 (Sealed on 08.02.2022).PDF;  
2022.02.08 - Affidavit of Bruce Gleeson 2 Feb 2022 (Sealed on 08.02.22).PDF;  
2022.02.10 - Letter to Anthony Caddick.pdf

Dear Mr Caddick

Please see **attached** letter dated 10 February 2022 together with enclosures.

Yours faithfully

**Sonitha Naicker on behalf of Michael Hayter**

Legal Secretary

Swaab

D +61 2 9777 8347 | T +61 2 9233 5544 | F +61 2 9233 5400

sn@swaab.com.au | www.swaab.com.au

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8 February 2022

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Anthony Caddick  
[REDACTED]

Dear Mr Grimley

**Australian Securities and Investments Commission vs Caddick 2021 FCA 1443 (“the Proceedings”)  
Objections to take possession of and sell Receivership Property and list of Receivership Property**

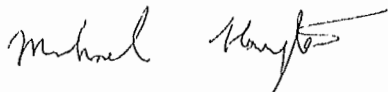
We refer to previous correspondence and **enclose** by way of service sealed copies of Interlocutory Application and Affidavit of Bruce Gleeson sworn 2 February 2022.

You will note that the Interlocutory Application is returnable before the Court at 9.30am on 24 February 2022.

Please confirm, as a matter of urgency, whether you will be appearing (or someone on your behalf).

Please also clarify whether you will be opposing any of the orders sought and if so, specify which orders.

Yours Truly,



**Michael Hayter**

**Contact**

Michael Hayter  
Partner

mkh@swaab.com.au

Our ref

216008

By email  
[REDACTED]

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 2/02/2022 2:49:31 PM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Interlocutory Application - Form 35 - Rule 17.01(1)(a)
File Number:	NSD1220/2020
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v MELISSA LOUISE CADDICK & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Case Management Hearing
Time and date for hearing:	24/02/2022, 9:30 AM
Place:	Court Room 22B, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney



*Sia Lagos*

Dated: 8/02/2022 10:09:57 AM 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

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.

Form 35  
Rule 17.01(1)



## Interlocutory Application

No. NSD1220 of 2020

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

### MELISSA LOUISE CADDICK

First Defendant

### BRUCE GLEESON

First Applicant in Interlocutory Application

### DANIEL ROBERT SOIRE

Second Applicant in Interlocutory Application

The Applicants in the Interlocutory Application, Bruce Gleeson and Daniel Robert Soire in their capacity as Joint and Several Receivers ("Receivers") of the Receivership Property of the first defendant as appointed by this Court pursuant to judgement of the Honour Justice Markovic on 22 November 2021 pursuant to Section 1101B(1) of the Corporations Act, apply for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

**Time and date for hearing:**

**Place:** Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW 2000

Filed on behalf of (name & role of party)	Bruce Gleeson & Daniel Robert Soire, Receivers of the Property of
Prepared by (name of person/lawyer)	Melissa Louise Caddick
Law firm (if applicable)	Michael Kevin Hayter
	Swaab Lawyers
Tel	02 9233 5544
	Fax 02 9233 5400
Email	mkh@swaab.com.au
Address for service (include state and postcode)	Level 4, 20 Hunter Street, Sydney NSW 2000



The Court ordered that the time for serving this application be abridged to

Date:

---

Signed by an officer acting with the authority  
of the District Registrar





### Orders sought

1. That the Receivers would be justified in realising, by sale, the shares identified in Schedule 1 to this application and applying the proceeds of such sale:
  - (i) first, in discharge of the costs of the sale process; and
  - (ii) thereafter by deposit into the Receivers' Trust account established in accordance with paragraph 4(d) of the orders made by the Court on 22 November 2021.
  
2. That the Receivers would be justified in taking possession of the properties described in Schedule 2 and Schedule 3 (the **Properties**) to this application, realising the Properties and applying the proceeds of such sale:
  - (i) first, any necessary property adjustments in order to sell the properties including applicable council, water, strata and utility rates;
  - (ii) second, the sales and marketing expenses of any real estate agent employed by the Receivers;
  - (iii) third, costs in relation to conveyancing costs of the solicitor for the Receivers;
  - (iv) fourth, the legal fees and charges in respect of any possession proceedings (if possession is not delivered up by any occupant);
  - (v) fifth, costs of attending to the Execution of Writ of Possession (if applicable);
  - (vi) sixth, any taxes including but not limited to Capital Gains Tax, Land Tax and Goods and Services Tax (GST);
  - (vii) seventh, any costs of insurance and any other reasonable expenses incurred for protection and maintenance of the Properties;
  - (viii) eighth, the mortgage debts secured over the Properties pursuant to the registered mortgages to National Australia Bank;
  - (xi) ninth, costs of any valuation reports obtained by the Receivers;
  - (x) tenth, costs of attending to remove, securing, dealing with and storing any Receivership Property located at the Properties; and
  - (xi) thereafter by deposit into the Receivers' Trust account established in accordance with paragraph 4(d) of the orders made by the Court on 22 November 2021.
  
3. That the Receivers would be justified in realising the monies held in the bank accounts identified in Schedule 4 to this application and applying the proceeds of such realisation:
  - (i) first, in discharge of the costs of the realisation process; and



- (ii) thereafter by deposit into the Receivers' Trust account established in accordance with paragraph 4(d) of the orders made by the Court on 22 November 2021.

4. Costs as against any party who opposes the making of the orders sought by the Receivers.

**Interlocutory orders sought**

5. Directions as to the hearing and determination of any objection made by any of:

- (i) Barbara Grimley,  
(ii) Edward Grimley,  
(iii) Adam Grimley, or  
(iv) Anthony Koletti.

to the realisation or sale of any of the Receivership Property.

6. An order that the Receivers are justified in paying their remuneration costs and expenses approved by the Court in the sum of \$188,017.84 from the Receivers' Trust account.



### SCHEDULE 1

Financial Institution	Account Details
Commonwealth Securities Limited	[REDACTED]
Commonwealth Securities Limited	[REDACTED]

### SCHEDULE 2

The real property located at [REDACTED] Dover Heights NSW and contained in folio identifier [REDACTED].

### SCHEDULE 3

The real property located at [REDACTED] Edgecliff NSW an contained in folio identifier [REDACTED].

### SCHEDULE 4

Financial Institution	Account Name	Account Details
Commonwealth Bank of Australia	Melissa Caddick	[REDACTED]
Commonwealth Securities Limited	Melissa Louise Caddick	[REDACTED]
National Australia Bank	Melissa Louise Caddick	[REDACTED]
National Australia Bank	Melissa Louise Caddick	[REDACTED]
National Australia Bank	Melissa Louise Caddick	[REDACTED]
Westpac Banking Corporation	Melissa Louise Caddick	[REDACTED]
American Express Australia Limited	Melissa Caddick	[REDACTED]



**Service**

It is intended to serve this application on the following persons:

(ASIC and the persons mentioned in 5 above.

Date: 2nd February 2022

A handwritten signature in black ink, appearing to read "Michael Hayter". The signature is written in a cursive style with a long horizontal stroke extending from the end.

---

Signed by Michael Kevin Hayter  
Lawyer for the Applicants

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 2/02/2022 2:49:31 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: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



*Sia Lagos*

Dated: 8/02/2022 10:10:14 AM 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.

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Form 59  
Rule 29.02(1)

## Affidavit

No. 1220 of 2020

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

**MELISSA LOUISE CADDICK and ANOR**

Defendants

Affidavit of: **Bruce Gleeson**  
Address: Level 13, 189 Kent Street, Sydney NSW  
Occupation: Registered Liquidator  
Date: 2 February 2022

### Contents

I, Bruce Gleeson, Registered Liquidator of Level 13, 189 Kent Street, Sydney New South Wales 2000, say on oath:

- I refer to the Interlocutory Application I am arranging to file in these proceedings and confirm I am intending to file affidavits setting out details of parties who I have served as "*Interested Parties*" with notice of my intention to take possession of and sell the Receivership Property. Orders made by the Honour Justice Markovic on 22 November 2021 in this Court defines Receivership Property as all property (as

Filed on behalf of (name & role of party)	<u>Bruce Gleeson – Registered Liquidator</u>
Prepared by (name of person/lawyer)	<u>Michael Kevin Hayter</u>
Law firm (if applicable)	<u>Swaab</u>
Tel	<u>02 933 5544</u>
Fax	<u>02 9233 5400</u>
Email	<u>mkh@swaab.com.au</u>
Address for service (include state and postcode)	<u>Level 4, 20 Hunter Street, Sydney NSW 2000</u>

[Version 3 form approved 02/05/2019]

defined in section 9 of the *Corporations Act 2001 (Cth)* of Melissa Louise Caddick ("Ms Caddick").

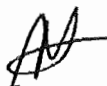
**Receivership Property**

2. Assets which I have identified in previous affidavits filed in this Court that form Receivership Property include:
  - (a) a residential property situated at Dover Heights, NSW ("Dover Heights Property");
  - (b) a residential property situated at Edgecliff, NSW ("the Edgecliff Property");
  - (c) a domestic share trading account held in the name of Ms Caddick held with Commonwealth Securities Limited ("the CommSec Domestic Share Trading Account");
  - (d) an international share trading account held in the name of Ms Caddick held with Commonwealth Securities Limited ("the CommSec International Share Trading Account");
  - (e) various jewellery, clothing and personal effects;
  - (f) bank accounts in the sole name of Ms Caddick;
  - (g) bank accounts held jointly with Ms Caddick and others which Ms Caddick may have a legal or equitable interest in; and
  - (h) bank accounts in and names of others which Ms Caddick may have a legal or equitable interest in.
  
3. At this stage, and for the purpose of the Interlocutory Application accompanying this affidavit, I initially seek to obtain the leave of the Court to take possession of and sell (or realise) the following Receivership Property:
  - (a) the Dover Heights Property;
  - (b) the Edgecliff Property;

- (c) the CommSec Domestic Share Trading Account;
- (d) the CommSec International Share Trading Account;
- (e) bank accounts in the sole name of Ms Caddick;

and defer consideration of the other Receivership Property referred to in the preceding paragraph to a later date. The reasons for deferring the realisation of some of the Receivership Property referred to above is that there are continuing communications (between myself and Ms Caddick's family members) and investigations as to whether certain family members may have claims to specific items of Receivership Property referred to in paragraph 2(e), and the sale of those items of Receivership Property are not as time critical as the items of Receivership Property noted in 3(a) – 3(e) above.

4. In particular, there is some urgency to the Dover Heights Property and the Edgecliff Property in that both properties are subject to registered mortgages in favour of the National Australia Bank who are owed approximately \$4 million regarding the Dover Heights Property and approximately \$1.5 million regarding the Edgecliff Property. At present no party is servicing the monthly repayments to the National Australia Bank of approximately \$9,200 and \$4,800 regarding the Dover Heights Property and Edgecliff Property respectively. Accordingly, interest is continuing to accrue regarding each registered mortgage which is ultimately eroding the available equity available in the properties. Further, there are also outstanding expenses regarding the Dover Heights Property and Edgecliff Property regarding strata levies and council rates, totalling approximately \$26,700 which no party is paying.
5. In respect of the CommSec Domestic Share Trading Account and CommSec International Trading Account, I am concerned as to the ongoing volatility of the domestic and international share markets and wish to be able to realise those shares in accordance with the advice of my licenced broker.





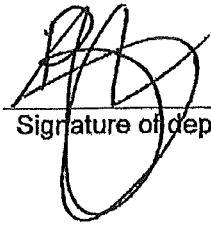
**Objections to realisation of Receivership Property**

6. I confirm I intend to file an affidavit of my solicitor Michael Kevin Hayter in support of this application which will set out the objections received to date from Interested Parties to the sale (or realisation) of Receivership Property by me and Daniel Robert Soire (as Joint and Several Receivers to the property of Ms Caddick) to date. In summary, I outline below the objections I have received to date and the parties who have made those objections with reference to the specific items of Receivership Property the objections relate, namely:
- (a) Edward and Barbara Grimley, (the parents of Ms Caddick) - the Edgecliff Property and some items of jewellery and personal effects;
  - (b) Adam Grimley (the brother of Ms Caddick) - the Edgecliff Property and some items of jewellery; and
  - (c) Anthony Koletti (the husband of Ms Caddick) - all assets of Ms Caddick excluding the CommSec Domestic Share Trading Account and CommSec International Share Trading Account.
7. I have received no other objections from any Interested Parties to the sale of the Receivership Property.
8. I have received no objections to the realisation of the CommSec Domestic Share Trading Account and CommSec International Share Trading Account.
9. I have received no objections to the realisation of any bank accounts held solely in the name of Ms Caddick, other than Mr Koletti.



Sworn by the deponent  
at Sydney  
in New South Wales  
on 2 February 2022  
Before me:

)  
)  
)  
)  
)



Signature of deponent



Signature of witness

Suzi Stojanovska, Solicitor  
This Affidavit was signed and witnessed  
in accordance with section 146 of the  
Electronic Transactions Act 2000.  
Name and qualification