



Form 59  
Rule 29.02(1)

### Affidavit

No. NSD616/2021

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

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

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

Affidavit of: Caitlin Maria Murray  
Address: Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000  
Occupation: Solicitor  
Date: 6 October 2022

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Filed on behalf of (name & role of party) Westpac Banking Corporation and Westpac New Zealand Limited, applicants  
Prepared by (name of person/lawyer) Caitlin Murray  
Law firm (if applicable) MinterEllison  
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(include state and postcode) Our reference: CMM/AGS:1353397

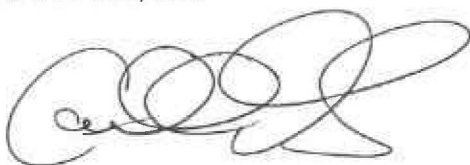
Version 3 form approved 02/05/2019

I, Caitlin Maria Murray of Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000, Solicitor, say on oath:

1. I am a partner of the firm of solicitors, MinterEllison and the solicitor for the first applicant, Westpac Banking Corporation (**WBC**) and the second applicant Westpac New Zealand Limited (**WNZL**) (together, **Westpac**).
2. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit CMM-27' (**CMM-27**). Throughout this affidavit I make reference to documents which appear at CMM-27.
3. References to time in this affidavit are to Australian Eastern Standard Time.

Freezing Order

4. On 2 July 2021, following an ex parte application and hearing, freezing orders were made against Vincenzo Frank Tesoriero (**Mr Tesoriero**) (the **Freezing Order**). The Freezing Order provided an exception allowing Mr Tesoriero to pay \$25,000 on his reasonable legal expenses.
5. On 9 July 2021, during an interlocutory hearing of this matter, senior counsel for Mr Tesoriero, Greg McNally SC (**Mr McNally SC**) (instructed by Fortis Law, Mr Tesoriero's then solicitors) consented, on a without admissions basis, to the continuation of the Freezing Order subject to certain amendments being made. On 9 July 2021, the Freezing Orders were extended and amended to allow Mr Tesoriero to pay \$30,000 per month (up to the sum of \$350,000 unless varied by subsequent order) on his reasonable legal expenses. The Freezing Order also required Mr Tesoriero to swear and serve on Westpac by 14 July 2021, an affidavit of disclosure as to his assets.
6. On 21 July 2021 (1:23pm), I received an email from Joshua Frangi of Fortis Law attaching an affidavit sworn by Mr Tesoriero on 21 July 2021 (**First Tesoriero Affidavit**).
7. On 27 July 2021 (1:36pm), I was copied to an email sent from Anthony Sommer, a solicitor of MinterEllison (**Mr Sommer**) to Mr Christopher Nehme of Fortis Law (**Mr Nehme**) attaching a letter dated 27 July 2021 inviting Mr Tesoriero to clarify a number of concerns Westpac had regarding apparent deficiencies in the First Tesoriero Affidavit, including an apparent failure to disclose:
  - (a) an Audi race car used by Mr Tesoriero in the Fanatec GT World Challenge Australia;
  - (b) an interest in a café business related to 65 Nelson St Enterprises Pty Ltd ACN 612 614 632; and




(c) the value of improvements to various properties in which Mr Tesoriero had an interest in.

8. A copy of that correspondence is at pages 1 to 14 of CMM-27.

Rozelle Property and Natalia Funds

9. On 11 August 2021 (1:19pm), I received an email from Mr Nehme regarding a proposal to list for sale the property at 23 Margaret Street, Rozelle NSW 2039 (**Rozelle Property**). A copy of that correspondence is at pages 15 to 52 of CMM-27.

10. On 17 August 2021 (8:10pm and 9:26pm), I received two emails from Roy Hanna and Mr Nehme, both of Fortis Law, respectively attaching a letter dated 17 August 2021. The letter stated that Mr Tesoriero had entered into a purchase contract (**Oakleigh Contract**) on 16 December 2019 in respect of the property at 8-12 Natalia Avenue, Oakleigh South VIC 3167 (**Oakleigh Property**), that Mr Tesoriero was unable to fulfil his completion obligation under the Oakleigh Contract, and that Mr Tesoriero intended to nominate a new purchaser to fulfil his obligations under the terms of the Oakleigh Contract, and providing a copy of the Oakleigh Contract. A copy of that correspondence (without the attachments referred to in the letter) is at pages 53 to 57 of CMM-27.

11. Westpac's investigations revealed that an amount of \$1,172,000 had been paid from Forum Group Financial Services Pty Ltd ACN 623 033 705 (**FGFS**) in relation to the purchase as the Oakleigh Property as follows:

- (a) on 19 December 2019 a payment in the amount of \$586,000 with the description "Deposit 12 Natalia" was made from the FGFS account; and
- (b) on 9 June 2020, a further payment in the amount of \$586,000 with the description "Natalia Deposit" was made from the FGFS account.


12. These payments are shown on the summary of payments to, or on behalf of 8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626 (**8-12 Natalia Ave**), a company established by Mr Tesoriero at or around the time he entered into the Oakleigh Contract, a copy of which is at pages 58 to 59 of CMM-27.

13. On 19 August 2021 (9:55am), I was copied to a series of emails and correspondence between Mr Sommer and Mr Nehme about the Oakleigh Contract and Oakleigh Property. By these emails, Mr Sommer indicated that if the transaction were to proceed, Westpac would require the funds be paid into a controlled monies account the signatories of which were to be MinterEllison and Fortis Law (**Oakleigh CMA**) or otherwise be paid into Court. A copy of the email chain dated 19 August 2021 is at pages 60 to 64 of CMM-27

14. On 20 August 2021 (12:20pm), I was copied to an email sent from Mr Nehme to Mr Sommer requesting Westpac's consent to the nomination under the Oakleigh Contract on the condition that the funds from the nomination be kept in Fortis Law's trust account until the Oakleigh CMA was established. By this email, Mr Nehme said "Fortis Law will undertake not to deal with those funds until such time as the appropriate account is established". A copy of this email is at page 65 of CMM-27.

Rozelle Property

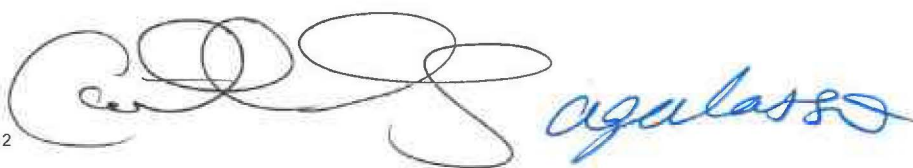
15. In the period from 11 August 2021 to 20 August 2021, MinterEllison and Fortis Law exchanged correspondence in relation to the proposed sale of the Rozelle Property, but were unable to reach agreement.
16. On 25 August 2021 Westpac filed an interlocutory application seeking, among other things, a freezing order against 23 Margaret Street Pty Ltd ACN 623 715 373 (**23 Margaret Street**) (the then registered proprietor of the Rozelle Property) and an order pursuant to section 23 of the *Federal Court of Australia Act 1976* (Cth) and rule 7.33 of the *Federal Court Rules 2011* (Cth) that Jason Ireland and Jason Preston of McGrathNicol be appointed as receivers and managers of the Rozelle Property (**Rozelle IA**). The concern with the information provided by Mr Tesoriero was that the Rozelle Property was proposed to be marketed for \$3,100,000.00 - \$3,300,000.00, which was less than it had been bought for on 30 April 2018 (being \$4,100,000.00).
17. On 27 August 2021, this Court made orders:
- (a) that Mr Tesoriero give an undertaking to the effect that he take no further steps to market or sell the Rozelle Property until the hearing of the Rozelle IA;
  - (b) that Mr Tesoriero permit Westpac's nominated valuer to access and inspect the Rozelle Property;
  - (c) adjourning the Rozelle IA to 3 September 2021;
  - (d) amending the Freezing Order to be a worldwide freezing order against Mr Tesoriero; and
  - (e) amending the Freezing Order to require Mr Tesoriero to serve on Westpac an affidavit of disclosure as to his assets outside of Australia by 3 September 2021.
18. A copy of that order is at pages 66 to 79 of CMM-27.
19. After negotiation between Fortis Law and MinterEllison, on 2 September 2021 (9:15pm), I was copied to an email sent from Mr Nehme to Mr Sommer attaching a sale process



- deed regarding the Rozelle Property which had been signed by Mr Tesoriero and 23 Margaret Street Pty Ltd ACN 623 715 373 (by Mr Tesoriero) (**Rozelle Sale Process Deed**). A copy of that correspondence is at pages 80 to 87 of CMM-27.
20. On 3 September 2021 (9:27am), I was copied to an email from Mr Sommer to Mr Nehme attaching a fully executed copy of the Rozelle Sale Process Deed. A copy of that correspondence and deed is at pages 88 to 96 of CMM-27. As a result of entering into the Rozelle Sale Process Deed, Westpac consented to the dismissal of the Rozelle IA.
21. On 3 September 2021 (4:57pm and 5:00pm), I was copied to two emails sent from Mr Nehme to Mr Sommer attaching an affidavit of Mr Tesoriero sworn on 3 September 2021 (**Second Tesoriero Affidavit**). A copy of that correspondence is at pages 97 to 102 of CMM-27.
22. On 3 September 2021, the Rozelle IA was dismissed with no order as to costs.
23. The Rozelle Property was later sold, following a public marketing campaign, on 22 February 2022 for \$4,450,000.00.

Appointment of receivers to sell property

24. Also before this Court on 3 September 2021 was the hearing of two interlocutory applications filed in proceeding NSD747/2021. One of the interlocutory applications sought orders for the appointment of receivers to sell:
- (a) real properties held by 14 James Street Pty Limited (In Liquidation) as trustee of the 14 James Street Unit Trust (**14 James Street**);
  - (b) real properties held by 26 Edmonstone Road Pty Ltd (In Liquidation) as trustee of the 26 Edmonstone Road Unit Trust;
  - (c) real properties held by 5 Bulkara Street Pty Ltd (In Liquidation) as trustee of the 5 Bulkara Street Unit Trust (**5 Bulkara Street**);
  - (d) real properties held by 6 Bulkara Street Pty Ltd (In Liquidation) as trustee of the 6 Bulkara Street Unit Trust (**6 Bulkara Street**); and
  - (e) the Mangusta XOXO Yacht (**XOXO**), formerly owned by Intrashield Pty Limited (In Liquidation).
25. Mr Tesoriero, represented by Mr McNally SC, did not oppose the application and Mr McNally SC indicated that Mr Tesoriero and Mangusta (Vic) Pty Ltd (of which Mr Tesoriero was the sole director) supported and embraced the application. An extract of the transcript from 3 September 2021 is at pages 103 to 110 of CMM-27.



26. A copy of the orders made on 3 September 2021 appointing receivers over the real properties and the XOXO is at page 111 to 113E of CMM-27.

Engagement of Madgwicks Lawyers and the Oakleigh CMA

27. On 21 September 2021 (1:18pm), I was copied to an email sent from Mr Nehme to Mr Sommer to the effect that:
- (a) Fortis Law was no longer instructed in this matter and that Sazz Nasimi of Madgwicks Lawyers (**Mr Nasimi**) was now acting for "Mr Tesoriero and related entities"; and
  - (b) the funds received from the nomination under the Oakleigh Contract, being the sum of \$773,362.88 (**Oakleigh Sum**) would be held in Fortis Law's trust account as security for payment of its legal fees.
28. A copy of that correspondence is at page 114 of CMM-27.
29. On 21 September 2021 (1:50pm), I sent an email to Mr Nehme to the effect that the assertion of a lien over the funds from the nomination under the Oakleigh Contract was contrary to what was agreed between the parties, and demanding that those funds be paid into Court immediately. A copy of that correspondence is at pages 115 to 116 of CMM-27.
30. On 24 September 2021 (11:23am), I was copied to an email sent from Mr Sommer to Mr Nasimi requesting an update in relation to the marketing for sale of the Rozelle Property. A copy of that correspondence is at pages 117 to 125 of CMM-27.
31. On 27 September 2021 (12:38pm), I was copied to an email sent from Mr Sommer to Mr Nasimi attaching a letter dated 27 September 2021 expressing concerns Westpac had in relation to:
- (a) the deficiencies in the First Tesoriero Affidavit;
  - (b) the marketing of the Rozelle Property;
  - (c) the failure by Mr Tesoriero to disclose his interest in the Oakleigh Property;
  - (d) bank statements for an account in the name of 286 Carlisle Street Pty Limited ACN 610 042 343 (which Westpac acquired under subpoena to National Australia Bank Limited) which appeared to record transactions from that account to a company in Greece in circumstances where no interest in any assets in Greece had been disclosed in the Second Tesoriero Affidavit.
32. A copy of that correspondence is at pages 126 to 153 of CMM-27.



33. On 28 September 2021 (11:09am), I was copied to an email from Mr Sommer to Pierre Safi (Managing Partner, Fortis Law) (**Mr Safi**) to the effect that no response had been received by MinterEllison to Mr Sommer's email of 23 September 2021 (8:18am) and reiterating that the Oakleigh Sum held in Fortis Law's trust account was subject to an undertaking provided by Mr Nehme to pay the Oakleigh Sum into the Oakleigh CMA. A copy of that correspondence is at pages 154 to 156 of CMM-27.
34. On 30 September 2021, I caused an interlocutory application to be filed in this proceeding seeking freezing orders against 286 Carlisle Street Pty Limited ACN 610 042 343 (**286 Carlisle**), Palante Pty Ltd ACN 135 344 151 (**Palante**), Tesoriero Investment Group Pty Ltd ACN 161 088 115 (**TIG**) and 8-12 Natalia Ave. A copy of that application is at pages 157 to 187 of CMM-27 (**30 September FO IA**).
35. On 1 October 2021, the 30 September FO IA was listed for hearing. During that hearing, I heard Mr Nasimi say to this Court words to the effect that the Tesoriero entities (being 286 Carlisle, TIG, and 8-12 Natalia Ave) would consent to the orders sought by the 30 September FO IA. A copy of the relevant extract of the transcript from the case management hearing held on 1 October 2021 is at pages 188 to 190 of CMM-27.
36. Following the hearing on 1 October 2021, this Court made an order requiring Fortis Law to pay the Oakleigh Sum into Court. A copy of that order is at pages 191 to 193 of CMM-27.
37. On 1 October 2021 (4:17pm), I was copied to an email from Mr Sommer to Mr Nasimi asking for his clients' consent to the draft freezing order sought by the 30 September FO IA.
38. On 1 October 2021 (4:52pm), I was copied to a further email from Mr Sommer to Mr Nasimi again asking for his clients' consent to the draft freezing order sought by the 30 September FO IA. A copy of that correspondence, including the earlier email chain, is at pages 194 to 219 of CMM-27.
39. On 20 October 2021 this matter was before this Court for a further hearing. During that hearing, I heard Senior Counsel for Mr Tesoriero, Mr Hayes QC (**Mr Hayes QC**), say to this Court words to the effect that notwithstanding what Mr Nasimi had told this Court on 1 October 2021 (that the Tesoriero entities, being 286 Carlisle, TIG, and 8-12 Natalia Ave would consent to the orders sought by the 30 September FO IA), that his instructions were that "there is an issue with respect to 286 Carlisle and also the Tesoriero Investment Group in respect of whether or not the injunction should extend to

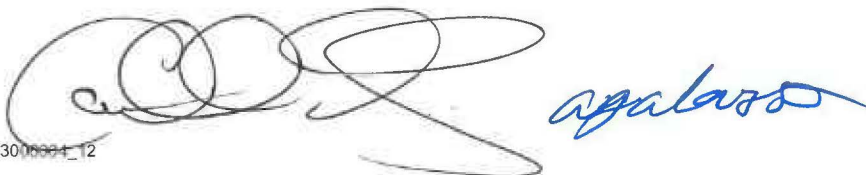


- those entities." A copy of the relevant extract of the transcript (P-5, lines 26-27) from the case management hearing held on 20 October 2021 is at pages 220 to 221 of CMM-27.
40. On 20 October 2021, this Court made orders including in the terms sought by the 30 September FO IA. A copy of those orders are at pages 222 to 261 of CMM-27.
41. On 27 October 2021 (3:24pm), I was copied to an email from Candy Nelson (**Ms Nelson**) of Madgwicks Lawyers to Chris Prestwich and Kirsty Prinsloo of Allens (the solicitors for the (then) provisional liquidators of Forum Group Financial Services Pty Ltd, Forum Enviro Pty Ltd, and Forum Enviro (Aust) Pty Ltd (**PL Entities**)) to the effect that Madgwicks Lawyers was instructed to contest the application for the winding up of the PL Entities on the basis that the PL Entities were "likely to be solvent." A copy of that correspondence is at pages 262 to 264 of CMM-27.
42. On 28 October 2021 (8:34am), I was copied to an email from Mr Sommer to Mr Nasimi attaching a letter dated 28 October 2021 to the effect that Westpac was concerned no steps had been taken to market and sell the Rozelle Property in accordance with the Rozelle Sale Process Deed, and that unless a satisfactory response was offered by Madgwicks Lawyers, Westpac would apply to this Court to enforce the Rozelle Sale Process Deed. A copy of that correspondence is at pages 265 to 267 of CMM-27.
43. On 11 November 2021 (2:39pm), I received an email from Alexandra Lawrence of Madgwicks Lawyers (**Ms Lawrence**), attached to which were draft orders for the interlocutory hearing listed for the following day (12 November 2021) to the effect that Mr Tesoriero would be seeking (inter alia):
- (a) that the Freezing Order be discharged entirely, or alternatively, that the exception in the Freezing Order for Mr Tesoriero's reasonable legal expenses be varied to allow for \$150,000.00 per month (up to the sum of \$1,200,000.00);
  - (b) that Mr Tesoriero serve any request for further and better particulars of Westpac's Second Further Amended Statement of Claim by 19 November 2021;
  - (c) that Westpac serve their response to any request for Further and Better Particulars filed on behalf of Mr Tesoriero by 26 November 2021; and
  - (d) that Mr Tesoriero serve any application to strike out Westpac's Second Further Amended Statement of Claim (**Strike Out Application**), on or before 3 December 2021.
44. A copy of that correspondence is at pages 268 to 273 of CMM-27.






45. On 12 November 2021, during an interlocutory hearing of this proceeding, Mr Hayes QC told this Court that his instructions were to seek further and better particulars of Westpac's Second Further Amended Statement of Claim, and if "they don't hit the mark so far as Mr Tesoriero is concerned" (P-11, lines 16-17), to bring the Strike Out Application. A copy of the relevant extract of the transcript from the hearing held on 12 November 2021 is at pages 274 to 275 of CMM-27.
46. On 12 November 2021, following that interlocutory hearing, this Court made orders to (inter alia):
- (a) further amend the Freezing Order to allow for payment of \$450,000 until 10 March 2021 on Mr Tesoriero's reasonable legal expenses;
  - (b) require the Strike Out Application be served by 14 February 2021; and
  - (c) wind up the PL Entities on the basis that each entity was insolvent.
47. A copy of those orders are at pages 276 to 297 of CMM-27.
48. I am informed by Mr Sommer that on 18 November 2021 (2:24pm), he received an email from Mackenzie Preston of Madgwicks Lawyers attaching a letter dated 18 November 2021 stating that Mr Tesoriero had decided, for the time being, not to pursue the Strike Out Application. A copy of that correspondence is at pages 298 to 300 of CMM-27.
49. On about 23 December 2021, entities associated with Mr Tesoriero including 23 Margaret Street and 8-12 Natalia Ave applied to set aside statutory demands issued by FGFS.
50. On or around 10 January 2022, I became aware through an article published in the Sydney Morning Herald newspaper that the Rozelle Property had been sold on 29 December 2021. A copy of the article I read is at pages 301 to 303 of CMM-27.
51. On 18 January 2022 (1:09pm), I was copied to an email sent from Alana Galasso, a solicitor of MinterEllison (**Ms Galasso**) to Mr Nasimi attaching a letter dated 18 January 2022 to the effect that:
- (a) despite MinterEllison's letters of 28 October 2021, 2 November 2021, and 8 November 2021, MinterEllison was yet to receive confirmation from Madgwicks Lawyers that the Rozelle Property would be sold in accordance with the Rozelle Sale Process Deed; and
  - (b) Westpac would not consider releasing its caveat over the Rozelle Property until written confirmation was received from Madgwicks Lawyers that immediately at

The image shows two handwritten signatures. The one on the left is a large, dark, cursive signature, likely belonging to Alana Galasso. The one on the right is a smaller, blue ink signature, also appearing to be 'Alana Galasso'.

completion, the cash surplus arising from the sale of the Rozelle Property, following payment of the outstanding mortgage and deductions related to the Rozelle Property, will be paid into a controlled monies account to be opened in the joint names of Westpac and Mr Tesoriero (**Rozelle CMA**).

52. A copy of that correspondence is at pages 304 to 306 of CMM-27.
53. On 31 January 2022 (5:27pm and 6:39pm), I received two emails from Ms Lawrence attaching (among other things) a letter dated 31 January 2022 to the effect that the date for settlement of the Rozelle Property was 9 February 2022 and that the proceeds of sale from the Rozelle Property would be paid into Madgwicks Lawyers' trust account. A copy of that correspondence is at pages 307 to 312 of CMM-27.
54. On 2 February 2022 (11:33am), I was copied to an email from Andrew Clarke (**Mr Clarke**), a solicitor of MinterEllison, to Ms Lawrence to the effect that Westpac's position regarding the sale of the Rozelle Property was as per the process set out in the Rozelle Sale Process Deed, which required the cash surplus arising from the sale of the Rozelle Property (following payment of the outstanding mortgage and any deductions related to the Rozelle Property) to be paid into the Rozelle CMA. A copy of that correspondence is at pages 313 to 323 of CMM-27.
55. On 4 February 2022 (7:36am), I was copied to an email sent from Melissa Passarelli of Madgwicks Lawyers (**Ms Passarelli**) to Mr Clarke attaching a letter dated 4 February 2022 to the effect that Mr Tesoriero had no intention to deal with the surplus monies from the sale of the Rozelle Property until an agreement was reached or an order made by this Court, and proposing those funds be kept in Madgwicks Lawyers' trust account. A copy of that correspondence is at pages 324 to 326 of CMM-27.
56. On 4 February 2022 (3:04pm), I sent an email to Mr Nasimi attaching a letter dated 4 February 2022 to the effect that, in light of the history of Mr Tesoriero asserting an entitlement to deal with money held by his former solicitor in a trust account inconsistently with an undertaking given by that solicitor, Westpac was simply not prepared to agree to a regime different to that which was recorded in the Rozelle Sale Process Deed. A copy of that correspondence is at pages 327 to 328 of CMM-27.
57. On 7 February 2022, I caused an interlocutory application to be filed in this proceeding seeking orders to the effect that Mr Tesoriero give specific performance of his obligations pursuant to clauses 2.2(m)-(n) of Rozelle Sale Process Deed (**Further Rozelle IA**). A copy of Further Rozelle IA is at pages 329 to 334 of CMM-27.




58. On 9 February 2022, a hearing in relation to the Further Rozelle IA took place. During that hearing, I heard Mr Hayes QC tell this Court that Mr Tesoriero would again pursue the Strike Out Application, including by the following words: *"Whether we succeed at the strikeout or summary dismissal stage, whether Mr Tesoriero ultimately prevails at trial, the one thing that is very clear, your Honour, is that there is a real fight on between him and Westpac."* (P-19, lines 37-39). A copy of the relevant extract of the transcript from that hearing is at pages 335 to 336 of CMM-27.
59. On 9 February 2022, this Court also heard an interlocutory application filed by Mr Tesoriero seeking to delay the sale of the real property (being the properties held by 14 James Street, 5 Bulkara Street, and 6 Bulkara Street) and the XOXO until after the determination of this proceeding. A copy of the amended interlocutory application dated 6 February 2022 filed by Mr Tesoriero is at pages 337 to 341 of CMM-27. A copy of the transcript of the hearing of the application on 9 February 2022 is at pages 342 to 418 of CMM-27.
60. On 16 February 2022 (5:49pm), I was copied to an email from Ms Passarelli to the Associate to Justice Lee:
- (a) to the effect that Mr Tesoriero would be available for the trial of this proceeding in October; and
  - (b) requesting this Court amend its orders made on 12 November 2021 and 9 February 2022 to the effect that Mr Tesoriero have until 21 February 2022 to file and serve the Strike Out Application.
61. A copy of that correspondence is at page 419 of CMM-27.
62. On 21 February 2022 (8:42pm), I received an email from Ms Passarelli attaching what appeared to be the foreshadowed Strike Out Application (but was in fact an interlocutory application dated 21 February 2022 seeking orders to the effect that summary judgment be given for Mr Tesoriero, and in the alternative, that Westpac's claim against Mr Tesoriero in its Second Further Amended Statement of Claim be struck out). A copy of that correspondence is at pages 420 to 425 of CMM-27.
63. That interlocutory application dated 21 February 2022 was listed for hearing on 10 March 2022.
64. On 28 February 2022 (10:20am), I was copied to an email sent from Ms Passarelli to the Associate to Justice Lee stating Mr Tesoriero was "now not pressing his strike out



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application ahead of the current trial date of 10 October 2022". A copy of that correspondence is at page 426 of CMM-27.

65. On 28 February 2022 (3:52pm), I received an email from Ms Passarelli to the effect that Mr Tesoriero's interlocutory application dated 21 February 2022 be adjourned to the first day of the trial of this proceeding. A copy of that correspondence is at pages 427 to 432 of CMM-27.
66. On 10 March 2022, this proceeding was heard for case management. During that hearing, I heard Mr Hayes QC tell this Court that Mr Tesoriero's instructions were for the interlocutory application dated 21 February 2022 to be adjourned to the first day of the trial of this proceeding. A copy of the relevant extract of the transcript (P-3, line 7) from that hearing is at pages 433 to 435 of CMM-27.
67. On 10 March 2022, this Court made orders in this proceeding including an order that Mr Tesoriero give standard discovery by 29 April 2022 (**Mr Tesoriero's Discovery**) and an order that Mr Tesoriero file his evidence by 27 May 2022 (**Mr Tesoriero's Evidence**). A copy of those orders are at pages 436 to 451 of CMM-27.
68. On 24 March 2022, entities associated with Mr Tesoriero including 23 Margaret Street and 8-12 Natalia Ave filed submissions in proceeding 778/2021 in support of the applications to set aside the statutory demands issued by FGFS. A copy of those submissions are at pages 452 to 462 of CMM-27.
69. On 20 April 2022 (4:47pm), I received an email from Ms Lawrence enclosing a sharefile link to defences for various respondents to this proceeding, including a defence of Mr Tesoriero dated 20 April 2022 (**Mr Tesoriero's Defence**). A copy of that correspondence is at page 463 of CMM-27.
70. On 17 May 2022 (10:20am), I sent an email to Mr Nasimi attaching a letter dated 17 May 2022 requesting further and better particulars of Mr Tesoriero's Defence. A copy of that correspondence is at pages 464 to 466 of CMM-27.
71. On 30 May 2022 (10:38am), I received an email from Ms Lawrence which:
- (a) outlined (among other things) that Mr Tesoriero's anticipated future legal expenses totalled \$1,320,000.00;
  - (b) asked whether Westpac would agree to:
    - (i) the immediate release of \$270,000.00 from the Rozelle CMA for the purpose of those funds being applied to Mr Tesoriero's reasonable legal expenses;



- (ii) an increase from \$450,000.00 to \$1,860,000.00 to the exception to the Freezing Order which accommodates Mr Tesoriero's reasonable legal expenses; and
  - (iii) a further release from the CMA to cover the shortfall in Mr Tesoriero's actual legal costs once the cap to the reasonable legal expenses in the Freezing Order had been increased; and
- (c) asked for a response by no later than 4:00pm the following day (31 May 2022), (the **30 May Email**).
72. A copy of the 30 May Email and its attachment are at pages 467 to 469 of CMM-27.
73. On 2 June 2022 (12:04pm), I was copied to an email from Kate Cockburn, a solicitor of MinterEllison, to Mr Nasimi, Ms Lawrence and Ms Passarelli which contained a substantive response to the 30 May Email (**2 June Letter**). By the 2 June Letter:
- (a) Westpac accepted that a variation to the Freezing Order would be required;
  - (b) Westpac consented to the request made in the 30 May Email for the release of \$270,000.00 from the Rozelle CMA for the purpose of those funds being applied to Mr Tesoriero's reasonable legal expenses, on the condition that consent was also obtained from SMBC Leasing and Finance, Inc. ARBN 602 309 366 (**SMBC**), the Applicant in Federal Court of Australia Proceedings No. NSD681/2021; and
  - (c) Westpac indicated that it would respond to the balance of the requests made in the 30 May Email, including the revised amount for legal expenses, once financial information from Mr Tesoriero as to his assets and sources of funds (the **Requested Information**) had been received.
74. A copy of the 2 June Letter (together with the cover email) is at pages 470 to 473 of CMM-27.
75. On 14 June 2022 (3:04pm), I received an email from Ms Passarelli (**Madgwicks' 14 June Email**). Attached to Madgwicks' 14 June Email was a draft letter prepared by Madgwicks Lawyers, that letter being addressed to Westpac and directing Westpac to withdraw \$270,000.00 from the Rozelle CMA and disburse those funds into Madgwicks Lawyers' trust account number 256 563 BSB 033 003 (**Release Letter**). The Madgwicks' 14 June Email asked MinterEllison to sign the Release Letter and express post the Release Letter to Madgwicks Lawyers. The Madgwicks' 14 June Email did not contain the Requested Information.



76. A copy of the Madgwicks' 14 June Email (together with the Release Letter) is at pages 474 to 475 of CMM-27.
77. On 14 June 2022 (3:24pm), I sent an email (**MinterEllison's 14 June Email**) to Ms Passarelli in response to Madgwicks' 14 June Email to the effect that:
- (a) Westpac had consented to the release of \$270,000.00 from the Rozelle CMA for the purpose of those funds being applied to Mr Tesoriero's reasonable legal expenses, on the condition that consent is obtained by SMBC; and
  - (b) MinterEllison was yet to receive from Madgwicks Lawyers the Requested Information.
78. A copy of MinterEllison's 14 June Email is at pages 476 to 477 of CMM-27.
79. On 16 June 2022 (12:04pm), I received an email from Ms Lawrence to the effect that Madgwicks Lawyers had been instructed by Mr Tesoriero to make an urgent application to this Court regarding variations to the Freezing Order to allow for payment by Mr Tesoriero of his legal expenses. A copy of this email is at page 478 of CMM- 27. I did not receive any response to the 2 June Letter prior to receiving this email.
80. On 16 June 2022 (12:15pm), I was copied to an email from Ms Lawrence to Justice Lee's Associate, seeking that the matter be listed for the hearing of an application to vary the Freezing Orders made against Mr Tesoriero. A copy of this email is at pages 479 to 480 of CMM-27.
81. On 16 June 2022 (2:47pm), I caused Simon Brandis, a solicitor of MinterEllison, to send a letter (the **16 June Letter**) to Mr Nasimi, Ms Lawrence and Ms Passarelli to the effect that:
- (a) as was communicated in both the 2 June Letter and MinterEllison's 14 June Email, Westpac had consented the request made in the 30 May Email for the release of \$270,000.00 from the Rozelle CMA for the purpose of those funds being applied to Mr Tesoriero's reasonable legal expenses, on the condition that consent was obtained by SMBC; and
  - (b) MinterEllison was still yet to receive from Madgwicks Lawyers the Requested Information (as requested in both the 2 June Letter and MinterEllison's 14 June Email).
82. A copy of the 16 June Letter and the cover email attaching this letter is at pages 481 to 484 of CMM-27.



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83. On 17 June 2022 (5:03pm), I received an email from Ms Lawrence attaching an interlocutory application dated 17 June 2022 seeking amendments to the Freezing Order (to allow for payment up to the sum of \$1,866,000 for Mr Tesoriero's reasonable legal expenses) (**17 June 2022 IA**) and an affidavit of Mr Tesoriero sworn 17 June 2022 in support of the application (**Fifth Tesoriero Affidavit**). A copy of that correspondence (without the attached Fifth Tesoriero Affidavit) is at pages 485 to 490 of CMM-27.
84. On 1 July 2022, during hearing of the 17 June 2022 IA:
- (a) this Court expressed concerns regarding whether or not there had been full and frank disclosure of assets by Mr Tesoriero in the Fifth Tesoriero Affidavit (P-23, lines 20-25);
  - (b) this Court expressed concerns regarding the fact that Mr Tesoriero's Discovery was yet to be given and that Mr Tesoriero was in default of this Court's orders to do so (P-25, lines 1-10);
  - (c) Lee J asked Mr Hayes QC whether he could assume that given that Mr Tesoriero had not served affidavit material in accordance with the Court's orders that Mr Tesoriero did not propose to rely on any material at trial, and Mr Hayes QC stated in response to a question that it "would be wrong" for this Court to assume that (P-9, line 44 – P-10, line 42);
  - (d) Mr Hayes QC then indicated to this Court that he would obtain instructions on the proposal by the Court that Mr Tesoriero not serve affidavit material now, but may be called to give evidence orally at the conclusion of Westpac's case (P-15, lines 20-25); and
  - (e) Justice Lee vacated the order made on 10 March 2022 regarding Mr Tesoriero's Evidence.
85. A copy of the transcript from the hearing of the 17 June 2022 IA is at pages 491 to 516 of CMM-27.
86. On 1 July 2022, this Court made orders:
- (a) directing Mr Tesoriero (by 11 July 2021) to file and serve an affidavit deposing to his current assets and liabilities position (including his current income and expense position) as at 11 July 2022; and
  - (b) adjourning the 17 June 2022 IA to 19 July 2022.
87. A copy of those orders are at pages 517 to 525 of CMM-27.



88. On 6 July 2022 (1:44pm), I sent an email to Mr Nasimi, Ms Lawrence and Ms Passarelli attaching a letter dated 6 July 2022 which referred to the submissions by Mr Hayes QC during the hearing of the 17 June 2022 IA on 1 July 2022 and explained that Westpac understood those submissions to mean that Mr Tesoriero did not intend to file any evidence. A copy of that correspondence is at pages 526 to 528 of CMM-27.
89. On 12 July 2022 (10:18pm), I received an email from Ms Nelson enclosing a link to an affidavit of Mr Tesoriero sworn 12 July 2022 (**Sixth Tesoriero Affidavit**).
90. On 14 July 2022 (6:30pm), I received an email from Ms Nelson enclosing a link to Mr Tesoriero's Discovery together with an affidavit from Mr Tesoriero verifying a list of 726 documents. A copy of that correspondence (without its attachment) is at page 529 of CMM-27.
91. On 19 July 2022, the hearing of the 17 June 2022 IA resumed and concluded on 20 July 2022. In the course of that hearing, Westpac indicated that it did not oppose a variation of the Freezing Order to provide for payment of reasonable legal expenses of up to \$1.25 million, provided that those funds were not paid from funds in respect of which a proprietary claim is made.
92. On 20 July 2022, this Court ordered that the Freezing Order be varied in the form annexed to the order (which relevantly allowed for payment by Mr Tesoriero of up to the sum of \$1,250,000.00 on his reasonable legal expenses), together with other orders, including that the 17 June 2022 IA otherwise be dismissed. A copy of that order is at pages 530 to 546 of CMM-27.
93. On 21 July 2022 (9:04pm), I sent an email to Mr Nasimi, Ms Lawrence and Ms Passarelli attaching a letter dated 21 July 2022 raising concerns Westpac had with the adequacy of Mr Tesoriero 's Discovery. A copy of that correspondence is at pages 547 to 550 of CMM-27.
94. On 4 August 2022, this Court published its reasons for judgment in respect of the orders made on 20 July 2022. A copy of those reasons are at pages 551 to 577 of CMM-27.
95. On 10 August 2022 (2:25pm), I received an email from Eric Maben of Aptum Legal (**Mr Maben**) attaching a Notice of Change of Solicitor filed on behalf of Mr Tesoriero to the effect that Nigel Evans of Aptum Legal (**Mr Evans**) had been appointed to represent Mr Tesoriero in this proceeding in place of Mr Nasimi. A copy of that correspondence is at pages 578 to 579 of CMM-27.





96. On 15 August 2022 (10:07am), I received an email from Mr Maben to the effect that his client sought that \$600,000.00 be released from the Rozelle CMA. A copy of that correspondence (excluding its attachment) is at page 580 of CMM-27.
97. On 15 August 2022 (10:08am), I received an email from Mr Maben to the effect that because of uncertainty related to monies available to Mr Tesoriero (among other reasons), Aptum Legal had limited opportunity to meaningfully consider and respond to matters raised in previous correspondence concerning these proceedings. A copy of that correspondence is at page 581 of CMM-27.
98. On 19 August 2022 (9:26am), I was copied to an email from Josh Baravelli of Aptum Legal to the Associate to Justice Lee attaching an affidavit of Mr Evans affirmed 19 August 2022 (**First Evans Affidavit**). At page 26 of the First Evans Affidavit, Mr Evans affirmed that he anticipated it would be necessary to seek a further release of funds presently subject to the Freezing Order to fund Mr Tesoriero's defence. A copy of that correspondence (without its attachment) is at page 582 of CMM-27.
99. On 22 August 2022:
- (a) at 2:40pm, I received an email from Ms Passarelli requesting that MinterEllison sign a form authorising the release of \$800,000.00 from the Rozelle CMA and disburse those funds into Madgwicks Lawyers' trust account to meet Mr Tesoriero's legal expenses. A copy of that correspondence is at pages 583 to 584 of CMM-27; and
  - (b) at 3:10pm, I forwarded that email I received from Ms Passarelli to Mr Maben and Mr Evans asking for their position regarding that request. A copy of that correspondence (without its attachment) is at pages 585 to 587 of CMM-27.
100. On 23 August 2022 (7:42pm), I received an email from Ms Passarelli to the effect that MinterEllison sign an amended form agreed to between Madgwicks Lawyers and Aptum Legal. This amended form authorised the release of:
- (a) \$282,157.75 to Madgwicks Lawyers Trust Account; and
  - (b) \$517,842.25 to Aptum Legal Trust Account.
101. A copy of that correspondence and its attachment are at pages 588 to 589 of CMM-27.
102. On 24 August 2022 (8:20am), I received an email from Mr Maben to the effect that Aptum Legal confirmed their agreement to the form sent on 23 August 2022 authorising the release \$800,000.00 from the Rozelle CMA.



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103. On 24 August 2022 (2.04pm), I sent an email to Ms Passarelli and Mr Maben attaching a copy of the letter attached to Ms Passarelli's email of 23 August 2022 signed by two partners of MinterEllison. A copy of that correspondence and its attachment (including Mr Maben's email of 24 August 2022 (8:20am)) are at pages 590 to 591 of CMM-27.
104. On 8 September 2022 (9:54am), I received an email from Mr Maben seeking Westpac's confirmation of the amount of money held in the Rozelle CMA, the amount in the Rozelle CMA which was derived from the sale of the Rozelle Property, and the quantum of Westpac's proprietary claim to the money in the Rozelle CMA. A copy of that correspondence is at page 592 of CMM-27.
105. On 12 September 2022 (1:21pm), I sent an email to Mr Maben advising that the amount in the Rozelle CMA was \$271,331.20, that all of the proceeds are derived from the sale of the Rozelle Property, and that the section 50 summary prepared by Westpac in this proceeding (titled "Payments to, or on behalf of, 23 Margaret Street Pty Ltd") identified monies paid to or to the benefit of 23 Margaret Street. A copy of that correspondence is at page 593 of CMM-27.
106. On 28 September 2022 (10:54pm), I was copied to an email from Ms Galasso to Aptum Legal providing a sharefile link to a Consolidated Schedule of Further and Better Particulars requested by the respondents associated with Mr Tesoriero. This schedule consolidates the various requests for particulars and responses made by MinterEllison throughout the course of the proceeding. A copy of this email and the schedule is at pages 594 to 704 of CMM-27.
107. As set out in the Second Further Amended Statement of Claim, WBC and WNZL assert that the Respondents hold on trust funds, or the traceable proceeds of those funds, that each of the Respondents received from the payments made pursuant to the Fraudulent Transactions.
108. Westpac has prepared summaries, pursuant to s 50 of the Evidence Act, of the evidence recording payments made to, or on behalf of the various respondents (**Respondent Summaries**). The Respondent Summaries also set out the amount of Westpac Funds that the Alternative Tracing Model, annexed to the affidavit of Jason Preston sworn 10 June 2022, together with an extract from the Alternative Tracing Model which shows the funds which have come from Westpac and the Fraudulent Transactions. A table setting out:
- (a) the total funds paid to, or on behalf of 23 Margaret Street, 1160 Glen Huntly, 8-12 Natalia Ave and Mangusta (including in relation to the XOXO) in column A;



- (b) the amount held in any fund from the sale of property or assets held by those respondents in column B,
  - (c) the amount of Westpac's proprietary claim against the relevant respondent in column C; and
  - (d) the amount into which no financier amounts are traced in column D,
- is at annexure A to this affidavit.

Cost and time of service in Greece

109. Westpac has effected service of the Second Further Amended Statement of Claim and Fourth Amended Originating Application in Greece on the following respondents in accordance with the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Convention):
- (a) Anastasios Giamouridis (the twenty-ninth respondent); and
  - (b) Aromatika Fyta Tsai Olympou Theion Ike (the forty-ninth respondent).
110. Westpac is awaiting confirmation of the status of service in Greece under the Hague Convention on the following entities:
- (a) Mazcon Investments Hellas IKE (the twenty-seventh respondent); and
  - (b) Iugis Energy SA (the forty-third respondent).
111. Westpac has been advised by the Registry of the Federal Court of Australia respectively on 13 September 2022 and 14 September 2022 that the Greek Central Authority was not able to serve the following respondents in respect of whom requests for service abroad under the Hague Convention were submitted:
- (a) D & D Group O.E (the forty-eighth respondent); and
  - (b) Iugis Hellas IKE (the forty-second respondent).
112. A timeline of the steps taken by Westpac in order to effect service in Greece, including details of the disbursement costs involved in those steps, prepared by Mr Clarke, the lawyer at MinterEllison with day-to-day responsibility for these steps under my supervision, is annexed at Annexure B.

Notice to Produce

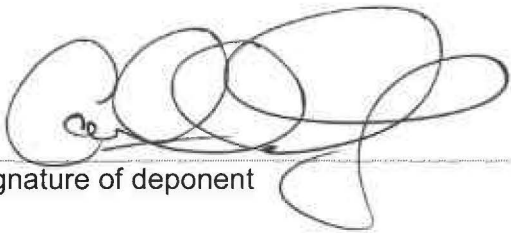
113. On 30 September 2022 (5:23pm), Ms Galasso served a Notice to Produce on Mr Tesoriero by email to Aptum Legal. A copy of the email and Notice to Produce is at pages 705 to 712 of CMM-27.



114. On 5 October 2022, Mr Maben sent to me by two emails [1:29pm and 6:12pm] attaching two folders of documents in response to the Notice to Produce. The folders of documents included an Engagement Agreement prepared by Aptum Legal dated 5 August 2022. A copy of the covering emails and fee estimate (excluding the remainder of the attachments to the email) is at pages 713 to 725 of CMM-27.

Sworn by the deponent  
at Sydney  
in New South Wales  
on 6 October 2022

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Signature of deponent

Before me:



Signature of witness  
Alana Stephanie Giuseppina Galasso  
Solicitor  
Level 40, Governor Macquarie Tower, 1 Farrer  
Place NSW 2000.

**Schedule of Parties**

No. NSD616/2021

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

**Applicants**

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

**Respondents**

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

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

## Annexure A

Company	Total funds paid to, or on behalf of the company	Amount held in any fund from the sale of property or assets held by the respondent	Amount of Westpac's proprietary claim	Amount into which no financier amounts are traced
23 Margaret Street Pty Ltd	\$878,355.32	\$271,331.20 (CMA)	\$638,433.49	\$0
1160 Glen Huntly Pty Ltd	\$988,843.73	\$795,000 (funds paid into Victorian Supreme Court)	\$942,638.73	\$0
8-12 Natalia Ave Oakleigh Pty Ltd	\$2,885,886.02	\$773,000 (paid into court)  \$398,637.12 (funds held by Arnold Bloch Leibler)	\$2,272,473.02	\$0
Mangusta Pty Ltd (including funds traced in relation to the XOXO yacht)	\$233,736.15 <sup>1</sup>  (\$233,196.15 for XOXO)	\$616,282.78 (funds held by Receivers)	\$82,578.70  (\$82,311.70)	\$533,197.07

<sup>1</sup> Note – this only includes funds paid to or for the benefit of the XOXO after 13 September 2018 (that is, from the Fraudulent Transactions).

## Annexure B

## FEDERAL COURT OF AUSTRALIA PROCEEDINGS NSD616/2021

## WESTPAC BANKING CORPORATION &amp; ANOR V FORUM FINANCE PTY LTD (IN LIQ) &amp; ORS

## TIMELINE OF STEPS UNDERTAKEN BY WESTPAC TO EFFECT SERVICE IN THE HELLENIC REPUBLIC (GREECE) ON GREECE DOMICILED RESPONDENTS

No.	Description	Timing and disbursement costs (not including legal fees of practitioners managing same)
1.	Filing application for judicial leave under r 10.43(2) of the <i>Federal Court Rules 2011</i> (Cth) ( <b>FCRs</b> ) to serve documents in accordance with the <i>Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters</i> ( <b>Hague Convention</b> )	<p><b>22 September 2021</b> – initial orders of Lee J granting leave to serve Westpac's Third Further Originating Application and Further Amended Statement of Claim in Greece under the <i>Hague Convention</i>.</p> <p><b>5 November 2021</b> – Westpac files Fourth Further Amended Originating Application (<b>4FAOA</b>) and Second Further Amended Statement of Claim (<b>2FASOC</b>) adding additional Greek based respondents requiring a further application for leave under r 10.43(2) of the FCRs.</p> <p><b>7 December 2021</b> – orders of Lee J granting leave to serve Westpac's 4FAOA and 2FASOC in Greece.</p>
2.	Attendance at Department of Foreign Affairs ( <b>DFAT</b> ) office in Canberra by MinterEllison lawyer to submit 2FASOC and 4FAOA to be apostilled (as required by Greek authorities). MinterEllison lawyer advised that due to the length of the 2FASOC and Federal Court of Australia seals not being present on each page of the document that this document will need to be bound and notarised before DFAT would apostille it. <i>Attendance at DFAT Canberra required in circumstances where Sydney had no availability until 2022.</i>	<b>9 December 2021</b>
3.	Arranging for Notary Public to notarise court documents.	<b>9 to 14 December 2021</b>
4.	Second attendance by MinterEllison lawyer at DFAT office in Canberra to arrange for Apostille of court documents following notarisation.	<b>15 December 2021</b> DFAT charges of \$5,355 incurred for Apostille stamps
5.	Collecting apostilled 2FASOC and 4FAOA documents from DFAT.	<b>21 December 2021</b>
6.	Apostilled 2FASOC and 4FAOA dispatched to Greece by express international shipping for the purposes of translation.	<b>22 December 2021</b>
7.	Confirmation received that apostilled 2FASOC and 4FAOA arrived in Greece.	<b>30 December 2021</b>



No.	Description	Timing and disbursement costs (not including legal fees of practitioners managing same)
8.	Greece based translator commences translation of 2FASOC and 4FAOA.	<b>11 March 2022</b> Translation fees in the amount of 15,000 Euros incurred. <i>Additional fees incurred involving Greek lawyers proof reading translations which are not quoted in this document.</i>
9.	Preparation of Federal Court Form 25, Request for Service Abroad and Federal Court Form 26, Summary of Documents to be served required under r 10.64 of the FCRs and submission of drafts of these documents to the Registry together with foreshadowing submission of request for service abroad.	<b>27 May 2022</b>
10.	MinterEllison advised translations of 2FASOC and 4FAOA are complete and have been shipped to Australia.	<b>31 May 2022</b>
11.	Comments received from the Registrar on draft Form 25 and Form 26 documents with details of amendments required to these documents.	<b>2 June 2022</b>
12.	Translated versions of 2FASOC and 4FAOA received by MinterEllison from Greece.	<b>6 June 2022</b>
13.	MinterEllison provides revised versions for Form 25 and Form 26 to the Registrar taking into account comments received on 2 June 2022 for consideration by the Registrar.	<b>9 June 2022</b>
14.	The Registry confirms documents circulated by MinterEllison were in order for submission.	<b>16 June 2022</b>
15.	Payment of 50 Euros per request for service abroad made to the Greek Central Authority, the Hellenic Ministry of Justice, as required by the Greek authorities to action <i>Hague Convention</i> service request.	<b>21 June 2022</b> 300 Euros
16.	Delivery of request for service abroad under r 10.64 of the FCR to the Registry.	<b>22 June 2022</b>
17.	Confirmation received from the FCA Registry that the documents were ready to be dispatched to Greece.	<b>13 July 2022</b>
18.	Confirmation received from the FCA Registry that the documents had been dispatched to Greece.	<b>14 July 2022</b>
19.	Advice received from the FCA Registry that: <ul style="list-style-type: none"> <li>▪ the 2FASOC and 4FAOA had been served on Aromatika Fyta Tsai Olympou Theion Ike (the forty-ninth respondent) (<b>Theion IKE</b>); and</li> <li>▪ the documents could not be served on D &amp; D Group O.E (the forty-eighth respondent).</li> </ul>	<b>13 September 2022</b>
20.	Advice received from the Registry that the documents could not be served on Iugis Hellas IKE (the forty-second respondent).	<b>14 September 2022</b>

No.	Description	Timing and disbursement costs (not including legal fees of practitioners managing same)
21.	Date of filing by FCA Registry of Certificate of Service provided by Greek Central Authority in relation to service on Theion IKE.	<b>15 September 2022</b>
22.	Date of filing by FCA Registry of Certificate of Service provided by Greek Central Authority in relation to confirmed service on Anastasios Giamouridis.	<b>23 September 2022</b>

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 6/10/2022 12:42:10 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

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



*Sia Lagos*

Dated: 6/10/2022 12:42:12 PM AEDT

Registrar

### Important Information

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

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