

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 18/02/2022 4:47:29 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: 25/02/2022 4:36:43 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.



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: 17 February 2022

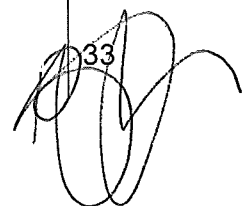
Affidavit re Service

Contents

Document number	Details	Paragraph	Page
1	Exhibit BG-1	6	4
2	Exhibit BG-2	6(d)	5
3	Exhibit BG-3	9	7
4	Exhibit BG-4	10	7
5	Exhibit BG-5	11	7

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

Document number	Details	Paragraph	Page
6	Exhibit BG-6	12	7
7	Exhibit BG-7	13	7
8	Exhibit BG-8	14	7
9	Exhibit BG-9	15	7
10	Exhibit BG-10	16	7
11	Exhibit BG-11	17	7
12	Exhibit BG-12	18	8
13	Exhibit BG-13	19	8
14	Exhibit BG-14	20	8
15	Exhibit BG-15	21	8
16	Exhibit BG-16	22	8
17	Exhibit BG-17	23	8
18	Exhibit BG-18	24	8
19	Exhibit BG-19	25	8
20	Exhibit BG-20	26	8
21	Exhibit BG-21	27	8
22	Exhibit BG-22	28	9
23	Exhibit BG-23	29	9
24	Exhibit BG-24	30	9
25	Exhibit BG-25	31	9
26	Exhibit BG-26	32	9
27	Exhibit BG-27	33	9

Document number	Details	Paragraph	Page
28	Exhibit BG-28	34	9
29	Exhibit BG-29	35	9
30	Exhibit BG-30	36	9
31	Exhibit BG-31	38	10

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

1. At the time of swearing this Affidavit, an Exhibit folder has been prepared on my behalf and I will refer to the documents in the Exhibit Folder as **EX BG**.
2. In this Affidavit and in my Affidavit sworn on 10 February 2022 (**my confidential Affidavit**), I refer to "*Interested Parties*" for the purpose of Order 6 of the Judgment delivered by the Honour Justice Markovic in these proceedings on 22 November 2021 (**the Judgment**).
3. Paragraph 6 of the Judgment provides that:

"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."




4. The term "*Interested Party*" is defined in the Third Further Amended Originating Process filed on 24 November 2021 to include "*Anthony Koletti, [REDACTED], Adam Grimley and Edward and Barbara Grimley, National Australia Bank Limited as the mortgagee of the Real Property and the Investors identified by the Final Receivers from time to time*".
5. Consistent with the Judgment, I considered and identified other parties that may be affected by a proposal to take possession of and/or realise Receivership Property. For the purposes of this Affidavit, the term "Interested Party" or "Interested Parties" includes the parties identified in paragraph 4 of this Affidavit and all other identified parties that I have determined may be affected by a proposal to take possession of and/or realise Receivership Property.
6. I have carefully considered (and taken legal advice) as to who may be considered "Interested Parties" as having possible claims to any of the Receivership Property. To the best of my ability, I have arranged service upon all such Interested Parties. I have prepared an excel spreadsheet which appears at **EX BG-1**. The excel spreadsheet separates the Interested Parties into categories, for ease of reference, they are as follows:
- (a) Out of Pocket Investors. This refers to Investors who had invested monies with Maliver Pty Limited (In Liquidation) (**Maliver**) or Melissa Louise Caddick (**Ms Caddick**) and were out of pocket in relation to their investment;
 - (b) Solicitors acting for Out of Pocket Investors;
 - (c) Other Investors who are not Out of Pocket Investors. This refers to Investors who had invested monies with Maliver or Ms Caddick and were not out of pocket in relation to their investment;
 - (d) Beneficiaries of the Will of Ms Caddick. These are parties who were listed beneficiaries of the Will of Ms Caddick. The names of the beneficiaries have been redacted. Appearing at **EX BG-2** is a copy of the Will of Ms Caddick dated 30 August 2019;



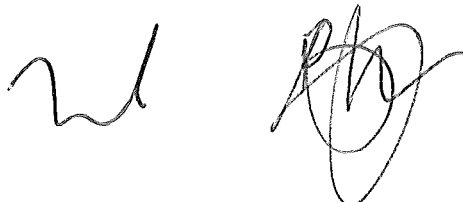
Other Investors (not Out of Pocket Investors)	29 November 2021
Other parties who may be affected by the realisation of property	29 November 2021, 22 December 2021 and 23 December 2021
Bank/financial institutions holding money or are creditors (including the mortgagee)	29 November 2021
Beneficiaries of the Will of Ms Caddick	29 November 2021
The family of Ms Caddick	24 and 25 November 2021

- (c) columns "B" and "C" of the excel spreadsheet which identifies the last known postal address and email address of each Interested Party respectively;
- (d) column "D" which identifies the express post tracking number of each individual Notice sent to each Interested Party by post;
- (e) column "E" which identifies the date of the expiry of the 15 business days after the Notice was issued;
- (f) column "F" which identifies whether the Interested Party provided confirmation of service of the Notice;
- (g) column "G" which identifies the date the confirmation referred to at paragraph (f) above was received;
- (h) column "H" which identifies whether the Interested Party:
- i. completed and returned "Annexure B" to the Circular to Creditors/Investors dated 29 November 2021 and a confirmation of receipt of the Notice;
 - ii. provided email confirmation of receipt of the Notice;



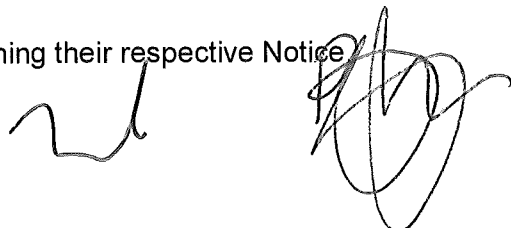

- (e) Family members of Ms Caddick. I have listed the family members of Ms Caddick who I understand have been liaising with my solicitor Michael Kevin Hayter of Swaab attorneys either directly or through their legal representatives;
- (f) Financial institutions holding funds and monies on behalf of Ms Caddick;
- (g) Known potential creditors of Ms Caddick, being the Australian Taxation Office, LSI Taxation and American Express Australia Limited;
- (h) Parties in possession of or holding Receivership Property, being Canturi Corporation Pty Limited and Commonwealth Securities Limited (**CommSec**); and
- (i) The Australian Securities and Investments Commission and the Australian Federal Police.
7. Due to confidentiality issues, the name, email address and postal address of each Interested Party, as well as any reference to account numbers, are redacted from the exhibit to this Affidavit.
8. Appearing at **EX BG-1** is an excel spreadsheet which sets out the following:
- (a) the Interested Parties who were served with the Receivers' Notice, notifying them of the Receivers' intention to take possession of and realise Receivership Property (**the Notice**) pursuant to Order 6 of the Orders made on 22 November 2021 and paragraph 356 of the Judgment;
- (b) the Interested Parties separated into different categories as they appear in the following table and the date they were served with the Notice by email;

Interested Parties	Date served with Notice by email
Out of Pocket Investors	29 November 2021
Solicitors/Advisers for Out of Pocket Investors	29 November 2021

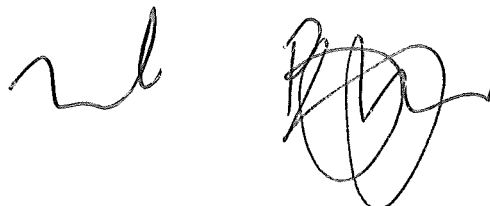


iii. read the email sent to the Interested Party attaching the Notice, by way of 'read receipt' email.

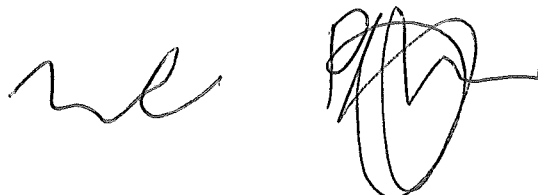
9. Appearing at **EX BG-3** are copies of advertisements which were placed in the Australian Financial Review (**AFR**), Sydney Morning Herald (**SMH**) and the West Australian with a Notice of Intention to Realise Receivership Property. The AFR is a nationally circulated publication, the SMH is a NSW based publication and the West Australian is a WA based publication. The advertisements in the SMH and the West Australian were based on the represented locality of the majority of the Out-of-Pocket Investors. As at the date of swearing this Affidavit no responses have been received as a result of the advertisements.
10. Appearing at **EX BG-4** are copies of emails I caused to be sent to the Out of Pocket Investors attaching their respective Notice.
11. Appearing at **EX BG-5** are copies of the letters and Notices I caused to be sent to the Out of Pocket Investors.
12. Appearing at **EX BG-6** are copies of the delivery receipts from emails I caused to be sent to Out of Pocket Investors.
13. Appearing at **EX BG-7** are copies of the read receipts, email correspondence and 'Annexure B's" received from Out of Pocket Investors.
14. Appearing at **EX BG-8** are copies of the emails I caused to be sent to the solicitors / advisors of Out of Pocket Investors attaching their clients 'respective Notices.
15. Appearing at **EX BG-9** are copies of the delivery receipts from emails I caused to be sent to solicitors / advisors of Out of Pocket Investors.
16. Appearing at **EX BG-10** are copies of the read receipts and email correspondence received from solicitors / advisors of Out of Pocket Investors.
17. Appearing at **EX BG-11** are copies of emails I caused to be sent to the Other Investors who are not Out of Pocket Investors attaching their respective Notice



18. Appearing at **EX BG-12** are copies of the letters and Notices I caused to be sent to the Other Investors who are not Out of Pocket Investors.
19. Appearing at **EX BG-13** are copies of the delivery receipts from emails I caused to be sent to Other Investors who are not Out of Pocket Investors.
20. Appearing at **EX BG-14** are copies of the read receipts, email correspondence and 'Annexure B's" received from Other Investors who are not Out of Pocket Investors.
21. Appearing at **EX BG-15** are copies of emails I caused to be sent to known potential creditors of Ms Caddick or parties in possession of or holding Receivership Property attaching their respective Notice.
22. Appearing at **EX BG-16** are copies of the letters and Notices I caused to be sent to known potential creditors of Ms Caddick or parties in possession of or holding Receivership Property.
23. Appearing at **EX BG-17** are copies of the delivery receipts from emails I caused to be sent to known potential creditors of Ms Caddick or parties in possession of or holding Receivership Property
24. Appearing at **EX BG-18** are copies of the read receipts, email correspondence and 'Annexure B's" received from known potential creditors of Ms Caddick or parties in possession of or holding Receivership Property.
25. Appearing at **EX BG-19** are copies of emails I caused to be sent to financial institutions holding funds and monies on behalf of Ms Caddick attaching their respective Notice.
26. Appearing at **EX BG-20** are copies of the letters and Notices I caused to be sent to financial institutions holding funds and monies on behalf of Ms Caddick.
27. Appearing at **EX BG-21** are copies of the delivery receipts from emails I caused to be sent to financial institutions holding funds and monies on behalf of Ms Caddick.

Two handwritten signatures in black ink are located at the bottom right of the page. The signature on the left is a simple, cursive 'W'. The signature on the right is more complex and stylized, featuring several loops and a large, sweeping flourish.

28. Appearing at **EX BG-22** are copies of the read receipts, email correspondence and 'Annexure B's" received from financial institutions holding funds and monies on behalf of Ms Caddick.
29. Appearing at **EX BG-23** are copies of emails I or my solicitor caused to be sent to Beneficiaries of the Will of Ms Caddick attaching their respective Notice.
30. Appearing at **EX BG-24** are copies of the letters and Notices I or my solicitor caused to be sent to Beneficiaries of the Will of Ms Caddick.
31. Appearing at **EX BG-25** are copies of the delivery receipts from emails I caused to be sent to Beneficiaries of the Will of Ms Caddick.
32. Appearing at **EX BG-26** are copies of the read receipts, email correspondence and 'Annexure B's" received from Beneficiaries of the Will of Ms Caddick.
33. Appearing at **EX BG-27** are copies of emails my solicitor caused to be sent to family members of Ms Caddick attaching their respective Notice.
34. Appearing at **EX BG-28** are copies of the letters and Notices my solicitor caused to be sent to family members of Ms Caddick.
35. Appearing at **EX BG-29** are copies of the email correspondence received from family members of Ms Caddick by my solicitor.
36. Appearing at **EX BG-30** is a copy of email correspondence from Australia Post enclosing a spreadsheet with the delivery date and time of the letters and Notices issued to the respective Interested Parties and Proof of Delivery (if applicable) by post.
37. The Notices issued to the family members of Ms Caddick, the Australian Securities and Investments Commission and the Australian Federal Police were sent by my solicitor, Michael Kevin Hayter of Swaab and copies of the Notices will also be exhibited to the Affidavit(s) filed by Mr Hayter in the proceedings.

The image shows two handwritten signatures in black ink. The signature on the left is a cursive, stylized name that appears to be 'Michael Kevin Hayter'. The signature on the right is a more complex, scribbled signature, possibly representing the solicitor mentioned in the text.

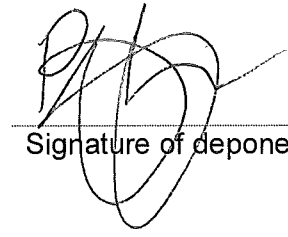
Adam Grimley

38. Appearing at **EX BG-31** is a copy of an email I received from Adam Grimley at 9:50am on 15 December 2021 objecting to me taking possession of, or realising, certain Receivership Property.

As at the date of swearing this Affidavit a number of other Interested Parties have also made objections to the Notice, directly to my solicitor, Michael Kevin Hayter of Swaab. The objections and correspondence of these Interested Parties will be dealt with in the Affidavit(s) which will be sworn by my solicitor Michael Kevin Hayter in the proceedings.

Sworn / Affirmed by the deponent
at Sydney
in New South Wales
on 17 February 2022
Before me:

)
)
)
)
)



Signature of deponent



Signature of witness

Name and qualification

Michael Kevin Hayter solicitor