



Form 59
Rule 29.02(1)

Affidavit

No. NSD616/2021

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

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

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

Affidavit of: David Maher
Address: Confidential
Occupation: Management Consultant (self-employed)
Date: 18 October 2021

Contents

Document number	Details	Paragraph	Page
1.	Affidavit of David Maher, 18 October 2021	[1]	2
2.	Exhibit 'DM-1', being a paginated bundle of documents	[3]	1-85

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

Version 3 form approved 02/05/2019

I, David Maher, Confidential Management Consultant (self-employed), say on oath :

1. I am currently Management Consultant (self-employed). Prior to this and up until May 2021 I was employed by Catholic Healthcare Limited (**CHC**) in the position of Managing Director.
2. I make this affidavit in relation to events said to have occurred during the period I was employed as the Managing Director of CHC.
3. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit DM-1' (**DM-1**). Throughout this affidavit I refer to documents which appear within DM-1. At pages 1-38 of DM-1 is a copy of the historical company search for CHC.

Introduction and background

4. I commenced employment with CHC in approximately July 2001 in the position of General Manager Healthcare. In around January 2011, I was appointed the Managing Director of CHC. I was appointed a director of CHC in January 2010.
5. In the period from January 2011 until May 2021, I held the title "Managing Director".
6. I have over 26 years' experience in health and aged care management and have previously been a director of the Aged and Community Services Association of NSW, a member of the Aged Care Financing Authority Advisory Committee into Residential Aged Care Financial Performance and a member of the Australian College of Health Service Executive.
7. I have a Bachelor of Commerce and a Masters of Business Administration.
8. CHC is a not-for-profit provider of residential aged care, home care, retirement living villages, and healthcare across the east coast of Australia.
9. In my role as Managing Director of CHC, I was authorised to execute documents for and on behalf of CHC. My delegation for expenditure as Managing Director of CHC was capped at \$500,000.00. Expenditure in excess of \$500,000.00 required board approval. I had several direct reports who had authorisation to make purchases up to \$100,000.00. It was not my practice to review purchases made by my direct reports.


Signed: 

Taken by: 

Forum Documents

10. I have been shown a bundle of documents which appear to relate to two contracts between CHC and Forum Finance Pty Ltd in relation to the purchase of "ORCA" products. These documents include:
- (a) a document titled Customer Payment Schedule dated 16 September 2018 (**September Schedule**) for the purchase of:
 - (i) six 'ORCA OG50'; and
 - (ii) twenty-nine 'ORCA OG100'
 - (b) a document titled Certificate of Acceptance of Delivery dated 17 September 2018 (**September Certificate**) noting delivery on 24 September 2018 for the equipment referred to in the September Schedule;
 - (c) a document titled Customer Payment Schedule dated 29 October 2018 (**October Schedule**) for the purchase of :
 - (i) fourteen 'ORCA OG50'; and
 - (ii) fifteen 'ORCA OG25', and
 - (d) a document titled Certificate of Acceptance of Delivery (**October Certificate**) undated noting delivery on 29 October 2018 for the equipment referred to in the October Schedule.
11. These documents are at pages 39 to 49 of DM-1.
12. Page 2 of the September Schedule has in the execution block for "Customer" my name and a signature (at page 40 of DM-1). The signature that appears on page 2 of the September Schedule is not my signature and I did not authorise anyone to sign the September Schedule on my behalf or by affixing my electronic signature. Annexure A of the September Schedule also has my name and a signature in the customer execution block (at page 43 of DM-1). The signature that appears on Annexure A is not my signature and I did not authorise anyone to sign on my behalf or affix my electronic signature. The handwriting of my name on Annexure A to the September Schedule is not mine. The date on the September Schedule, being 16 September 2018, was a Sunday. It was not my practice to work on Sunday.
13. The September Certificate has in the execution block for "Customer" my name and a signature (at page 44 of DM-1). The signature that appears on the September Certificate

Signed:



Taken by:



is not my signature and I did not authorise anyone to sign the September Certificate on my behalf or by affixing my electronic signature.

14. Page 2 of the October Schedule has in the execution block for "Customer" my name and a signature (at page 46 of DM-1). The signature that appears on page 2 of the October Schedule is not my signature and I did not authorise anyone to sign the October Schedule on my behalf or by affixing my electronic signature. Annexure A of the October Schedule also has my name and a signature in the customer execution block (at page 48 of DM-1). The signature that appears on Annexure A is not my signature and I did not authorise anyone to sign on my behalf or affix my electronic signature.
15. The October Certificate has in the execution block for "Customer" my name and a signature (at page 49 of DM-1). The signature that appears on the October Certificate is not my signature and I did not authorise anyone to sign the October Certificate on my behalf or by affixing my electronic signature.
16. I do not know how the September Schedule, September Certificate, October Schedule or the October Certificate came to be signed. The title "CEO" is noted underneath my name on these documents. I did not hold, in September and October 2018, or at any time during my employment with CHC, the title CEO. In my time at CHC, there has never been a role of "CEO".
17. The September Certificate and the October Certificate are purportedly witnessed by Tas Papas. I do not know Tas Papas and have never met a person named Tas Papas. Prior to being shown those documents for the purpose of preparing this affidavit, I have never seen the documents.
18. I am not aware of any ORCA food waste digester unit being purchased, leased or hired by CHC.
19. I have also been provided with a copy of:
 - (a) a letter from Forum Finance Pty Ltd dated 24 September 2018 in relation to the Payment Schedule dated 16 September 2018; and
 - (b) a letter from Forum Finance Pty Ltd dated 1 November 2018 in relation to the Payment Schedule dated 29 October 2018
 (referred to as the **Forum Letters**), a copy of which is at pages 50-51 of DM-1. Prior to being shown those documents for the purpose of preparing this affidavit, I have never seen the Forum Letters.

Signed:



Taken by:



20. I have also been provided with a copy of a document titled "Certificate of Currency" dated 12 June 2018 which notes CHC as an insured and "Forum Enviro Pty Ltd" as an interested party for the period of insurance 31 March 2018 to 31 March 2019, a copy of which is at page 52 of DM-1. Prior to being shown this document for the purpose of preparing this affidavit, I have never seen that document. I know that the usual period of insurance for all of CHC's insurance policies was for the period November to November.
21. I have also been provided with a copy of a document titled:
- (a) "Rental Agreement" bearing a signature beside my name dated 27 November 2017 and purportedly witnessed by Bill Papas (I do not know Bill Papas and have never met a person named Bill Papas);
 - (b) "Rental Agreement" bearing a signature beside my name dated 20 December 2017 and purportedly witnessed by Tas Papas; and
 - (c) "Rental Agreement" bearing a signature beside my name dated 20 February 2018 and purportedly witnessed by Tas Papas.
22. Copies of the documents to which I refer at paragraph 21 above are at pages 53-85 of DM-1. The signatures that appear on those documents is not my signature and I did not authorise anyone to sign those documents on my behalf.

Sworn by the deponent
at Sydney
in New South Wales
on 18 October 2021

)
)
)
)
)



Before me:



Signature of deponent

Signature of witness
Simon Henry Brandis
Solicitor

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

1. I saw the face of the deponent.
2. I have known the deponent for over twelve months:
3. I observed the deponent signing a copy of this affidavit in real time.
4. I attest or otherwise confirm witnessing the deponent's signature by signing this affidavit.
5. I am reasonably satisfied this affidavit signed by me is a copy of the affidavit signed by the deponent.
6. I have confirmed the person's identity based on the following identification document presented to me:
Drivers' Licence.

Schedule of Parties

No. NSD616/2021

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

Applicants

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

Respondents

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

Seventeenth Respondent	123 High Street Taradale Pty Ltd ACN 639 872 512
Eighteenth Respondent	160 Murray Valley Hwy Lake Boga Pty Ltd ACN 641 392 921
Nineteenth Respondent	31 Ellerman Street Dimboola Pty Ltd ACN 641 392 887
Twentieth Respondent	4 Cowslip Street Violet Town Pty Ltd ACN 639 872 352
Twenty-First Respondent	55 Nolan Street Maryborough Pty Ltd ACN 641 392 912
Twenty-Second Respondent	89 Betka Road Mallacoota Pty Ltd ACN 641 393 179
Twenty-Third Respondent	9 Gregory Street Ouyen Pty Ltd ACN 641 392 707
Twenty-Fourth Respondent	9 Main Street Derrinallum Pty Ltd ACN 639 872 736
Twenty-Fifth Respondent	286 Carlisle Street Pty Limited ACN 610 042 343
Twenty-Sixth Respondent	275 High Street Golden Square Pty Ltd ACN 639 870 545
Twenty-Seventh Respondent	Mazcon Investments Hellas IKE
Twenty-Eighth Respondent	Palante Pty Ltd ACN 135 344 151
Twenty-Ninth Respondent	Anastasios Giamouridis
Thirtieth Respondent	The Forum Group of Companies Pty Ltd (in liquidation) ACN 151 964 626
Thirty-First Respondent	Iugis Pty Ltd (in liquidation) ACN 632 882 243
Thirty-Second Respondent	Iugis (UK) Limited
Thirty-Third Respondent	Iugis Holdings Limited
Thirty-Fourth Respondent	Iugis Global Financial Services Limited
Thirty-Fifth Respondent	Iugis Finance Limited
Thirty-Sixth Respondent	Spartan Consulting Group Pty Ltd (in liquidation) ACN 168 989 544
Thirty-Seventh Respondent	Intrashield Pty Ltd (in liquidation) ACN 133 426 534
Thirty-Eighth Respondent	Tesoriero Investment Group Pty Ltd ACN 161 088 115
Thirty-Ninth Respondent	Mangusta (Vic) Pty Ltd ACN 631 520 682
Fortieth Respondent	193 Carlisle Street Enterprises Pty Ltd ACN 612 615 237
Forty-First Respondent	8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626
Forty-Second Respondent	Iugis Hellas IKE
Forty-Third Respondent	Iugis Energy SA

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 4:20:16 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

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



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

Dated: 4/02/2022 4:26:30 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.