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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: Andrew John Grenfell
Address: Auckland, New Zealand
Occupation: Accountant
Date: 22 December 2021

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Filed on behalf of (name & role of party) Westpac Banking Corporation and Westpac New Zealand Limited, Applicants
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 (include state and postcode) Our reference: CMM:AGS:1353397

Version 3 form approved 02/05/2019

I, **ANDREW JOHN GRENFELL** of Auckland, New Zealand, accountant, swear:

1. I am a partner of the New Zealand firm McGrathNicol. I am a Chartered Accountant and a Licenced Insolvency Practitioner under the *Insolvency Practitioners Regulation Act 2019* (NZ).
2. This affidavit is made in support of the applicants' claims in the proceeding.
3. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit AJG-1' (**AJG-1**). Throughout this affidavit I make reference to documents which appear at AJG-1.

IUGIS NZ


4. I am one of the liquidators of IUGIS (NZ) Limited (in liquidation) (**IUGIS NZ**). The other liquidator is my colleague, Kare Johnstone.

5. IUGIS NZ was placed into liquidation, and Ms Johnstone and I were appointed liquidators of IUGIS NZ (together **Liquidators**), on 13 August 2021 by resolution of the company's creditors at a watershed meeting held under Part 15A (Voluntary Administration) of the *Companies Act 1993* (NZ). Copies of the notification of our appointments as liquidators registered with the New Zealand Companies Office are at ~~pages 1 and 2 of AJG-1~~. A copy of the company extract and summary for IUGIS NZ from the New Zealand Companies Office website is at ~~page 3 of AJG-1~~. **WES.5004.0001.0332**

WES.5004.0001.0406

6. IUGIS NZ had previously been placed into voluntary administration on 8 July 2021, with Domenic Calabretta, Grahame Ward and Thyge Trafford-Jones of Mackay Goodwin, Sydney, appointed as administrators. Ms Johnstone and I replaced Messrs Calabretta, Ward and Trafford-Jones as administrators by resolution of IUGIS NZ's creditors at the first creditors meeting held on 20 July 2021.
7. As set out in the company extract, IUGIS NZ is a New Zealand registered company that was incorporated on 21 March 2018 with company number 6765037 and NZBN 9429046666581. The New Zealand Companies Office online records record the sole shareholder and sole director of IUGIS NZ as Mr Basile Papadimitriou (also known as Bill Papas). At the time it was incorporated, IUGIS NZ was named ORCA Enviro Solutions NZ Limited and it changed its name to IUGIS (NZ) Limited on 27 February 2020.

Signed: 

Taken by: 

IUGIS NZ bank accounts

8. In my position as Liquidator I have access to the books and records of IUGIS NZ. While I am entitled to all IUGIS NZ's books and records, access has been limited to the company's Xero accounts to 30 June 2020 and its bank statements. After 30 June 2020, IUGIS NZ used accounting systems based in Australia which are under the control of the liquidators appointed to various Australian companies, including Forum Finance Pty Ltd (in Liq) (**Forum Finance**) and Forum Group Financial Services Pty Ltd (in Liq) (**FGFS**). However, I have been provided with an extract of the IUGIS NZ general ledger by the liquidators of these Australian companies in Excel form. A copy of that ledger is at ~~page 12 of AJG-1~~. **WES.5004.0001.0341**
9. From my review of these records I know that IUGIS NZ operated a bank account with ANZ Bank New Zealand Limited (**ANZ**), with the account number 01-0277-0773014-00 (**ANZ Account**). A copy of the bank account statements for the ANZ Account for the period 30 November 2018 to 30 June 2021 is at ~~page 22 of AJG-1~~. IUGIS NZ also had two other accounts with ANZ, with the account numbers 01-0277-0773014-81 and 01-0277-0773014-98. I have reviewed the available bank statements for these accounts (which relate to the period from at least 12 March 2020 (being the closing balance date for the first statement) to 20 July 2021), and from this review I am aware that there were no transactions through these two accounts for the period for which I have been able to access bank statements. A copy of these statements is at ~~page 84~~ (for the "81" account) and ~~page 116~~ (for the "98" account) ~~of AJG-1~~. **WES.5004.0001.0204**
WES.5004.0001.0172
10. The bank statements for the ANZ Account record international transfers out of the ANZ Account. The details recorded in the bank statement for the transaction identify the transaction as an international transfer. The first three of these transfers (on 11 January 2019, 28 February 2019 and 8 May 2019) have the reference "IMT AUD", with "IMT" standing for international money transfer and "AUD" identifying the currency of the transfer as Australian dollars. The fourth to thirty-first transfers have overseas bank charges and FX (foreign exchange) charges associated with each transfer. The international transfers out of the ANZ Account are listed in the following table (**Table**):

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No.	Date of transfer	Amount transferred (NZ\$) (rounded)	Amount transferred (AUD)
1	11/1/2019	\$2,600,000.00	
2	28/2/2019	\$1,650,000.00	
3	8/5/2019	\$1,500,000.00	
4	12/6/2019	\$6,174,745.00	AUD5,800,000.00
5	30/7/2019	\$2,094,811.00	AUD2,000,000.00
6	16/8/2019	\$1,059,333.00	AUD1,000,000.00
7	17/9/2019	\$1,197,566.00	AUD1,100,000.00
8	1/10/2019	\$1,302,309.00	AUD1,200,000.00
9	8/11/2019	\$1,740,209.00	AUD1,600,000.00
10	5/12/2019	\$1,478,993.00	AUD1,400,000.00
11	20/12/2019	\$836,628.00	AUD800,000.00
12	13/1/2020	\$1,622,867.00	AUD1,550,000.00
13	7/2/2020	\$2,307,458.00	AUD2,200,000.00
14	27/2/2020	\$261,904.00	AUD250,000.00
15	10/3/2020	\$2,407,293.00	AUD2,300,000.00
16	20/3/2020	\$1,319,583.00	AUD1,300,000.00
17	24/4/2020	\$1,654,922.00	AUD1,550,000.00
18	4/5/2020	\$2,669,229.00	AUD2,500,000.00
19	10/6/2020	\$1,585,169.00	AUD1,475,000.00
20	17/8/2020	\$2,433,063.00	AUD2,200,000.00
21	21/9/2020	\$2,715,030.00	AUD2,500,000.00
22	28/9/2020	\$1,730,291.00	AUD1,600,000.00

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23	30/10/2020	\$2,669,486.00	AUD2,500,000.00
24	1/12/2020	\$1,898.00	AUD1,800.00
25	2/12/2020	\$1,885,765.00	AUD1,800,000.00
26	18/12/2020	\$2,362,441.00	AUD2,200,000.00
27	26/2/2021	\$2,417,483.00	AUD2,250,000.00
28	29/3/2021	\$1,978,631.00	AUD1,800,000.00
29	15/4/2021	\$1,197,866.00	AUD1,100,000.00
30	17/6/2021	\$3,258,072.00	AUD3,000,000.00
31	24/6/2021	\$563,185.00	AUD520,000.00
	Total	\$58,676,229.00	

11. I made a request to ANZ to undertake a trace of these transactions. On 12 November 2021, I received two emails from Glenn Wolsey at ANZ with the results of that trace request. The first email recorded the results of the traces undertaken by ANZ for the first three international money transfers (being NZ\$2,600,000.00 on 11 January 2019, NZ\$1,650,000.00 on 28 February 2019, and NZ\$1,500,000.00 on 8 May 2019). The second email attached a spreadsheet containing the results of the traces undertaken by ANZ for the balance of the international transfers (from 12 June 2019 to 24 June 2021).
WES.5004.0001.0298 A copy of these two emails dated 12 November 2021 is at ~~page 148~~ and the spreadsheet
WES.5004.0001.0408 attached to the second of these is at ~~page 152 of AJG-1~~. These record the recipient of all of the transfers as FGFS. The recipient's bank account is identified as 271058642 at National Australia Bank.
12. I am aware that my colleagues at McGrathNicol in Australia were appointed as provisional liquidators of FGFS on 16 July 2021 and were appointed as liquidators of FGFS on 12 November 2021.
13. The liquidators of FGFS have provided me with a bank transaction listing from the accounts of that company, together with a list of transactions recorded in that company's bank account number 271058642 with National Australia Bank. With that information, I have matched dates and dollar values of receipts into that account with the dates and

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dollar values recorded in the ANZ Account bank statements for the transfers out of the ANZ Account which are listed in the Table above.

14. I am aware from my review of the ANZ Account bank statements, IUGIS NZ's Xero accounts to 30 June 2020 and the extract of the IUGIS NZ general ledger referred to at paragraph 8 above that Westpac New Zealand Limited (**WNZL**) has paid IUGIS NZ amounts totalling NZ\$58,763,504.70 between 21 December 2018 and 9 June 2021. I have seen invoices issued by IUGIS NZ for amounts which correlate with these payments. Copies of these invoices are at ~~page 154 of AJG-1~~. These invoices are for amounts which are inclusive of GST. Since my appointment as liquidator, I have sourced from IUGIS NZ's New Zealand tax agents, Findex and REB Group (**Tax Agents**) the GST ledger extracts from IUGIS NZ's accounting systems (**GST Extracts**) provided to the Tax Agents by IUGIS NZ or Rothsay Chartered Accountants, Sydney, on behalf of IUGIS NZ, for the purpose of preparing and filing the GST returns. Findex prepared the GST returns for the periods August 2019 to November 2020 and REB Group for the periods December 2020 to May 2021. Copies of these GST Extracts and GST returns are at ~~page 194 of AJG-1~~. I have seen no evidence, including from this information, of IUGIS NZ having accounted to Inland Revenue in New Zealand for the GST component of the payments made by WNZL. Instead, the GST ledger extracts treat the receipt of these payments from WNZL, and related payments by IUGIS NZ to FGFS, as zero rated for GST.



WES.5004.0001.0351

WES.5004.0001.0302

15. The management and Xero accounts I have sourced from IUGIS NZ's former accountants are for the period up to 30 June 2020. The Xero accounts record the transfers numbered 1 through to 19 in the Table above (being those between 11 January 2019 and 10 June 2020, inclusive). The Xero accounts record these transactions as going through a general ledger account named "BHO Clearing Account". That general ledger account records the transfers with the reference of either "Forum Finance – Forum Group Financia" or "Forum Finance". A copy of IUGIS NZ's Xero accounts to 30 June 2020 is at ~~page 224 of AJG-1~~. WES.5004.0001.0391

16. As noted earlier in this affidavit, after 30 June 2020 IUGIS NZ used accounting systems based in Australia which are under the control of the liquidators appointed to various Australian companies within the Forum Finance group. I have been provided with an extract of the IUGIS NZ general ledger by the liquidators of these Australian companies (~~page 12 of AJG-1~~). That extract records transactions numbered 21 through to 29 in the


WES.5004.0001.0341

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WES.5004.0001.0341
at page 6

Table above (being those between 21 September 2020 and 15 April 2021, inclusive) as having been journaled to a "Finance Clearing Account" in the Australian accounting system. Transaction 20 (on 17 August 2020) is also recorded as journaled to the Finance Clearing Account, but as a net journal entry of NZ\$647,729.51 (refer to ~~page 17 of AJG-1~~). This is apparent from the fact that the ANZ Account records a deposit on 17 August 2020 of NZ\$1,785,333.61 and a withdrawal on that same day of NZ\$2,433,063.12 (the latter being the amount of transaction 20 in the Table). NZ\$647,729.51 is the difference between these two numbers. Neither the deposit nor the withdrawal on 17 August 2020 is separately recorded as a journal entry in the Finance Clearing Account ledger. This is in contrast to other journal entries in that ledger, which separately record the deposits into, and withdrawals out of, the ANZ Account (for example, deposit of NZ\$2,611,657.33 on 14 September 2020 and the withdrawal of NZ\$2,715,030.41 on 21 September 2020). Journal entries for transactions 30 and 31 in the Table (on 17 and 24 June 2021) do not appear to have been processed as they do not appear in the Finance Clearing Account ledger.

Sworn at **AUCKLAND**)
this 22nd day of December 2021)
before me: •)

Theodore Emmett Keenan  John Grenfell
Solicitor
Auckland

ANDREW JOHN GREENFELL.



A Solicitor of the High Court of New Zealand

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
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

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 3:56:05 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 4:02:16 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.