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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: Rohan De Silva

Address: Confidential

Occupation: Head of Procurement

Date: 1 February 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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**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, Rohan De Silva, **Confidential** Head of Procurement affirm:


1. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit RS-1' (**RS-1**). Throughout this affidavit I refer to documents which appear within RS-1.
2. In the period from August 2013 until July 2019 I was employed by Coles Supermarkets Australia Pty Limited (**Coles**) in various roles. I have not been employed by Coles since that time.
3. In the period from November 2016 until July 2019, I was employed by Coles in the position of Senior Category Manager of Stores and Sustainability. Within this role, I was responsible for looking after the procurement of goods and services required for store operations for all Coles supermarkets. This included facilities management, waste recycling, security, cleaning, solar and various other matters.
4. In 2017-2018, at a time I cannot now recall, Coles was considering the options available to it for the purposes of managing waste disposal and recycling of food products. One of the initiatives that was being considered was the introduction of ORCA machines at the back of Coles Supermarkets for this purpose. To the best of my recollection, I was introduced to certain people from a company which I now know to be Forum to discuss the trial of various machines within a small number of Coles Supermarkets in this period. I believe the people from Forum to whom I was introduced were Mr Tas Papas (although I cannot be absolutely certain) and another person whose name I cannot now recall.
5. I was not heavily involved in this project. I was only involved in some discussions and left the arrangements to be dealt with by Vinay Parikh, who reported to me in my role at that time. I also recall that this project was being driven by the Sustainability team, principally Kristy Green, or her manager, Vikas Ahuja.
6. I have been shown an email chain dated 6 March 2018 which includes an email that appears to have been sent by me at 4:47pm to Tas Papas, copied to Vinay Parikh and Kristy Green, attaching a certificate of currency for Coles' liability insurance. A copy of this email and its attachment is at pages 1 to 2 of RS-1.
7. Whilst I do not recall sending this email to Tas Papas, I believe that I may have done so in the context of Coles trialling the ORCA machines in around 2018 as set out above.
8. To the best of my knowledge, apart from trialling a small number of ORCA machines in a rental arrangement, Coles did not have any other business with any company associated with Forum.

Signed: 

Taken by: 

9. In the course of preparing this affidavit, I have been shown:
- (a) a Customer Payment Schedule dated 6 September 2018, which refers to the purchase of twenty-one 'ORCA OG25' units and seventeen 'ORCA OG15' units (**Schedule 1**) and a document titled Certificate of Acceptance of Delivery undated noting delivery on 7 September 2018 for the equipment referred to in Schedule 1. A bundle comprising these documents is at pages 3 to 9 of RS-1.
  - (b) a Customer Payment Schedule dated 27 September 2018 for the purchase of thirty-six 'ORCA OG25' units (**Schedule 2**) and a document titled Certificate of Acceptance of Delivery undated noting delivery on 2 October 2018 for the equipment referred to in Schedule 2. A bundle comprising these documents is at pages 10 to 15 of RS-1.
  - (c) a Customer Payment Schedule dated 9 October 2018 for the purchase of twenty-one 'ORCA OG25' units and twenty-fix 'ORCA OG15' units (**Schedule 3**) and a document titled Certificate of Acceptance of Delivery undated noting delivery on 10 October 2018 for the equipment referred to in Schedule 3. A bundle comprising these documents is at pages 16 to 22 of RS-1.
10. I note that each of the Certificates of Acceptance of Delivery (at pages 9, 15 and 22 of RS-1) contain a signature said to be that of Vinay Parikh and which is said to have been witnessed by me. As set out above, in 2018, Mr Parikh was a Procurement Category Manager who reported to me.
11. In relation to each of those Certificates of Acceptance of Delivery:
- (a) other than being shown each of these documents for the purposes of preparing this affidavit, I have never seen those documents;
  - (b) the signatures on those documents which purport to be mine are not mine and I did not sign those documents;
  - (c) I did not authorise any person to sign the documents on my behalf or to affix an electronic signature on my behalf;
  - (d) I did not hold the title "Procurement Manager" at the time;
  - (e) to the best of my knowledge, Coles did not acquire any ORCA machines from any Forum entity. The only transaction between Coles and Forum (or any company associated with Forum) of which I am aware was one where Coles considered leasing ORCAs for a trial period. I do not recall whether Coles actually went ahead with that trial; and

Signed:  .....

Taken by:  .....

(f) I did not witness Mr Parikh sign these Certificates of Delivery on behalf of Coles. During my employment with Coles I do not recall witnessing Mr Parikh execute any document on behalf of Coles and I do not expect I would have ever done so. This is because neither Mr Parikh nor I had any signing authority on behalf of Coles. Any document of this kind would have required formal sign off and approval and would have been signed by limited people who had the delegated authority to sign such documents. Mr Parikh and I did not have such delegated authority.

Sworn by the deponent  
at Melbourne  
in Victoria  
on 1 February 2022

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)  
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Signature of deponent


Before me:



Signature of witness  
Simon Henry Brandis  
Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent) in accordance with the requirements of section 27 of the Oaths and Affirmations Act 2018 (VIC):

1. The affidavit was signed or initialled by the deponent by an electronic signature.
2. I witnessed the deponent signing a copy of this affidavit by electronic signature in real time.
3. I attest or otherwise confirm witnessing the deponent's electronic signature over audio visual link.
4. I have used an electronic copy of the affidavit in completing the jurat requirements under section 26 of the Oaths and Affirmations Act 2018 (VIC).
5. I have confirmed the deponent's identity using the following identification document: Driver's License

Signed:  .....

Taken by:  .....

**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

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Signed: ..... Taken by: .....

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 Olympou Theion Ike

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 4:27:57 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 4:34:11 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.