



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: Jarvas Croome

Address: 128-136 Great Eastern Hwy, South Guildford Western Australia 6055

Occupation: Chief Executive Officer, WesTrac Pty Ltd ABN 63 009 342 572

Date: 3 February 2022

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I, Jarvas Croome, of 128 -136 Great Eastern Hwy, South Guildford Western Australia 6055,  
affirm:

- I am the Chief Executive Officer of WesTrac Pty Ltd ABN 63 009 342 572 (**WesTrac**) and have been in this role since 10 March 2014. I am also a member of the WesTrac Board of Directors.

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 Our reference: CMM:AGS:1353397  
postcode)

Version 3 form approved  
02/05/2019

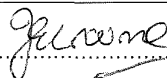

2. I have Chartered Professional Engineering status with Engineers Australia and I have previously been registered on the National Professional Engineers Register.
3. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit JC-1' (**JC-1**). Throughout this affidavit I refer to documents which appear within JC-1.

### **Background to WesTrac**

4. WesTrac is a heavy equipment supply and service company, providing customers in Western Australia, New South Wales and the Australian Capital Territory with support across the mining, construction and transport industries. It is one of the largest authorised CAT equipment dealers in the world, providing customers with a wide range of machinery and construction equipment. WesTrac has over 3,500 staff and is a subsidiary of Seven Group Holdings Limited.
5. WesTrac has a financial delegation policy by which it delegates authority to individuals in certain positions within WesTrac to enter into financial and legal commitments on behalf of WesTrac. In accordance with the terms of that policy, WesTrac keeps a record, within its books and records, of all contractual or other arrangements that are signed for or on behalf of WesTrac. I have access to the books and records of WesTrac and I am able to search those records.

### **Relationship with Forum**

6. In early 2016, WesTrac entered into a contract with Forum Group Pty Ltd ABN 25 153 336 99 (**Forum Group**) for the supply of printer management services (**Print Contract**). The Print Contract, which comprised the WesTrac Standing Offer and the Forum Group Rental Plan (bearing Document ID SEC.5000.0012.5465) is at ~~pages 1 to 62 of JC-1~~. Pursuant to the Print Contract, WesTrac leased certain printers from Forum Group. On 3 February 2016, I signed both the Standing Offer and the Rental Plan for and on behalf of WesTrac in wet ink. It was, and remains, my usual practice to sign hard copies of documents and not to affix electronic signatures due to the risk of fraud associated with electronic signatures.
7. During 2017 and 2018, the Print Contract was varied and amended. Copies of the variations to the Print Contract entered into between WesTrac and Forum Group (bearing Document IDs SEC.5000.0026.9311 and SEC.5000.0038.8611) are ~~at pages 63 to 67 of JC-1~~. Variation 001 was signed by Xavier Coetzee, who was an employee of WesTrac at the time Variation 001 was executed and held the position of General

Signed:  Taken by: 

Manager Commercial, Contracts and Procurement. Variation 002 was signed by Jimmy Leng, who was an employee of WesTrac at the time Variation 002 was executed and held the position of Group Manager, Information Services.

8. The term of the Print Contract (including the variations) concluded in about 2020 and after this time WesTrac did not have any further contractual arrangements with Forum Group.

#### **WesTrac execution of Forum Finance documents**

9. On 10 June 2021, I met with James Mendham, Category Manager, from the Procurement Team, and Kevin Buckley, WesTrac's General Manager Risk, Safety and Security, who showed me the following documents (copies of which are at pages 68 to 135 of JC-1):

**MIN.5000.0028.0156** (a) Rental Plan dated 3 February 2016 (with a Tax Invoice dated 10 February 2016);

**MIN.5000.0028.0138** (b) Rental Plan dated 16 February 2016 (with a Tax Invoice dated 22 February 2016);

**MIN.5000.0028.0184** (c) Rental Plan dated 9 June 2017 (with a Tax Invoice dated 14 June 2017);

**MIN.5000.0028.0176** (d) Rental Plan dated 7 February 2017 (with a Tax Invoice dated 10 February 2017);

**MIN.5000.0028.0148** (e) Rental Plan dated 20 April 2018 (with a Tax Invoice dated 16 May 2018);

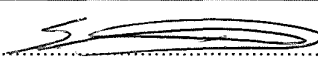
**For (f)-(h):** (f) A letter from Forum Finance Pty Ltd to WesTrac dated 2 December 2020; **CB.F.I.1 pF.I.48 Ln 81**

**MIN.5000.0007.0001** (g) A letter from Forum Finance Pty Ltd to WesTrac dated 18 February 2021; **CB.F.I.1 pF.I.53 Ln 88**

**Section 50 Summary of Fraudulent Transaction Documents CB.F.I.1** (h) a Customer Payment Schedule dated 30 June 2020 for the purchase of 82 INEO + 360i, 11 INEO + 450, 3 INEO + 550i, 38 HP E60165, 9 HP 57540 and 1 HP 52545 (**June 2020 Schedule**). **CB.F.I.1 pF.I.40 Ln 67**

10. When I reviewed the rental agreement dated 3 February 2016 shown to me by Mr Mendham and Mr Buckley (which I refer to at paragraph [9(a)] above), I observed that it appeared to be the same as the rental agreement which formed the Print Contract (which I refer to at paragraph [6] above). However, the version of the 3 February 2016 rental agreement shown to me by Mr Mendham and Mr Buckley had an 'Equipment Annexure' included at the end of the rental agreement that purported to be signed by me. Prior to being shown that Equipment Annexure on 10 June 2021, I had never seen that Equipment Annexure before, nor did it form part of the 3 February 2016 rental agreement entered into as part of the Print Contract. The signature purporting to be mine on the Equipment Annexure is not mine.

Signed: 

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11. When I reviewed the other rental agreements (referred to at 9(b) to 9(e) above) (**Rental Agreements**) and the June 2020 Schedule I observed that each purported to be executed for and on behalf of WesTrac with a signature above my name in handwriting.
12. With respect to each of the Rental Agreements and the June 2020 Schedule:
- (a) the signatures purporting to be mine are not mine;
  - (b) I did not sign those documents, and I did not authorise anyone to sign or affix an electronic signature on my behalf on those documents; and
  - (c) prior to my meeting with Mr Mendham and Mr Buckley on 10 June 2021, I had never before seen any of these documents before.
13. With respect to:
- (a) the 7 February 2017 and 9 June 2017 Rental Agreements:
    - (i) the documents purport to have been witnessed by Natalie Cartwright, however, Ms Cartwright ceased employment with WesTrac on 21 December 2016;
    - (ii) the documents record Ms Cartwright's title as 'National Procurement' and 'National Category Manager', however her title while employed with WesTrac was Category Manager; and
    - (iii) Ms Cartwright's name has been spelt incorrectly as "Cartright".
  - (b) the 9 June 2017 Rental Agreement:
    - (i) the document purports to have been witnessed by Brian Pereira, however, Mr Pereira ceased employment with WesTrac on 25 May 2017; and
    - (ii) my first name is spelt incorrectly as "Jarvis".
14. In the course of preparing this affidavit I was also provided with the following documents (copies of which are at pages ~~136 to 189~~ of JC-1):
- (a) a Customer Payment Schedule dated 25 September 2018 for the purchase of 31 INEO + 658 and 19 INEO + 458 (**September 2018 Schedule**); **CB.F.I.1 pF.I.6 Ln 9**
  - (b) a Customer Payment Schedule dated 24 September 2020 for the purchase of 24 Surfacide Helios System (**September 2020 Schedule**); **CB.F.I.1 pF.I.44 Ln 74**

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Taken by:  .....

- (c) a Customer Payment Schedule dated 27 October 2020 for the purchase of 580 ZZOOTA Site 7X GPS, 12 ZZOOTA Space 10X and 18 ZZOOTA Square 3X (**October 2020 Schedule**); **CB.F.I.1 pF.I.46 Ln 78**
- (d) a Customer Payment Schedule dated 24 November 2020 for the purchase of 286 ZZOOTA Site 7X GPS, 183 ZZOOTA Space 10X and 63 ZZOOTA Square 3X (**November 2020 Schedule**); and **CB.F.I.1 pF.I.48 Ln 81**
- (e) a Customer Payment Schedule dated 12 February 2021 for the purchase of 138 ZZOOTA Site 7X GPS and 24 ZZOOTA Square 3X (**February 2021 Schedule**),  
(together referred to as the **Payment Schedules**). **CB.F.I.1 pF.I.53 Ln 88**

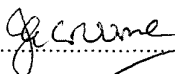
15. In the course of preparing this affidavit I was also provided with the following documents (~~copies of which are at pages 190 to 195 of JC-1~~):

**MIN.5000.0007.0001  
Section 50 Summary  
of Fraudulent  
Transaction  
Documents CB.F.I.1**


- (a) a document titled Certificate of Acceptance of Delivery dated 25 September 2018 noting delivery on 25 September 2018 for the equipment referred to in the September 2018 Schedule (**September 2018 Certificate**); **CB.F.I.1 pF.I.6 Ln 9**
- (b) a document titled Certificate of Acceptance of Delivery dated 30 June 2020 noting delivery on 7 July 2020 for the equipment referred to in the June 2020 Schedule (**June 2020 Certificate**); **CB.F.I.1 pF.I.40 Ln 67**
- (c) a document titled Certificate of Acceptance of Delivery dated 24 September 2020 noting delivery on 24 September 2020 for the equipment referred to in the September 2020 Schedule (**September 2020 Certificate**); **CB.F.I.1 pF.I.44 Ln 74**
- (d) a document titled Certificate of Acceptance of Delivery dated 27 October 2020 noting delivery on 27 October 2020 for the equipment referred to in the October 2020 Schedule (**October 2020 Certificate**); **CB.F.I.1 pF.I.46 Ln 78**
- (e) a document titled Certificate of Acceptance of Delivery dated 24 November 2020 noting delivery on 24 November 2020 for the equipment referred to in the November 2020 Schedule (**November 2020 Certificate**); and **CB.F.I.1 pF.I.48 Ln 81**
- (f) a document titled Certificate of Acceptance of Delivery dated 12 February 2021 noting delivery on 12 February 2021 for the equipment referred to in the February 2021 Schedule (**February 2021 Certificate**), **CB.F.I.1 pF.I.53 Ln 88**  
  
(together referred to as the **Delivery Certificates**).

16. Each of the Payment Schedules and the Delivery Certificates purport to be executed for and on behalf of WesTrac with a signature above my name in handwriting.

Signed: .....

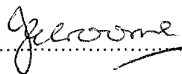


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17. With respect to each of the Payment Schedules and the Delivery Certificates:
- the signatures purporting to be mine are not mine;
  - I did not sign those documents, and I did not authorise anyone to sign or affix an electronic signature on my behalf on those documents; and
  - the first occasion on which I saw the Payment Schedules and the Delivery Certificates was in the course of preparing this affidavit.
18. The September 2020 Certificate purports to be witnessed by Bill Papas. The October 2020 Certificate and November 2020 Certificate purport to be witnessed by Jeff Glass. I have never met anyone named Bill Papas or Jeff Glass, to my knowledge. I maintain an electronic diary and have no record of meeting anyone named Bill Papas or Jeff Glass.
19. In the course of preparing this affidavit I was also provided with the following documents ~~(copies of which are at pages 196 to 199 of JC 1)~~:
- A letter from Forum Finance Pty Ltd dated 8 October 2018 in relation to the Payment Schedule dated 25 September 2018; **CB.F.I.1 pF.I.6 Ln 9**
  - A letter from Forum Finance Pty Ltd dated 13 July 2020 in relation to the Payment Schedule dated 30 June 2020; **CB.F.I.1 pF.I.40 Ln 67**
  - A letter from Forum Finance Pty Ltd dated 29 September 2020 in relation to the Payment Schedule dated 24 September 2020; **CB.F.I.1 pF.I.44 Ln 74**
  - A letter from Forum Finance Pty Ltd dated 2 November 2020 in relation to the Payment Schedule dated 27 October 2020; **CB.F.I.1 pF.I.46 Ln 78**
- (together referred to as the **Forum Letters**).
20. The Forum Letters are addressed to me. The first occasion on which I saw the Forum Letters was in the course of preparing this affidavit. I have no recollection of receiving the Forum Letters by email or otherwise from Forum Finance.
21. I have also been provided with a document titled 'Notice of Assignment' ~~(which is page 200 of JC 1)~~ **MIN.5000.0028.0047** addressed to WesTrac (undated), purporting to notify WesTrac that the Rental Agreements (including the rental agreement dated 3 February 2016 shown to me by Mr Mendham and Mr Buckley (which I refer to at paragraph [9(a)] above) have been transferred and assigned from Northern Managed Finance Pty Ltd to Forum Finance Pty Ltd (**Notice of Assignment**).

Signed: .....

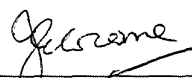


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- 22. The first occasion on which I saw the Notice of Assignment was in the course of preparing this affidavit.
- 23. At ~~page 201 of JC-1~~ (bearing Document ID EQW.5000.0001.8042) is a document purporting to be a confirmation of Insurance certificate dated 2 October 2018 for the benefit of WesTrac for the period 30 June 2018 to 30 June 2019. At ~~pages 202 to 203 of~~ **WES.5004.0001.0097** ~~JC-1~~ is a copy of email correspondence dated 25 November 2021 between Gary Carter (WesTrac's Insurance Manager) and Sharon Monteiro (Paralegal, Legal and Compliance, WesTrac) in which Mr Carter sets out the results of an investigation he undertook into that confirmation of Insurance certificate.
- 24. Shown to me at the time of affirming this affidavit are a bundle of documents each titled 'Rental Agreement' purportedly entered into by Northern Managed Finance Pty Ltd and WesTrac, and signed by me for and on behalf of WesTrac (bearing the following Document IDs SEC.5000.0013.0478, SEC.5000.0013.3143, SEC.5000.0014.0316, SEC.5000.0013.9751, SEC.5000.0015.5741, SEC.5000.0016.5672, SEC.5000.0018.5627, SEC.5000.0019.6816, SEC.5000.0020.1990, SEC.5000.0024.2571, and SEC.5000.0024.2591) ~~copies of which are at pages 204 to 360 of JC-1~~. With respect to each of those documents, the signatures purporting to be mine are not mine.
- 25. Prior to preparing this affidavit, I had never heard of a company called Northern Managed Finance Pty Ltd.
- 26. Prior to preparing this affidavit, I had never heard of a company called Eqwe or a company called BHO.

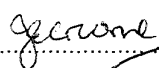
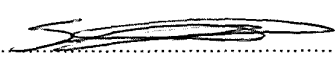
Sworn by the deponent  
 at Perth  
 in Western Australia  
 on 3 February 2022

)  
 )  
 )   
 ) \_\_\_\_\_  
 ) Signature of deponent

Before me: *Susannah Shelagh Hoines*

  
 \_\_\_\_\_  
 Signature of witness

Solicitor

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

**Schedule of Parties**

No. NSD616/2021

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

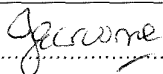
**Applicants**

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

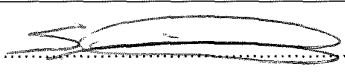
**Respondents**

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

Signed: .....

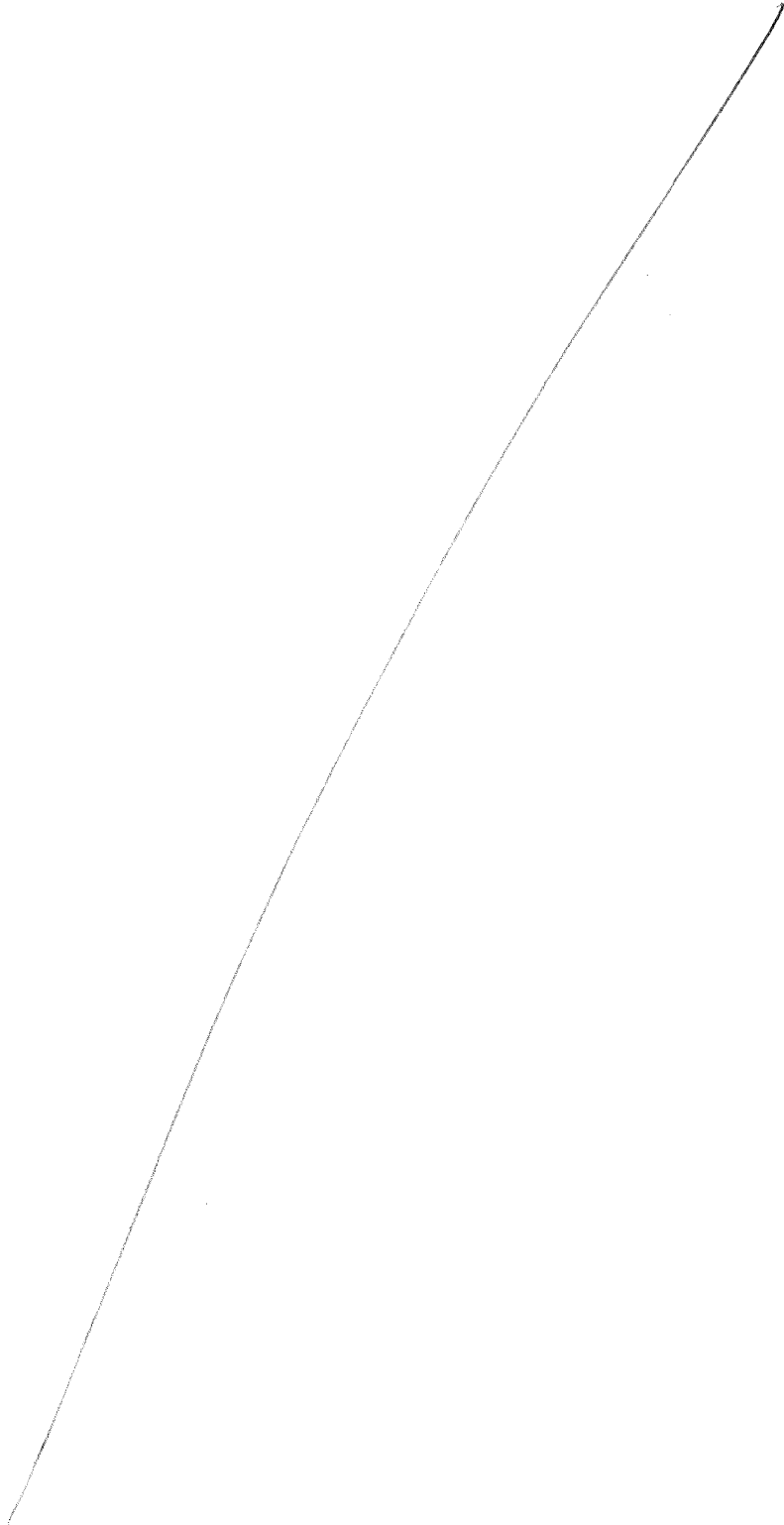


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Eighteenth Respondent	160 Murray Valley Hwy Lake Boga Pty Ltd ACN 641 392 921
Nineteenth Respondent	31 Ellerman Street Dimboola Pty Ltd ACN 641 392 887
Twentieth Respondent	4 Cowslip Street Violet Town Pty Ltd ACN 639 872 352
Twenty-First Respondent	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



*Jul* 5H

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 4:05:29 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: 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 4:11:41 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.