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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: Stacy Flanagan

Address: C/- Suite 1, Level 5, 15 Talavera Road, Macquarie Park NSW 2113

Occupation: Financial Controller, Catholic Healthcare Limited ABN 69 064 946 318

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
 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

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D.I.88

I, Stacy Flanagan, C/ Suite 1, Level 5, 15 Talavera Road, Macquarie Park, Financial Controller, say on oath:

1. I am currently employed as the Financial Controller for Catholic Healthcare Limited (**CHL**) and have been in this position since September 2019. I am authorised to make this affidavit on behalf of CHL.
2. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit SF-1' (**SF-1**). Throughout this affidavit I refer to documents which appear within SF-1.

Introduction and background

3. In September 2019 I commenced employment with CHL in the position of Financial Controller and I have remained in the role since that time. I currently report to the Chief Financial Officer.
4. I am a member of the Chartered Institute of Accountants in England and Wales and hold an Associate Chartered Accountant.
5. CHL is a not-for-profit provider of residential aged care, home care, retirement living villages, and healthcare in New South Wales and South East Queensland.
6. In my role as Financial Controller of CHL:
 - (a) I am responsible for overseeing the financial commitments of CHL; and
 - (b) I supervise managers (my direct reports) who are responsible for performing detailed reviews of payments to vendors by CHL (whether through accounts payable or via direct debit/EFT).
7. Responsibility for maintaining records of CHL's contractual arrangements is split between the Operations Department, the Procurement Team, and certain services within CHL's Head Office.
8. I have access to certain books and records of CHL and I have the relevant authority to ask for searches to be undertaken of CHL business systems (for example, the contract management system maintained by the Procurement Team for CHL).

Forum Documents

9. On 23 June 2021 at approximately 12:03pm (AEST), I received an email from Geoffrey Anderson (**Mr Anderson**), who I knew to be a Director, Asset Finance, Westpac Institutional Bank (**Westpac**), attaching copies of the documents to which I refer in




Signed: Taken by:

paragraphs 10 to 11 below. A copy of that email together with its attachments is at ~~pages 1 to 15 of SF-1~~. By this email Westpac requested that CHL confirm whether the Payment Schedules attached to the email matched with CHL's records and to advise of any discrepancies.

10. At ~~pages 3 to 11 of SF-1~~ is a document titled:

- (a) Customer Payment Schedule dated 16 September 2018 for the purchase of six 'ORCA OG50's and twenty-nine 'ORCA OG100's; and **CB.F.I.1 pF.I.5 Ln 8**
- (b) Customer Payment Schedule dated 29 October 2018 for the purchase of fourteen 'ORCA OG50's; and fifteen 'ORCA OG25's, **CB.F.I.1 pF.I.8 Ln 13**

(the **Payment Schedules**).

11. At ~~pages 12 to 13 of SF-1~~ is:

- (a) a document titled Certificate of Acceptance of Delivery dated 17 September 2018 noting delivery on 24 September 2018 for the equipment referred to in the payment schedule at 10(a) above; and **CB.F.I.1 pF.I.5 Ln 8**
- (b) a document titled Certificate of Acceptance of Delivery undated noting delivery on 29 October 2018 for the equipment referred to in the payment schedule at 10(b) above, **CB.F.I.1 pF.I.8 Ln 13**

(the **Delivery Certificates**).

12. Each of the Payment Schedules and Delivery Certificates include an acknowledgment purportedly for and on behalf of CHL with a signature above the name David Maher (**Mr Maher**). The title indicated for Mr Maher is "CEO". I am aware from my role with CHL that Mr Maher had the title of "Managing Director" and never held the title "CEO".

13. The first time I saw the Payment Schedules and the Delivery Certificates was on 23 June 2021 when I received an email from Westpac asking whether the Payment Schedules matched CHL's records.

14. Also attached to the email sent to me from Westpac on 23 June 2021 (at ~~pages 14 to 15 of SF-1~~) is:

- (a) a letter from Forum Finance Pty Ltd dated 24 September 2018 in relation to the Payment Schedule dated 16 September 2018; and **CB.F.I.1 pF.I.6 Ln 8**
- (b) a letter from Forum Finance Pty Ltd dated 1 November 2018 in relation to the Payment Schedule dated 29 October 2018 **CB.F.I.1 pF.I.8 Ln 13**



Signed:

Taken by:



(the **Forum Letters**).

15. Upon receipt of the email from Mr Anderson dated 23 June 2021, I caused enquiries to be undertaken in relation to the Payment Schedules, the Delivery Certificates, the Forum Letters and the arrangements with Forum Finance Pty Limited ACN 153 301 172 (**Forum Finance**) referred to in those documents. These enquiries included:
- (a) contacting Erik Gassdorf from the Procurement Team and Rocco Rinaldo from CHL's internal legal team to determine if CHL had a record of the contracts reflected in the Payment Schedules being entered into. I requested that a search of CHL's vendor master file in Microsoft Dynamics AX and CHL's invoice and contract system (Basware) be conducted to locate a copy of the Payment Schedules or the Delivery Certificates. From these enquiries I was unable to confirm that CHL had entered into any contractual arrangements with Forum Finance. In my experience with CHL, contracts are stored either in the contact management database or fileshare folders. The Payment Schedules and the Delivery Certificates were not located on these platforms;
 - (b) personally conducting a search of CHL's accounting records and invoice system to locate payments or details in relation to Forum Finance. I did not locate any records of payments being made to Forum Finance or entities with the name Eqwe, BHO or BHD. I did, however, locate a Technology License Agreement dated November 2018 entered into by CHL and Forum Enviro (Aust) Pty Ltd (a copy of which is at ~~pages 16 to 32 of SF-1~~); [WES.5004.0001.0145](#)
 - (c) contacting Matthew Randall and Callie Wong from the Financial Assurance Team to review bank transactions and transaction records in CHL's general ledger to locate payments to Forum Finance. From these enquiries I was informed by Matthew Randall from the Financial Assurance Team that they were unable to locate any records of payments being made to Forum Finance;
 - (d) contacting CHL staff members who had previously worked closely with Mr Maher to determine if they recognised his signature. From these enquiries I was informed that the signature was not recognised as the signature of Mr Maher;
 - (e) on 2 July 2021, sending an email to Elizabeth Oliver (**Ms Oliver**), who I knew to be the company secretary of CHL, asking whether she knew of an agreement between CHL and Forum Finance purporting to be signed on 16 September 2018. By email Ms Oliver told me that she had checked the execution register and the



Signed:

Taken by:



agreement was not listed within it. Ms Oliver forwarded that email conversation to Michael Norman (**Mr Norman**) copying myself and Molly Ghobar (**Ms Ghobar**). I know Mr Norman to be inhouse-counsel for CHL and I know Mr Ghobar was Mr Maher's Executive Assistant at the time he was employed with CHL. In that email, Ms Oliver asked if Ms Ghobar could locate a copy of the agreement. Ms Ghobar replied to that email to the effect that she had conducted a search of Mr Maher's files and did not locate 'anything relating to this matter.' A copy of the email chain recording these conversations is at ~~pages 33 to 36 of SF-1.~~ [WES.5004.0001.0141](#)

16. On 13 July 2021 at approximately 1:40pm (AEST), I replied to Mr Anderson's email of 23 June 2021, advising to the effect that CHL had not entered into the agreements the subject of the Payment Schedules and the Delivery Certificates. A copy of that email is at ~~pages 37 to 38 of SF-1.~~ [WES.5004.0001.0139](#)

Sworn by the deponent
at Sydney
in New South Wales
on 22 December 2021

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Signature of deponent

Before me:



Signature of witness
Simon Henry Brandis, Solicitor
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 has confirmed the person's identity based on the following identification document presented to me:
Driver's License

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 Olympou Theion Ike

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 4:02:43 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 4:08:56 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.