

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/07/2021 12:34:29 PM AEST 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: NSD1220/2020
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v
MELISSA LOUISE CADDICK & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



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

Dated: 1/07/2021 12:35:40 PM AEST

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.



Form 59
Rule 29.02(1)

Affidavit

No. NSD 1220 of 2020

Federal Court of Australia
District Registry: New South Wales
Division: Commercial and Corporations

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and ANOR

Defendants

Affidavit of: **Daniel Robert Soire**
Address: Level 13, 189 Kent Street, Sydney NSW 2000
Occupation: Registered Liquidator
Date: 1 July 2021

I, **Daniel Robert Soire**, Registered Liquidator, of Level 13, 189 Kent Street, Sydney New South Wales 2000, say on oath:

1. I am a Chartered Accountant, Registered Liquidator, and a Principal of Jones Partners.
2. I am one of the Court Receivers and Provisional Liquidators of the first and second defendant.
3. I have been a Registered Liquidator since 2012.
4. During the course of undertaking my role as a Registered Liquidator, I have regularly been appointed to corporate groups. I have also managed and assisted with Bankruptcy appointments within my Firm to joint and separate bankrupt estates.

| | | |
|---|---|------------------|
| Filed on behalf of (name & role of party) | Receivers/Provisional Liquidators Bruce Gleeson and Daniel Robert Soire | |
| Prepared by (name of person/lawyer) | Michael Hayter | |
| Law firm (if applicable) | Swaab Attorneys | |
| Tel | 02 9233 5544 | Fax 02 9233 5400 |
| Email | mkh@swaab.com.au | |
| Address for service | Level 4, 20 Hunter Street, Sydney, NSW 2000 | |
| (include state and postcode) | | |

5. When such appointments occur it is the practice of my Firm to:
- a. Complete a new client set up form which establishes a separate client time ledger for each administration within the corporate group or as between the bankrupt estates. The client set up form is approved by the manager assigned to the administration. The purpose of setting up a separate client time ledger is to enable time to be recorded to each corporate or individual administration. In the Receivership of the First Defendant and the Provisional Liquidation of the Second Defendant I have caused to be established and maintained separate client time ledgers for each administration;
 - b. The team that is assigned to work on the corporate group or joint and separate bankrupt estates are instructed to allocate time between the respective administrations depending upon whether the task or attendance related to one, the other or all of the administrations. This process was implemented and has been maintained regarding the Provisional Liquidation and Receivership.
 - c. Where a task or attendance has been undertaken which relate to all of the corporate or individual administrations, rather than just one of them, the practice is to allocate the time between all of the administrations. For example, in the case of the Provisional Liquidation and Receivership, where a meeting was held with my solicitors or with counsel to discuss issues which related to both administrations such that it was not possible, as a matter of practicality, to divide the time spent by reference to the particular circumstances of either administration, the time was allocated equally to each administrations. By way of an example and exhibited hereto and marked as **Annexure "DRS-1"** is a description of a timesheet entry regarding a meeting with my solicitors, Counsel and staff relating to both the Provisional Liquidation and Receivership. That shows that the time has been recorded proportionally on a 50/50 basis to the Provisional Liquidation and Receivership. The meeting went for a duration of 2.2 hours in total and Mr Gleeson has recorded 1.1 hours to each administration.
 - d. Prior to seeking approval and payment of our remuneration and disbursements, either myself or my other joint appointee, together with the manager assigned carriage of the matter, will undertake a detailed review of the work in progress ledger

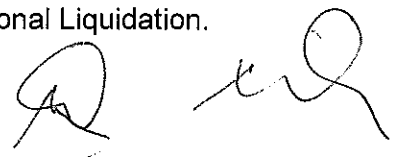
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|---|---|------------------|
| Filed on behalf of (name & role of party) | Receivers/Provisional Liquidators Bruce Gleeson and Daniel Robert Soire | |
| Prepared by (name of person/lawyer) | Michael Hayter | |
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and make any adjustments, re-allocations and / or write offs deemed appropriate having regard to the ARITA Code of Professional Practice. The review is undertaken in accordance with PSI 8 of the ARITA Code of Professional Practice. Such review has been followed in the Provisional Liquidation and Receivership, in that myself and my other Principal, Mr Vu, have both undertaken reviews of the costs in this matter and in accordance with our usual practice so as to ensure there has been no duplication in the allocation of charges to the two (2) administrations.

6. Although the Orders appointing me as Provisional Liquidator and Receiver were largely similar, the performance of those tasks did not involve identical work in both administrations. For instance, although we were required to produce a Court report in both administrations, insofar as the Second Defendant is concerned, the Report had to consider the likely return to creditors (see 12(g)) and we had to consider and express an opinion as to the claims that may be available to Liquidators for the recovery of funds for the benefit of creditors, including claims pursuant to Part 5.7B of the Act (see 12(f)). Neither matter had to be dealt with in the Report produced for the Receivership.

7. **Annexure "DRS-2"** is a copy of an extract of time recorded to the Provisional Liquidation client ledger which relates to assets of the Second Defendant only, that being the Audi R8. Therefore, time has only been recorded to the Provisional Liquidation for that work.. In addition, also exhibited and hereto and marked as **Annexure "DRS-3"** and **Annexure "DRS-4"** are copies of an extract of the time recorded from the Receivership client ledger relating to the Edgecliff and the Dover Heights Properties both of which are assets registered in Ms Caddick's name. Therefore, time has only been recorded to the Receivership for such task.

7. Based on my experience with the operation of the systems in place within my office and my review of the time records that have been created, in these two (2) administrations, the client time ledgers for the Provisional Liquidation and Receivership do not contain any duplicate time entries for the same item of work. Thus no charge is made to the Receivership where that same work is charged to the Provisional Liquidation.

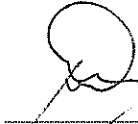


| | | |
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| Filed on behalf of (name & role of party) | Receivers/Provisional Liquidators Bruce Gleeson and Daniel Robert Soire | |
| Prepared by (name of person/lawyer) | Michael Hayter | |
| Law firm (if applicable) | Swaab Attorneys | |
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| Address for service | Level 4, 20 Hunter Street, Sydney, NSW 2000 | |
| (include state and postcode) | | |

Sworn by the deponent)
At Sydney)
In New South Wales)
on 1 July 2021)
Before me:)



Signature of deponent



Signature of witness

And as a witness, I certify the following matters concerning the person who made this Affidavit (the "deponent"):

1. I saw the face of the deponent.
2. I have known the deponent for more than 12 months.

Identification document relied on (may be original or certified copy)



Martin Duc Vu (JP)
Justice of the Peace NSW Reg. No. 203335

| | | |
|---|---|------------------|
| Filed on behalf of (name & role of party) | Receivers/Provisional Liquidators Bruce Gleeson and Daniel Robert Soire | |
| Prepared by (name of person/lawyer) | Michael Hayter | |
| Law firm (if applicable) | Swaab Attorneys | |
| Tel | 02 9233 5544 | Fax 02 9233 5400 |
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Federal Court of Australia
Direct Registry: New South Wales
Division: Commercial and Corporations

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and ANOR

Defendants

This is the annexure marked "**DRS-1**" referred to in the affidavit of Daniel Robert Soire sworn on 1 July 2021

Before me:



Solicitor/Justice of the Peace

Martin Duc Vu (JP)
Justice of the Peace NSW Reg. No. 203335

| Case Name | Staff Name | Hourly Rate | Transaction Date | CoPP | Analysis Name | Time Hours | Cost | Narrative | |
|---------------------|---------------|-------------|------------------|---------|----------------|------------|------|-----------|--|
| Maliver Pty Limited | Bruce Gleeson | 595 | 21/01/2021 | Partner | Administration | Partner | 1.1 | 654.5 | Prepare for and then attend SGolledge offices with DSoire, MVu and MHayter review orders and discuss court report and related aspects, then back to JP city office |

| | | | | | | | | | |
|-----------------|---------------|-----|------------|---------|---------------------------------------|---------|-----|-------|--|
| Melissa Caddick | Bruce Gleeson | 595 | 21/01/2021 | Partner | File Reviews, Planning and Checklists | Partner | 1.1 | 654.5 | Prepare for and then attend SGolledge offices with DSoire, MVu and MHayter review orders and discuss court report and related aspects, then back to JP city office |
|-----------------|---------------|-----|------------|---------|---------------------------------------|---------|-----|-------|--|

Federal Court of Australia
Direct Registry: New South Wales
Division: Commercial and Corporations


AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and ANOR

Defendants

This is the annexure marked "**DRS-2**" referred to in the affidavit of Daniel Robert Soire sworn on 1 July 2021

Before me:  _____
Solicitor/Justice of the Peace

Martin Duc Vu (JP)
Justice of the Peace NSW Reg. No. 203335

| Case Name | Staff Name | Hourly Rate | Transaction Date | CoPP | Category | Analysis Name | Time Hours | Cost | Narrative |
|---------------------|---------------------|-------------|------------------|---------|----------|--------------------------------------|------------|------|--|
| Maliver Pty Limited | Daniel Robert Soire | 595 | 22/01/2021 | Partner | Assets | Motor Vehicles / Plant and Equipment | 0.4 | 238 | maliver - conclude investigations on Audi and arrange collection |

Federal Court of Australia
Direct Registry: New South Wales
Division: Commercial and Corporations

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION


Plaintiff

MELISSA LOUISE CADDICK and ANOR

Defendants

This is the annexure marked "**DRS-3**" referred to in the affidavit of Daniel Robert Soire sworn on 1 July 2021

Before me:



Solicitor/Justice of the Peace

Martin Duc Vu (JP)
Justice of the Peace NSW Reg. No. 203335

| Case Name | Staff Name | Hourly Rate | Transaction Date | CoPP | Analysis Name | Time Hours | Cost | Narrative |
|-----------------|---------------------|-------------|------------------|---------|----------------|------------|------|--|
| Melissa Caddick | Daniel Robert Soire | 595 | 6/01/2021 | Partner | Investigations | 0.2 | 119 | Review and trace monies from and to purchase edgecliff |

Federal Court of Australia
Direct Registry: New South Wales
Division: Commercial and Corporations

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION


Plaintiff

MELISSA LOUISE CADDICK and ANOR

Defendants

This is the annexure marked "**DRS-4**" referred to in the affidavit of Daniel Robert Soire sworn on 1 July 2021

Before me: _____


Solicitor/Justice of the Peace

Martin Duc Vu (JP)
Justice of the Peace NSW Reg. No. 203335

| Case Name | Staff Name | Hourly Rate | Transaction Date | CoPP | Analysis Name | Time Hours | Cost | Narrative |
|-----------------|-------------------|-------------|------------------|---------------------------|---------------------------|------------|------|--|
| Melissa Caddick | Vanessa Duckworth | 310 | 13/01/2021 | Other Senior Professional | Interest in Real Property | 1.4 | 434 | Prepare spreadsheet and note all payments made towards Dover Heights property in offset account and loan account |