

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 5/07/2021 2:33:00 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



Sia Lagos

Dated: 5/07/2021 2:35:08 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

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

No. NSD1220 of 2020

IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and another

Defendants

Affidavit of: **Bruce Gleeson**
Address: Level 13, 139 Kent Street
Occupation: Registered Liquidator
Date: 12 May 2021

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Bruce Gleeson affirmed on 12 May 2021	1	2
2	Exhibit "BG-1", being a USB containing electronic copies of the documents exhibited to this affidavit	2	2

I, Bruce Gleeson of Level 13 139 Kent Street, Registered Liquidator, say on oath:

A handwritten signature in blue ink, appearing to be 'Bruce Gleeson'.

A handwritten signature in blue ink, appearing to be 'Melissa Louise Caddick'.

INTRODUCTION

1. Pursuant to Court orders made on 15 December 2020, I, together with Daniel Robert Soire (**Mr Soire**), were appointed:
 - (a) joint and several Receivers of the property of Ms Melissa Caddick (**Ms Caddick**);
and
 - (b) joint and several Provisional Liquidators of Maliver Pty Limited (**Maliver**).
2. Exhibited to me at the time of swearing this affidavit is a USB containing electronic copies of documents marked Exhibit "BG-1". The USB contains an index that lists each document by numbered tab, each of which in turn is hyperlinked to an electronic copy of the document that is included on the USB. Each document is marked with a unique document reference number.
3. I am swearing this affidavit in my capacity as joint Receiver of Ms Caddick's property and Provisional Liquidator of Maliver. Unless otherwise stated, I make the affidavit from information within my own knowledge and from an examination of the records and documents that I have obtained as part of my investigation into the affairs of Ms Caddick and Maliver in accordance with my appointment.
4. Where I refer to my investigations, or work I have done in this affidavit, this includes a reference to work performed by Mr Soire and the staff of Jones Partners working under my direction and supervision.
5. In each of the cases where I have referred to an analysis of the funds used to purchase property with funds available to Maliver or Ms Caddick, file notes have been prepared by Jones Partners staff with documentary evidence annexed which I reviewed and signed when I was satisfied that the evidence supported the conclusions reached. I have no reason to doubt the competence of my staff in performing the work requested of them nor the comprehensiveness and accuracy of the work that they have performed.
6. This affidavit is prepared in support of ASIC's application for:
 - (a) Mr Soire's and my appointment as Final Receivers pursuant to s1101B of the Corporations Act for the purpose of taking possession of and realising the



Receivership Property (as defined in the Further Amended Originating Process (FAOP)) in accordance with the mechanism provided in the FAOP;

- (b) establishing the Receivers' Trust Account (as defined in the FAOP) and pooling the proceeds of the realisation of the Receivership Property into that account;
- (c) the winding up of Maliver and the appointment of Mr Soire and me as Liquidators on the terms set out in the FAOP.

THE REPORTS & SUBSEQUENT TASKS

7. I, together with Mr Soire, as Receivers of the property of Ms Caddick prepared a report dated 15 February 2021 (**Receivers' Report**) and provided a copy to the Court and ASIC on that same day, in accordance with the orders made by the Court on 15 December 2020.
8. I, together with Mr Soire, as Provisional Liquidators of Maliver prepared a report dated 15 February 2021 (**Provisional Liquidators' Report**) and provided a copy to the Court and ASIC on that same day, in accordance with the orders made by the Court on 15 December 2020 orders.
9. A copy of the Receivers' Report together with its annexures [**MAL.1081.0001.0013**] are at Tab 1 of Exhibit BG-1.
10. A copy of the Provisional Liquidator's Report together with its annexures [**MAL.1081.0001.0380**] are at Tab 2 of Exhibit BG-1.
11. In preparing the Receivers' Report and the Liquidators' Report I have been assisted by Mr Soire and the staff of Jones Partners working under my direction and supervision.
12. For convenience where appropriate, in this affidavit I refer to the Receivers' Report and the Provisional Liquidator's Report together as "**the Reports**". One of the purposes of this affidavit is to provide the Court with an update as to certain matters contained in the Reports and, in particular the further work done in respect of the preliminary conclusions expressed in those Reports.
13. Since the completion of the Reports I have undertaken further work aimed at:
 - (a) identifying and verifying the amounts advanced by Investors prior to the incorporation of Maliver and the accounts into which those amounts were paid;




- (b) finalising the summary of the amounts advanced by Investors to Ms Caddick or Maliver and the amounts returned to Investors, which is Annexure I to the Receivers' Report;
- (c) determining the extent of false and misleading documents supplied to Investors;
- (d) verifying Ms Caddick's ownership of assets and ascertaining whether she holds any assets not previously identified in the Receivers' Report;
- (e) tracing what happened to Investor Funds after they were received by Ms Caddick or Maliver, including the extent to which they were used to purchase jewellery, or ended up in the Caddick Services Account or were used to pay Investors;
- (f) determining the source of deposits into Ms Caddick's bank accounts to identify whether Ms Caddick had any other sources of income or assets to acquire property;
- (g) liaising with Investors / creditors;
- (h) liaising with ASIC regarding investigations and findings; and
- (i) preparing this affidavit.

14. This has involved:

- (a) Obtaining and reviewing further information, including from Citibank (regarding bank accounts operated by Ms Caddick) and ANZ and Hunt and Hunt Lawyers (**Hunt and Hunt**) (regarding the purchase and sale of the Kensington Property);
- (b) Reviewing documents (over 25,000) provided by ASIC;
- (c) Reviewing bank statements;
- (d) Making further inquiries of [REDACTED], Investors and ASIC;
- (e) Liaising with Investors / creditors.

15. These further tasks have enabled me to progress my analysis and reach conclusions in relation to the assets and liabilities of the defendants, and in particular:



- (a) the identity of Investors, the amounts invested by them and the funds returned to them;
- (b) tracing moneys used for the purchase of assets held by Ms Caddick or Maliver;
- (c) ascertaining that Ms Caddick and Maliver had no substantial income from October 2012 other than moneys advanced by Investors or funds received as a result of property acquired with Investor Funds;
- (d) reviewing and updating key preliminary findings in the Reports with a view to reaching final conclusions in respect of a number of matters (as set out below in this affidavit).

TERMS USED IN THIS AFFIDAVIT

16. The table below lists the meaning of a number of common terms used in this affidavit:

Term	Definition
ANZ Loan	The loan obtained from ANZ to purchase the Kensington Property
Aspen Property	The North of Nell Condominium 3A-555E Durrant Avenue, Aspen Colorado 81611, in the United States
Audi	The Audi R8 registration number REDACTED which Maliver is the registered owner of
BFA	The Binding Financial Agreement pursuant to Section 90C of the Family Law Act dated 25 January 2013 between REDACTED and Ms Caddick
CommSec Portfolio Statements	The statements provided by Ms Caddick or Maliver Pty Ltd to Investors (and which are exhibited to the affidavit of Isabella Allen affirmed in May 2021)
Connells Point Property	REDACTED
Dover Heights Property	REDACTED

Term	Definition
Edgecliff Property	REDACTED
Gillis Delaney	The lawyers advising the Receivers and Provisional Liquidators
Hunt and Hunt Lawyers	The lawyers who acted for [REDACTED] and Ms Caddick on the purchase of the Kensington Property described below.
Investors	Those individuals, companies or SMSFs who advanced money to Ms Caddick, and then Maliver following its incorporation, for the purpose of those funds being invested in their names, predominantly in shares, to generate financial returns
Investor Funds	Money received by Ms Caddick or Maliver from Investors, including money purportedly paid for management fees
Kensington Property	REDACTED
Maliver	Maliver Pty Ltd (ACN 164 334 918), a company incorporated on 18 June 2013, of which Ms Caddick is the sole director and shareholder
[REDACTED]	[REDACTED], formerly the husband of Ms Caddick
[REDACTED]	[REDACTED] the brother of Ms Caddick
[REDACTED] [REDACTED] Parents	REDACTED
Mr Koletti	[REDACTED], the husband of Ms Caddick
Mercedes Benz	The Mercedes-Benz A Class M-AMG registration number [REDACTED] which Maliver is the registered owner of




Term	Definition
Out-of-Pocket Investors	Investors who are still owed money by Ms Caddick or Maliver
SMSF	Self-managed superannuation fund as defined under the Superannuation Industry (Supervision) Act 1993
Updated Annexure I	The spreadsheet showing the names of Investors, the amounts advanced by them to Ms Caddick or Maliver and any amounts returned to them referred to in this affidavit which is an updated version of Annexure I to the Receivers' Report
\$	Unless otherwise stated, all currency in this affidavit is in Australian Dollars

BANK STATEMENTS IDENTIFIED AND REVIEWED

17. The table below lists all of the accounts found in the name of Ms Caddick and Maliver or operated by Ms Caddick that I have identified and reviewed as part of my investigation. It records the following:
- (a) Account Name – being the name of the account holder;
 - (b) BSB – being the bank BSB;
 - (c) Account Number – being the bank account number;
 - (d) Bank – being the abbreviated name of the relevant banking entity and / or account type;
 - (e) Abbreviation – being the abbreviation assigned to the account and used in this affidavit.




Account Name	BSB	Account Number	Bank and Account Type	Abbreviation
Melissa Caddick	REDACTED		AMEX	Koletti AMEX
Melissa L Caddick			AMEX	Caddick AMEX
Melissa L Caddick			AMEX - David Jones Store Card	David Jones AMEX
Melissa Louise Caddick			ANZ	Caddick ANZ 5947
Maliver Pty Ltd			ANZ	Maliver ANZ 0981
Maliver Pty Ltd			CBA	Maliver CDIA
Melissa Caddick			CBA Direct Investment account linked to the Caddick CommSec Account and the International Caddick CommSec Account	Caddick CDIA
			Citi	Grimley Citibank Account
Maliver Pty Ltd			CommSec	Maliver 1 Commsec
Maliver Pty Ltd			CommSec	Maliver 2 Commsec
Melissa Caddick			CommSec US dollar account	International Caddick CommSec Account




Mrs Melissa Louise Caddick	REDACTED	CommSec	Caddick CommSec Account
Maliver Pty Ltd	REDACTED	NAB	Maliver NAB Primary Account
Maliver Pty Ltd	REDACTED	NAB	Maliver NAB Secondary Account
Maliver Group Unit Trust	REDACTED	NAB	Maliver Grp NAB account
Caddick Services Trust	REDACTED	NAB	CST NAB
Melissa Caddick ATF Caddick Services Trust	REDACTED	NAB US dollar account	Caddick Services Account
Melissa Caddick & [REDACTED] - Home loan	REDACTED	NAB Home loan taken out for the purchase of the Dover Heights Property	MC and AG Home Loan
Melissa Caddick & [REDACTED]	REDACTED	NAB Offset account linked to the home loan for the purchase of the Dover Heights Property	MC and AG NAB Account
Melissa Caddick - Home loan	REDACTED	NAB Home loan for the purchase of	MC Home Loan

	REDACTED	the Edgecliff Property	
Melissa Caddick		NAB	Caddick 6844 NAB Account
Melissa Caddick		NAB	Caddick 1266 NAB
Melissa L Caddick		NAB	Qantas 3418
Melissa Caddick		NAB Offset account linked to the Home loan for the purchase of the Edgecliff Property	Caddick 4254 NAB Offset
ML Caddick		NAB	Caddick NAB Primary Account
Melissa Caddick		NAB	Qantas 4912
Melissa Louise Caddick		NAB	Caddick Credit Card 9356
		NAB	603 NAB
		NAB	958 NAB
Caddick Education Trust		NAB	CET NAB
Maliver Group Investment Unit Trust		NAB	Maliver Investment NAB
Melissa L Caddick		NAB	Caddick Credit Card 0053
Melissa L Caddick		NAB	Caddick Credit Card 6235

Caddick Family Trust Superannuation Fund	REDACTED	NAB	Caddick SMSF
Cadley Consulting Pty Ltd	REDACTED	NAB	Cadley Consulting NAB account
Cadley Consulting Pty Ltd	REDACTED	NAB	Cadley Consulting Credit Card 5249
Cadley Consulting Pty Ltd	REDACTED	NAB	Cadley Consulting Credit Card 4256

18. As part of my investigation into the financial affairs of Ms Caddick and Maliver, Jones Partners staff, under my supervision and direction, analysed the bank statements relating to the bank accounts held or controlled by Ms Caddick identified in the above table.
19. The bank statements analysed were either provided by ASIC in compliance with requests made by me pursuant to Court orders made in these proceedings on 15 December 2020, or obtained directly from the relevant financial institution, following a written request made either pursuant to the express powers of a provisional liquidator under s530B Corporations Act or exercising the investigation powers granted to the Receivers under the Court orders made on 15 December 2020.
20. The investigation involved an analysis of deposits to the accounts from accounts not controlled by Ms Caddick or Maliver to determine their source. These investigations identified the major sources of deposits paid to Ms Caddick and Maliver as set out below.
21. The analysis undertaken under my supervision and direction, sought to identify the source of deposits into Ms Caddick's bank accounts for transactions generally above \$5,000 on a materiality basis and focused on:
- (a) Investor Funds;




- (b) Deposits from Commsec accounts;
- (c) Deposits by [REDACTED];
- (d) Deposits by Ms Caddick's Parents;
- (e) The identification of any other sources of amounts paid into the accounts;
- (f) Deposits from the sale of Ms Caddick's assets;
- (g) Reconciling transfers between other bank accounts controlled by Ms Caddick;
- (h) Deposits less than \$5,000 if they were made on a constant and prolonged basis, such as [REDACTED] child support payments.

22. The analysis of withdrawals and payments from Ms Caddick's bank accounts, sought to identify transactions \$1,000 or above on a materiality basis and focused on:

- (a) Investor repayments;
- (b) Payments attributable or traced to assets such as jewellery, real estate, artworks and luxury goods;
- (c) Credit card repayments;
- (d) Mortgage repayments;
- (e) Reconciling transfers between other bank accounts controlled by Ms Caddick;
- (f) Cash withdrawals / advances;
- (g) Travel expenses;

For reasons of commerciality the analysis did not include withdrawals or payments under \$1,000 for living expenses unless they fit into the above categories in (a) to (g).

23. The analysis undertaken under my supervision and direction, sought to identify the source of all deposits into the Maliver bank accounts as explained below and focused on:

- (a) Investor Funds;



- (b) Reconciling transfers between other bank accounts controlled by Ms Caddick;
 - (c) Identifying whether there were other sources of funds paid into the accounts.
24. For withdrawals and payments from Maliver's bank accounts the focus was transactions \$10,000 or above on a materiality basis and focused on:
- (a) Investor repayments;
 - (b) Payments attributable to asset purchases;
 - (c) Credit card repayments;
 - (d) Mortgage repayments;
 - (e) Reconciling transfers between other bank accounts controlled by Ms Caddick.
25. My analysis has revealed that the only sources of funds into the bank accounts listed in the table in paragraph 17 in the period between October 2012 and December 2020 has come from:
- (a) Investor Funds in the amount of \$30,195,674 (see paragraphs 46 - 61 and in particular paragraph 56);
 - (b) Net proceeds from the sale of Ms Caddick's Kensington Property in about April 2014 in the amount of \$430,572.81 (see paragraphs 64 - 90, and in particular 85);
 - (c) Ms Caddick's Parents on 7 April 2017 in the amount of \$1,154,390.48 (see paragraphs 182 - 203, and in particular 185);
 - (d) "Hock Your Frocks" in the amount of \$35,195.50 between December 2019 and November 2020 (see paragraphs 92 - 97);
 - (e) ██████████ who paid \$126,000 described as rental payments to the MC Home Loan over the period November 2018 to August 2020 (see paragraph 175); \$18,000 to the Caddick NAB Primary Account over the period June 2020 to October 2020 (see paragraph 176) and \$125,000 into the Grimley Citibank Account over the period August 2012 to September 2014 (which I understand

were payments made to initially assist Ms Caddick when she was separating from [REDACTED] (see paragraphs 77 - 78);

(f) [REDACTED] who paid child support of \$71,398 paid over the period February 2013 to October 2020 (see references to these payments at paragraphs 146 - 148 and 162 - 163);

(g) Dividends from shares, proceeds from the sales of shares, proceeds from Flog Your Furniture, a diamond ring and cash advances from credit cards.

26. In relation to items (d) and (g) in the previous paragraph, I conclude that such proceeds would not have been possible but for the Investor Funds in (a) of the preceding paragraph when allowing for Ms Caddick's pattern of personal expenses during the period 16 October 2012 to 15 December 2020.

27. My analysis has demonstrated that the money received from the sale of the Kensington Property in about April 2014 has been subsequently exhausted in meeting Ms Caddick's living expenses, or was used for the purchase of assets (such as shares) that are no longer owned by her. I should note that my analysis has also revealed that not only have those funds been exhausted in this way, but that Ms Caddick in effect used Investor Funds to pay to [REDACTED] a total amount \$402,000 to satisfy her obligations under the BFA and thus acquire [REDACTED] interest in the Kensington Property.

28. In relation to the money advanced by Ms Caddick's Parents, I have concluded on the basis of an analysis of amounts paid directly after the deposit of those funds that the money was used by Ms Caddick in paying living expenses, purchasing a diamond ring, transferred between other bank accounts controlled by Ms Caddick including the Caddick CDIA account and also co-mingled with other funds in that account, including Investor Funds provided for the purchase of shares. However, the Parents assert that all the funds advanced by them to Ms Caddick gives rise to an entitlement to the Edgecliff Property. Further information will need to be provided by the Parents to support their claim. They have not supplied that information despite a number of requests from my solicitor to their solicitors asking them to do so (as set out in paragraphs 185 - 195 and 229 - 232).

29. If Ms Caddick's Parents continue to maintain an entitlement in relation to the Edgecliff Property in relation to the money they paid to Ms Caddick in 2017, I anticipate that I will

need to seek directions from the Court regarding whether they have any interest in the Edgecliff Property or any other asset of Ms Caddick or they should be treated as creditors / Out-of-Pocket Investors entitled to a distribution from the sale of the assets I have identified as being purchased with Investor Funds. In addition, where I conclude in this affidavit that assets have been purchased with Investor Funds, I note that since 7 April 2017, those assets could also have been purchased indirectly with the funds advanced by Ms Caddick's Parents, as set out above.

30. As for the funds from Hock Your Frocks which were paid into Caddick NAB Primary Account, given the relatively insignificant amount, I have concluded that it is not commercial to further investigate whether the goods sold by Ms Caddick through Hock Your Frocks were purchased with Investor Funds, particularly when those funds were expended by Ms Caddick on living expenses and at the date of my appointment, there was less than \$2,000 in that bank account.
31. Accordingly, subject to paragraphs 28 and 29 regarding any entitlement of the Parents, I am able to reasonably conclude that the assets currently held by Maliver or Ms Caddick that were purchased after October 2012 were purchased using Investor Funds or with the benefit of proceeds from property acquired with Investor Funds.
32. In relation to the amounts paid by [REDACTED] I have determined those monies were used by Ms Caddick to pay for her living expenses and intermingled into other bank accounts operated by Ms Caddick which contained Investor Funds. The extent of the intermingling of monies in these accounts means that tracing of [REDACTED]'s monies has not been reasonably possible. As set out in paragraph 204 in a letter dated 14 January 2021 solicitors representing [REDACTED] stated that he was not at that time in a position to articulate the extent to which he may have any claim against, or interest in, any of Ms Caddick's property and he reserved all his rights in relation to any claims he may have in this regard.
33. In relation to the amounts paid by [REDACTED] I have determined that those monies were used by Ms Caddick to pay for living expenses and intermingled into other bank accounts operated by Ms Caddick which contained Investor Funds. The extent of the intermingling of monies in these accounts meant that tracing of [REDACTED] monies has not been reasonably possible.
34. Paragraphs 2.6 and 4.13 (page 16) of the Receivers' Report state respectively:



"Our preliminary conclusion is that Ms Caddick has received the benefit, directly or indirectly, of Investor Funds and acquired property largely with the benefit of Investor Funds"

"Our preliminary determination that most assets currently held in the name of Ms Caddick or the Company have been source[d] from Investor Funds."

35. I maintain the view expressed in the Receivers' Report that most, but not all, of the assets held in the name of Ms Caddick have been sourced from Investor Funds. There is evidence of assets (such as jewellery and artworks) which were purchased prior to October 2012 and the receipt of Investor Funds. I deal with the jewellery later in this affidavit.
36. My conclusion regarding Maliver is that at all relevant times it did not have any other source of funding apart from Investor Funds and the motor vehicles acquired by Maliver were sourced from Investor Funds.
37. Paragraph 6.13 (page 41) of the Receivers' Report states:
- "Our preliminary conclusion is that Investor Funds were received directly or indirectly by Ms Caddick and intermingling of funds and transfers between accounts of Ms Caddick and the Company mean that significant tracing exercises would be involved to determine the full extent of Investor Funds received by Ms Caddick."*
38. I have analysed various bank statements and have determined that Maliver and Ms Caddick received the benefit of Investor Funds from 16 October 2012 (as set out in paragraphs 46 - 63) and used those funds to purchase various assets that are referred to in this affidavit.
39. I also note that it appears an investment was made earlier by [REDACTED] [REDACTED] on 2 August 2011 of \$70,000 into the Caddick NAB Primary account as shown [MAL.1086.0001.2941] at Tab 3 of Exhibit BG-1, on page 2943. However I have not been able to conclude as at August 2011 that Ms Caddick had no other source of income / assets (as [REDACTED] investment was a relatively small amount) or that assets purchased by Ms Caddick from the date of this investment were purchased with Investor Funds. Whereas from 16 October 2012 to 21 December 2012 the amount of \$273,000 was advanced to Grimley Citibank, as set out in paragraph 76. In any event Ms McGrath's investment was repaid in instalments totalling \$69,987.69

between 12 June 2012 to 4 July 2016. The payments made to [REDACTED] are detailed below:

- (a) \$5,000 was received by [REDACTED] on 13 June 2012, the payment was made from the Caddick NAB Primary account as shown [**MAL.1086.0001.2959**] at Tab 4 of Exhibit BG-1;
- (b) \$30,000 was received by [REDACTED] from the Grimley Citibank account over six payments between 4 September 2012 to 31 December 2012, as shown in the table below. A copy of the Grimley Citibank statement [**MAL.1081.0010.0003**] is at Tab 5 of Exhibit BG-1;

Date	Amount (\$)	Bank Account	Pages
4/09/12	5,000.00	Grimley Citibank	0010
28/09/12	5,000.00	Grimley Citibank	0012
5/11/12	5,000.00	Grimley Citibank	0019
21/11/12	5,000.00	Grimley Citibank	0021
6/12/12	5,000.00	Grimley Citibank	0025
31/12/12	5,000.00	Grimley Citibank	.0026
Total	30,000.00		

- (c) \$31,414.09 was received by [REDACTED] on 29 August 2013. The payment was made from the Caddick CDIA account as shown [**MAL 1085.0001.0624**] at Tab 6 of Exhibit BG-1; and
- (d) \$3,573.60 was received by [REDACTED] on 4 July 2016. The payment was made from the Caddick CDIA account as shown [**MAL.1085.0001.0724**] at Tab 7 of Exhibit BG-1.

40. My investigations have revealed that when Investor Funds were paid into the Grimley Citibank Account or the bank accounts of Maliver or Ms Caddick, they were used to pay for living expenses, meet mortgage repayments in respect of the Edgecliff Property and Dover Heights Property or to purchase property in the name of Maliver or Ms Caddick. Investor Funds were also transferred to other bank accounts controlled by Ms Caddick. The frequent transfers between such accounts mean that Investor Funds have been intermingled within a number of accounts, which has caused difficulty in determining what particular amounts advanced by Investors were ultimately used for. It is my opinion that the extent of the intermingling of funds supports the conclusions in

the Receivers' Report and Provisional Liquidators' Report that Ms Caddick treated the financial affairs of Maliver and her personal financial affairs as one.

41. Later in this affidavit, I analyse in more detail the funds used to purchase specific items of property after October 2012. This analysis has been conducted by me by examining relevant bank accounts to identify the source of funds used to purchase those items of property. This analysis involved looking at the deposit or deposits made into the bank accounts immediately before particular payments for property or particular bank transfers were made. Where I indicate that the source of a particular payment is a particular deposit or deposits into a bank account, I simply mean that those deposits were made immediately before the payment or bank transfer was made. This does not mean, except where I expressly state otherwise, that there were no other funds in the bank account from which the payment was made before the deposits I refer to. In many cases, the bank accounts from which certain payments were made had funds in them immediately prior to the deposits referred to. As stated above in many cases funds obtained from different Investors were intermingled as they were transferred between different accounts controlled by Ms Caddick and used to purchase shares or other assets which were then sold and their proceeds also transferred between accounts.
42. An example of what I refer to in the preceding paragraph can be found in the analyses at paragraphs 185 - 193, 229 - 232. The commentary at those paragraphs relates to my tracing of the cheque from the sale of Ms Caddick's Parents' property that was deposited into the Caddick NAB Primary Account on 7 April 2017. There was \$37,359.86 in this account prior to the deposit and an additional \$80,000 deposited on the same day. The funds in the account were then used to pay various living expenses, as set out in the table at paragraph 191, including the payment of \$300,000 to Canturi to purchase a diamond ring on \$280,000 and then \$350,000 to the MC Home Loan on 13 April 2007 (which amount was subsequently redrawn).
43. Tracing the source of funds used to purchase the real property referred to in this affidavit has been a slightly less complicated task than tracing the source of funds used to purchase the shares held by Ms Caddick given the amounts involved and also the fact that real property was not traded (that is bought and sold) in the way the shares purchased by Ms Caddick were.
44. I note that under the regime proposed in ASIC's FAOP, if Mr Soire and I were appointed Final Receivers of the property of Ms Caddick and Maliver purchased with



Investor Funds, Interested Parties (as defined in the FAOP) would be permitted to object to the sale of particular items of property and if any objections were received Mr Soire and I would be required to apply to the Court to seek directions prior to any sale of particular items of property objected to.

45. In addition, it is proposed that the distribution of the sale proceeds to Out-of-Pocket Investors would be subject to a further application for directions by Mr Soire and I. It is at these stages, when Mr Soire and I would be required to bring particular issues before the Court, that I would be providing further details regarding the methodology used in the tracing referred to in this affidavit as may be required;

INVESTORS AND INVESTOR FUNDS

46. My investigations confirmed that a number of individuals, companies or SMSFs had advanced money to Ms Caddick, and then Maliver following its incorporation, for the purpose of those funds being invested in their names, predominantly in shares, to generate financial returns. However, that money was not so invested, but was instead used to meet the personal expenses of Ms Caddick and purchase assets in her name, as set out in the Reports and this affidavit. I refer to the individuals, companies or SMSFs that advanced money to Ms Caddick or Maliver in this context as Investors.
47. From my review of the books and records of Maliver and Ms Caddick I observed that Investors were regularly provided with documents titled "Share Portfolio Statements" which indicated that there were shares held in CommSec Accounts in the respective Investors' names when this was not the case.
48. The file note which is Annexure A to the Receivers' Report sets out my findings regarding the typical steps involved in an Investor paying money to Maliver.
49. Paragraph 4.68 (page 33) of the Receivers' Report states:

"As noted in Annexure "I" of this Report, Investors invested a total amount of \$29,461,386 and have received payments of \$7,343,550 and therefore our preliminary analysis is that Investors are owed \$23,536,021 and is subject to our comments made above. This amount includes known management fees of \$490,547 paid by Investors to the Company on their fictitious investments and further management fees may be identified which may increase the overall pool of creditor claims. The amount does not

include amounts which may be owed to [REDACTED] and his parents or unknown Investors."

50. As noted above, since the completion of the Reports, I have done further work to identify Investors and Investor Funds. This further work has included:
- (a) reviewing further documents obtained from Investors;
 - (b) analysing bank statements;
 - (c) reviewing further documents obtained from ASIC;
 - (d) reviewing Ms Caddick's correspondence with Investors;
 - (e) discussions with Investors;
 - (f) undertaking a reconciliation of Investor email communications with bank transactions and bank statements;
 - (g) discussions with investigators at ASIC.
51. Since 15 February 2021 my team and I have prepared a further detailed excel spreadsheet which updates the Investor information contained in Annexure I of the Receivers' Report referred to at [6.6] to [6.8] of the report.
52. The Updated Annexure I (**Updated Annexure I**) [**MAL.1081.0018.0005**] is at Tab 8 of Exhibit BG-1. The bank statements that have been relied upon to prepare the Updated Annexure "I" are marked with barcodes within the following range inclusively [**MAL.0040.0001.0001**] to [**MAL.0040.0001.0767**] are at Tabs 9 to 267 of Exhibit BG-1.
53. The Updated Annexure I includes identification of:
- (a) Investors who contributed funds for investment with Ms Caddick or Maliver;
 - (b) Whether such Investors, invested as individuals, companies or through a SMSF;
 - (c) The money paid by Investors, including purportedly for management fees;
 - (d) The dates the Investor Funds were paid to Ms Caddick or Maliver;



- (e) The bank accounts into which the Investor Funds were paid;
- (f) The amounts returned (if any) to Investors by Ms Caddick or Maliver.
54. The rows identified in red on the Updated Annexure I indicate information relating to Investors who paid money to Ms Caddick prior to the incorporation of Maliver. Those funds were paid into the Grimley Citibank Account, Caddick NAB Primary Account or Cadley Consulting Credit Card (and I set out my tracing of funds in respect of the Grimley Citibank Account below at paragraphs 68 - 79).
55. Paragraph 2.21 (page 8) of the Receivers' Report states:
- "While our investigations into all transactions concerning the Company, Ms Caddick and all Investors have not yet been completed, our preliminary finding is that Investor Funds were always deposited into bank accounts held in the name of the Company or Ms Caddick."*
56. My further investigations have revealed that Investor Funds of \$30,195,674 were paid by Investors directly into the following accounts, during the period 2 August 2011 to 11 November 2020:
- (a) Grimley Citibank Account - \$1,135,000;
- (b) Caddick CDIA - \$549,000;
- (c) Caddick NAB Primary Account - \$70,000;
- (d) Cadley Consulting credit card - \$32,988. Ms Caddick and [REDACTED] were the directors and shareholders of a company called Cadley Consulting Pty Ltd and one of the Investors paid an amount into a Cadley Consulting Credit Card account;
- (e) Caddick SMSF - \$450,000. The funds deposited into this bank account were subsequently transferred into the Caddick NAB Primary Account;
- (f) Maliver CDIA - \$7,360,286;
- (g) Maliver NAB Primary Account - \$20,598,300;
- (h) Unknown - \$100.

57. In summary, the Updated Annexure I shows that during the period 2 August 2011 to 11 November 2020:
- (a) Investors advanced a total amount of \$30,195,674 to Caddick or Maliver for investment purposes;
 - (b) Investors also advanced an amount of \$501,784 regarding management fees charged by Maliver based on the Investor's purported portfolio value;
 - (c) Investors received repayments of \$8,526,787;
 - (d) Of such amount noted above in paragraph 57(c), an amount of \$1,419,450 was paid to certain Investors over and above their total investment (i.e. they received a profit on their total investment). In Updated Annexure I, these Investors have been noted as having a nil claim and therefore have not been included in the total amount owing to Out-of-Pocket Investors below.
 - (e) Of such amount noted above in paragraph 57(b), an amount of \$35,200 was paid by the Investors who are not Out-of-Pocket Investors (i.e. they received a profit on their total investment). In Updated Annexure I, these Investors have been noted as having a nil claim and therefore have not been included in the total amount owing to Out-of-Pocket Investors below.
 - (f) After deducting amounts paid back to Investors (excluding the profit elements mentioned in paragraph 57(d) and 57(e), Investors still owed money (that is 'Out-of-Pocket Investors') total \$23,554,921.
58. Paragraph 4.6 of the Receivers' Report sets out a number of accounts held in the name of SMSFs of which Ms Caddick and another Investor were joint trustees. An updated list of these accounts (**SMSF Account List**) [**MAL.1088.0001.0004**] is at Tab 268 of Exhibit BG-1. Ms Caddick was named as a trustee together with the named Investor of each SMSF listed in the SMSF Account List.
59. All of the accounts were held in the name of Ms Caddick and the Investor as trustee for the SMSF, other than the one marked with *. Ms Caddick is a signatory to these accounts together with the Investor.
60. The Investors in whose names these accounts were held deposited funds into their respective accounts. On occasions funds would be transferred from these accounts for

them to be invested in shares by Ms Caddick / Maliver on behalf of the Investor and it is these amounts, rather than the total amounts deposited to the accounts, that have been included as Investor Funds in Updated Annexure I. If these accounts contain only funds deposited by the Investors in whose name the accounts are held, the funds will need to be returned to these Investors.

61. The results of my initial investigations indicate to me that some of these bank accounts contain other Investor Funds than the funds of that particular Investor in whose name the account is held, as funds were transferred in and out of these bank accounts. I will need to conduct further investigations to determine whether the funds in the accounts should be returned to the Investors in whose names the accounts are held or should be dealt with in a different way. This may need to be the subject of a further application by me for directions.

OTHER SOURCES OF FUNDS

62. As stated at paragraphs 17 - 24 above as part of my investigations, I sought to determine whether Ms Caddick or Maliver had any other funds available to them other than Investor Funds from October 2012. Paragraphs 25 - 36 above summarise my findings.
63. I provide further details regarding these findings in respect of the Kensington Property and the money received from Hock Your Frocks in this section of my affidavit.

Money from the sale of the Kensington Property

64. I have concluded, as set out below, that Investor Funds were used by Ms Caddick to:
- (a) Pay to [REDACTED] a total amount of \$402,000 pursuant to Ms Caddick's obligations under the BFA (referred to below). The effect of the total payments to [REDACTED] was that Ms Caddick was entitled to 100% of the Kensington Property when she was previously only entitled to 50%; and
- (b) Pay \$133,051.15 towards the ANZ Loan taken out to purchase the property. The effect of these payments was to increase the net proceeds received by Ms Caddick when the Kensington Property was ultimately sold.
65. I have also concluded that the net proceeds from the sale of the Kensington Property in April 2014 of \$430,572.81 were used to pay for living expenses, credit card debts and

pay for purchases of shares in Ms Caddick's personal name which have since been disposed of.

Purchase of Kensington Property by A Caddick and M Caddick in June 2009

66. The transfer form for the Kensington Property shows that it was purchased in the name of [REDACTED] Ms Caddick as joint tenants on or around 18 June 2009 for \$1,562,500. A copy of the transfer form [**MAL.1081.0003.0984**] is at Tab 269 of Exhibit BG-1.
67. The ANZ loan approval document obtained from Hunt and Hunt indicated that the loan taken out to purchase the Kensington Property was for \$1.2 million, interest only for five (5) years. A copy of the loan approval [**MAL.1081.0003.0985**] is at Tab 270 of Exhibit BG-1.

Transfer of [REDACTED] interest in the Kensington Property to Ms Caddick in 2012

68. [REDACTED] and Ms Caddick entered into a BFA pursuant to Section 90C of the Family Law Act dated 25 January 2013. A copy of this agreement which I obtained from [REDACTED] [**MAL.1081.0003.0987**], is at Tab 271 of Exhibit BG-1.
69. The BFA indicates that [REDACTED] and Ms Caddick separated on or around 26 January 2012.
70. Under the BFA, Ms Caddick was to pay [REDACTED] \$402,000 for the transfer of assets to Ms Caddick, including the transfer of 100% of the Kensington Property to her, as follows:
- (a) \$50,000 pursuant to clause 26.2.2 as required by him in writing;
 - (b) \$50,000 on or before 60 days after the instalment referred to above;
 - (c) \$50,000 on or before 90 days after the next instalment referred to above;
 - (d) \$50,000 on or before 90 days after the next instalment; and
 - (e) \$202,000 on or before 9 months after the BFA.




71. Following the entry into the BFA, the parties executed a transfer form to transfer [REDACTED] interest in the Kensington Property to Ms Caddick. A copy of this transfer form [**MAL.1081.0010.0472**] is at Tab 272 of Exhibit BG-1.
72. Investor Funds were paid into the Grimley Citibank Account from 21 December 2012 (as set out in paragraph 76 below) and were transferred to the Caddick NAB Primary Account to make the payments totaling \$402,000 to [REDACTED] under the BFA between 27 February 2013 and 28 October 2013. The payments made under the BFA from the Caddick NAB Primary Account are shown in [**MAL.1081.0003.1009**] at Tab 273 of Exhibit BG-1 and detailed in the table below:

Date	Amount transferred (\$)	Narration	Pages
27/02/2013	50,000	000808	.1011
17/04/2013	50,000	Internet Transfer consulting	.1014
19/07/2013	50,000	000815	.1018
28/10/2013	252,000	000820	.1023
Total	402,000		

73. The Grimley Citibank Account statements showing these transfers to Caddick NAB Primary Account appear [**MAL.1081.0003.1026**] are at Tab 274 of Exhibit BG-1.
74. [REDACTED] and Ms Caddick were signatories to the Grimley Citibank Account as shown in the document [**MAL.1005.0001.0004**] at Tab 275 of Exhibit BG-1, on page .0007 and .0012 to .0013.
75. The source of the funds in the Grimley Citibank Account were as follows:
- \$60,000 was transferred to the account between July 2012 to September 2012 from [REDACTED]
 - approximately \$57,500 of the funds referred to in sub-paragraph (a) were used to meet Ms Caddick's living expenses;
 - on 16 October 2012, a deposit of \$100,000 was made into the account which I have identified as being paid by an Investor, the Katherine Horn SMSF. Prior to this deposit the balance of the Grimley Citibank Account was \$2,442.18 (the balance of the Caddick NAB Primary Account was \$375.24 on the same date);

- (d) between 16 October 2012 to the date the BFA was signed, being 25 January 2013, deposits of Investor Funds totalling \$305,987.60 were made into the Grimley Citibank Account and Cadley Consulting Credit Card. No other deposits were made into the Grimley Citibank Account during this period apart from a deposit of \$18,000 by [REDACTED] on 5 November 2012;
- (e) the balance of the Grimley Citibank Account as at 25 January 2013 was \$103,318.85 and was not disclosed in the BFA as assets of Ms Caddick;
- (f) from 16 October 2012 to 13 April 2015, the Grimley Citibank Account received deposits from Investors totalling \$1,135,000 and after this no further deposits from Investors were received into this account;

A copy of the bank statements showing these deposits are referred to at paragraph 39(b).

76. A summary of the deposits made by Investors to the Grimley Citibank Account referred to in paragraph 75(f) above are detailed in the table below:

Date	Amount (\$)	Pages
16/10/2012	100,000.00	.0015
16/11/2012	33,000.00	.0021
21/12/2012	140,000.00	.0026
14/02/2013	27,000.00	.0032
15/03/2013	77,000.00	.0038
3/04/2013	75,000.00	.0042
20/05/2013	25,000.00	.0048
12/06/2013	20,000.00	.0052
1/07/2013	320,000.00	.0056
29/07/2013	70,000.00	.0059
23/10/2013	20,000.00	.0071
29/01/2014	150,000.00	.0085
25/03/2014	20,000.00	.0093
28/05/2014	8,000.00	.0098
13/04/2015	50,000.00	.0117
Total	1,135,000.00	

77. A summary spreadsheet of the major deposits into and withdrawals from the Grimley Citibank Account, prepared by Jones Partners staff under my direction and supervision [MAL.1081.0003.1131] is at Tab 276 of Exhibit BG-1.

78. In telephone discussions I had with [REDACTED] on 8 and 10 March 2021, [REDACTED] said to me that the Grimley Citibank Account was set up to assist Ms Caddick by providing her funds while she was finalising the BFA with [REDACTED] so that she could meet her living and legal expenses. [REDACTED] said that he had never spent any money in the account, did not have internet access to the account and the statements were not sent to his address. A copy of the notes of my telephone discussion with [REDACTED] on 8 March 2021 [**MAL.1081.0009.0006**] is at Tab 277 of Exhibit BG-1. A copy of the notes of my telephone discussion with [REDACTED] on 10 March 2021 [**MAL.1081.0010.0254**] is at Tab 278 of Exhibit BG-1.
79. Between 31 December 2012 to 11 September 2014, total payments of \$133,051.15 were made from the Grimley Citibank Account to the ANZ Loan. A copy of the Grimley Citibank Account statements showing these payments [**MAL.1081.0010.0003**] are at Tab 279 of Exhibit BG-1. Details of these payments are set out in the table below:

Date	Amount (\$)	Page
22/11/2012	6,300.00	.0022
31/12/2012	6,500.00	.0026
7/01/2013	500.00	.0028
11/01/2013	6,300.00	.0028
7/02/2013	500.00	.0032
12/02/2013	6,300.00	.0032
28/02/2013	2,231.15	.0035
21/03/2013	4,400.00	.0038
26/03/2013	6,900.00	.0039
26/04/2013	6,900.00	.0044
24/05/2013	6,900.00	.0049
6/06/2013	3,500.00	.0052
26/06/2013	6,900.00	.0054
5/07/2013	4,000.00	.0056
10/07/2013	820.00	.0057
26/07/2013	6,900.00	.0059
26/08/2013	6,900.00	.0064
26/09/2013	6,900.00	.0068
7/10/2013	5,000.00	.0070
25/10/2013	6,900.00	.0072
26/11/2013	5,500.00	.0077
23/12/2013	3,000.00	.0082
24/12/2013	5,500.00	.0082
24/01/2014	5,500.00	.0085
26/02/2014	5,500.00	.0089

26/03/2014	5,500.00	.0093
11/09/2014	1,000.00	.0104
Total	133,051.15	

Transfer of 1% Interest in Kensington Property to [REDACTED] in March 2014

80. On or around 26 March 2014, Ms Caddick executed the transfer form to transfer a 1% interest in the Kensington Property to [REDACTED]. A copy of this transfer form [**MAL.1081.0003.1136**] is at Tab 280 of Exhibit BG-1. As a result, [REDACTED] owned 1% and Ms Caddick owned 99% of the Kensington Property as tenants in common.
81. I have not sighted any documents or identified any deposits into Ms Caddick's bank accounts which indicate consideration being paid by [REDACTED] for the transfer.

Sale of Kensington Property in April 2014

82. On 9 April 2014, the Kensington Property was sold for \$1.67 million.
83. The net proceeds from the sale of the Kensington Property excluding agent's commission and expenses were paid as follows:
- (a) \$1,201,901.06 to the ANZ Loan;
 - (b) \$382,635.40 to the Caddick NAB Primary Account on 9 April 2014;
 - (c) \$47,372.50 to the Caddick NAB Primary Account on 10 April 2014 (from the deposit held by the real estate agent who acted on the sale, net of agent's commission and expenses);
 - (d) \$564.91 to the Caddick NAB Primary Account on 14 April 2014.
84. This is shown by the settlement statement, obtained from Hunt and Hunt. A copy of the settlement statement [**MAL.1081.0003.1137**] is at Tab 281 Exhibit BG-1, and the bank statements for the Caddick NAB Primary Account [**MAL.1081.0003.1138**] are at Tabs 282 of Exhibit BG-1.
85. As detailed at paragraphs 83 - 84, the total funds paid into the Caddick NAB Primary Account from the sale of the Kensington Property were \$430,572.81. The balance of Caddick NAB Primary Account prior to the first payment made to Ms Caddick of

\$382,635.40 on 9 April 2014 was \$1,792.14. The balance of the account appears on page .1139 of the abovementioned bank statements.

86. Following the receipt of the proceeds of the sale of the Kensington Property into the Caddick NAB Primary Account, as shown in the Caddick NAB Primary Account bank statements referenced in paragraph 84, various amounts were paid out of the account and are detailed below:

Date	Payee	Particulars	Amount (\$)	Pages
11/04/2014	██████████	Transfer to ██████████	1,200.00	.1139
11/04/2014	Melissa Caddick	Caddick Credit Card 0053	10,600.00	.1139
11/04/2014	Unknown	Transfer	20,000.00	.1139
11/04/2014	Melissa Caddick	Caddick Credit Card 0053	30,000.00	.1139
11/04/2014	Unknown	Unknown	1,000.00	.1139
11/04/2014	Suncorp	Living Expenses	194.45	.1139
11/04/2014	Melissa Caddick	Caddick CDIA	340,035.00	.1139
14/04/2014	Cash Withdrawal	Cash Withdrawal	502.50	.1139
17/04/2014	Melissa Caddick	Caddick Credit Card 0053	2,000.00	.1139
17/04/2014	Unknown	Unknown	10,000.00	.1139
17/04/2014	EFTPOS	Living Expenses	161.50	.1140
17/04/2014	EFTPOS	Living Expenses	166.00	.1140
22/04/2014	SDRO	Fines	106.00	.1140
22/04/2014	EFTPOS	Living Expenses	23.80	.1140
29/04/2014	██████████	Transfer to ██████████	1,000.00	.1140
29 /04/2014	American Express	AMEX	12,306.00	.1140
29/04/2014	EFTPOS	Living Expenses	161.50	.1140
30/04/2014	EFTPOS	Living Expenses	134.99	.1140
30/04/2014	Cash withdrawal	Cash Withdrawal	202.00	.1140
30/04/2014	Cheque number 000833	Unknown	10,000.00	.1140

87. Following the transfer to the Caddick CDIA of the \$340,035, in the above table, the amounts listed in the table below were used to settle previous share transactions in the Caddick CommSec Account, the transactions below are shown in the Caddick CDIA statements [**MAL.1081.0003.1143**] at Tab 283 of Exhibit BG-1.

Date	Amount (\$)	Pages
16/04/2014	99,360.39	.1146
17/04/2014	64,609.80	.1146
23/04/2014	119,630.23	.1146
30/04/2014	47,409.75	.1146
Total	331,010.17	

88. On 30 April 2014, \$11,000 was then transferred back from Caddick CDIA to the Caddick NAB Primary Account. A copy of the NAB bank statement showing this transaction is referred to in paragraph 84. The transaction occurs on page .1140.
89. The transfers to the Caddick CDIA are not readily reconcilable to any share purchases as the account was in debit (that is the transfers funded the deficiencies in the share account). This is shown in the Transaction Listing for Caddick Commsec Account provided by Commsec for the period 30 July 2013 to 2 December 2020 [**MAL.1081.0003.1148**] at Tab 284 of Exhibit BG-1. The exception is the last payment on 30 April 2014 which is reconcilable to the following share purchases:

Units	ASX Code	Price per Share (\$)	Amount (\$)	Pages
100,000	IPT	0.33	3,319.95	.1193
5,000	ILU	8.80	44,099.75	.1193

90. The transaction listing for the Caddick CommSec Account referred to in the paragraph above details all:
- (a) Purchases of shares;
 - (b) Sales of shares;
 - (c) Deposits of funds; and
 - (d) Withdrawals of funds.
91. Ms Caddick made share purchases on a rolling basis and therefore it is not possible to identify when the above parcel was sold. That is, Ms Caddick already had shares in IPT and ILU and continually purchased and sold parcels which were not reconcilable to the above shares. These shares are not part of the current portfolio of shares held by




Ms Caddick at the date of my appointment. A copy of Ms Caddick's current share portfolio holdings as at 30 March 2021 is at [**MAL.1081.0010.0478**] at Tab 285 of Exhibit BG-1.

Money Received from Hock Your Frocks

92. My investigations identified that between the period 4 December 2019 to 3 November 2020 Ms Caddick received deposits totalling \$35,195.50 from "Hock Your Frocks" into the Caddick NAB Primary Account.
93. The deposits received from Hock Your Frocks are shown in the Caddick NAB Primary Account bank statements for the following periods:
- (a) 11 September 2019 to 11 December 2019 [**MAL.1086.0001.3137**] at Tab 286 of Exhibit BG-1; and
- (b) 11 December 2019 to 30 December 2020 [**MAL.1081.0004.0051**] at Tab 287 of Exhibit BG-1.
94. The deposits received by Ms Caddick from Hock Your Frocks referred to paragraph 92 in the Caddick NAB Primary Account are detailed in the table below:



#	Date	Description	Amount (\$)	Pages
1	4/12/2019	3PW*FROC Tru Nov Pay Hyf Nov Sales Caddick	10,283.50	.3140
2	18/12/2019	3PW*FROC Tru Dec Frock Hock Dec Sales Caddick	3,202.50	.0052
3	4/03/2020	3PW*FROC Tru Feb Sales Hyf Feb Sales Caddick	8,220.50	.0053
4	3/04/2020	3PW*FROC Tru March Sales Hyf March Sales Caddick	5,033.00	.0056
5	8/05/2020	3PW*FROC Tru April Sales Hyf April Sales Caddick	1,080.80	.0057
7	5/06/2020	Hock Your Frocks Pty May Sales Caddick May Sales Hyf	3,145.80	.0057
8	1/07/2020	TFR Credit NPP	2,272.90	.0060
9	5/10/2020	Internet Transfer	629.30	.0064
10	3/11/2020	Internet Transfer	1,327.20	.0064
Total			35,195.50	

95. Hock Your Frocks is a reseller of pre-used luxury goods on consignment. Ms Caddick used Hock Your Frocks to resell her used luxury goods.
96. As detailed in paragraph [4.17] of the Receivers' Report an amount of \$1,887.90 from Hock Your Frocks being monies held on account of Ms Caddick was received. For the purposes of this affidavit this amount has been excluded from the \$35,195.50 being the total amount deposited into the Caddick NAB Primary Account.
97. I do not have any tax invoices or receipts regarding the luxury goods which were sold to determine when they were purchased or whether they were purchased with Investor Funds. However, given the costs of further investigating this and that the funds paid by Hock Your Frocks were depleted prior to my appointment, it is unlikely to be worthwhile. Further, the funds in the Caddick NAB Primary Account, which is the account to which the Hock Your Frocks proceeds were paid, have been depleted from payments made to the representative of the First Defendant for living expenses pursuant to the Court Orders made on 17 December 2020.

FURTHER TRACING IN RELATION TO THE ASSETS

98. As noted above at paragraphs 13 to 15, since 15 February 2021, I have undertaken further analysis regarding the tracing of money used for the purchase of assets by the first and second defendants. I will set out that further analysis below in relation to:

- (a) the CommSec Share Trading Accounts referred to in paragraph 4.18 of the Receivers' Report (Shares);
- (b) the Dover Heights Property;
- (c) the Edgecliff Property;
- (d) the Audi;
- (e) the Mercedes-Benz;
- (f) the property held within the Caddick Services Trust including the entitlement to funds held in the Caddick Services Account referred to in [4.4] of the Receivers' Report;
- (g) the jewellery purchased using Investor Funds.

99. In undertaking this task I took into account the fact that:

- (a) the first deposit of Investor Funds to accounts controlled by Ms Caddick or Maliver occurred on 16 October 2012;
- (b) apart from the funds detailed in paragraph 25 of this affidavit, I am not aware of any other funds or income that Ms Caddick or Maliver had after 16 October 2012 with which to acquire the assets;
- (c) my investigations have revealed that Investor Funds were transferred and intermingled between bank accounts controlled by Ms Caddick and Maliver and since 16 October 2012 the bank accounts of Ms Caddick and Maliver contained Investor Funds.

100. It is only assets purchased after 16 October 2012 that I have considered to be assets purchased with Investor Funds. In investigating the source of funds used to purchase these assets, I reviewed the funds deposited into an account immediately prior to the payment of the purchase price of the asset from the account. These deposits were frequently transferred from other bank accounts controlled by Ms Caddick and Maliver.

101. Where my tracing determined that the purchase of assets immediately followed deposits by Investors for at least to the purchase price of an asset, I concluded that Investor Funds were used to acquire those assets.

102. Where my tracing determined that the other funds referred to in paragraph 25 were deposited into the account prior to a payment being made for the purchase of an asset I have noted this.
103. Where these tracing exercises were not possible because the Investor Funds and / or other sources of funds had been significantly intermingled in the accounts from which the payments were made, I relied on my general premise that Ms Caddick and Maliver did not have any other funds or income after 16 October 2012 to pay for such assets, other than those identified in paragraph 25.
104. As noted in paragraphs 28 - 29 where I conclude in this affidavit that assets have been purchased with Investor Funds, I note that since 7 April 2017, those assets could also have been purchased with the funds advanced by Ms Caddick's Parents and I draw particular conclusions regarding that from the tracing I have undertaken as set out in paragraph 28.

THE SHARES – COMMSEC TRADING ACCOUNTS

105. Paragraph [4.18] of the Receivers' Report refers to CommSec Share trading accounts established for the purchase of Australian and American listed shares. Since the date of the Reports, further tracing has been undertaken in respect of these accounts, which I set out below.

Caddick CommSec Account

106. The Caddick CommSec Account was established in the name of Melissa Caddick on 12 March 2013. A copy of the account set up form completed by Ms Caddick obtained from CommSec [**MAL.1081.0003.0631**] is at Tab 288 of Exhibit BG-1.
107. As at 10 February 2021, there were shares with a market value of approximately \$3,862,903 in the Caddick CommSec Account, as shown in the Receivers' Report at paragraph 4.18. The market value of the shares is determined by the multiplying the number of shares held by its current market price as listed on the Australian Stock Exchange.
108. The Caddick CommSec Account is linked to only one bank account being the Caddick CDIA.



109. The Caddick CDIA was opened on 12 March 2013 [**MAL.1081.0014.0003**] at Tab 289 of Exhibit BG-1 and the first deposit into the account was on 17 July 2013. The deposit on 17 July 2013 was for \$120,000 from the Grimley Citibank Account. The opening balance and first deposit is shown on the Caddick CDIA statement from 13 July 2013 to 12 August 2013 [**MAL.1014.0001.0072**] at Tab 290 of Exhibit BG-1, on page .0072.
110. Prior to this transfer an Investor, [REDACTED], deposited the sum of \$320,000 into the Grimley Citibank Account on 1 July 2013, the balance of the account at the time of the deposit was \$151.99. The balance of these funds were still in the Grimley Citibank Account at the time of the transfer of \$120,000 to Caddick CDIA on 17 July 2013 and therefore at that time, the Caddick CDIA contained Investor Funds. The deposit of \$320,000 appears on the Grimley Citibank Account statement for the period 29 June 2013 to 31 July 2013 [**MAL.0040.0001.0688**] at Tab 291 of Exhibit BG-1, on page .0689, and the transfer to the Caddick CDIA on 17 July 2013 is shown on the statement at page .0691.
111. The first purchase of shares in the Caddick CommSec Account occurred on 30 July 2013 totalling \$9,269.95. The first deposit into the Caddick CommSec Account was on 2 August 2013 totalling \$18,487.34, being deposited from the Caddick CDIA account. The Caddick CDIA account had an opening balance of \$120,135.62 on 1 August 2013, being a result of the deposit made on 17 July 2013 detailed in paragraph 110. The deposit of \$18,487.34 was used to pay for the shares purchased on 30 July 2013. These transactions are shown on the Caddick CommSec Account statement referred to in paragraph 89 and occurs on page .1196.
112. All deposits of funds into the Caddick CommSec Account were from the Caddick CDIA. These totalled \$22,735,445.37.
113. All withdrawals of funds from the Caddick CommSec Account were paid to Caddick CDIA. These withdrawals totalled \$18,021,148.27.

International Caddick CommSec Account

114. The International Caddick CommSec Account was opened on 29 June 2015. The account set up form completed by Ms Caddick [**MAL.1081.0003.0685**] is at Tab 292 of Exhibit BG-1.



115. As at 11 February 2021, Melissa Caddick's International CommSec Account with the account number [REDACTED], held shares with an approximate total market value of USD\$710,201.95. The share market values are shown in the Account portfolio [**MAL.1081.0012.0067**] at Tab 293 of Exhibit BG-1. At this date, the spot rate was 1.289643681 from US to AUD as shown [**MAL.1081.0014.0004**] at Tab 294 of Exhibit BG-1. Therefore, the total market value of the shares at this date was AUD\$912,907.46.
116. Copies of all share statements since the establishment of the International Caddick CommSec Account [**MAL.1081.0003.0690**] are at Tab 295 of Exhibit BG-1.
117. A listing of all transfers into the International Caddick CommSec Account from the Caddick CDIA. This was the only account from which deposits were made into the International Caddick CommSec Account. The total amount transferred was AUD\$467,500. A copy of the listing prepared by Jones Partners staff under my direction [**MAL.1081.0010.0480**] is at Tab 296 of Exhibit BG-1.

My conclusion regarding funds used to purchase shares in the Caddick CommSec Account and International Caddick CommSec Account

118. As set out in earlier in this affidavit, I have concluded that from October 2012, that is prior to July 2013 when the first deposit was made into the Caddick CDIA, Ms Caddick had no other significant source of funds from which she could acquire the shares currently held in the Caddick CommSec Account or the International Caddick CommSec Account other than Investor Funds paid directly to her or through the Grimley Citibank account or transferred from Maliver. Maliver did not have any other sources of funds apart from the Investor Funds paid to it.

DOVER HEIGHTS PROPERTY

119. This part of my affidavit addresses the tracing undertaken in relation to the funds used to purchase the Dover Heights Property and make the repayments on the loan taken out to purchase it. The tracing analysis is divided up by reference to deposit funds, settlement funds and loan repayments.

\$600,000 Deposit from Caddick NAB Primary Account

120. The contract for sale dated 4 April 2014, shows a purchase price of \$6,200,000 for the Dover Heights Property with a deposit of \$600,000. The contract for sale lists the purchasers as Melissa Louise Caddick and [REDACTED] and provided for a four (4) month settlement period from the date of the contract being 4 April 2014. A copy of the contract for sale [**MAL.1081.0003.0490**] is at Tab 297 of Exhibit BG-1.
121. A copy of the transfer dated 22 August 2014 [**MAL.1081.0003.0491**] is at Tab 298 of Exhibit BG-1, showing that the property is to be held as tenants in common with 99% interest to Melissa Louise Caddick and 1% to [REDACTED].
122. As noted in paragraph 4.25 of the Receivers' Report [REDACTED] advised me that he was only listed as a 1% registered owner on the Dover Heights Property to assist Ms Caddick in obtaining finance.
123. In a voluntary interview with Mr Michael Hayter and myself dated 20 January 2021, [REDACTED] advised that he would not be making any claim to the Dover Heights Property which was purchased on behalf of Ms Caddick. A scanned copy of my handwritten notes from the interview with [REDACTED] dated 20 January 2021 [**MAL.1081.0012.0068**] is at Tab 299 of Exhibit BG-1, on page .0070 to .0076. A copy of Mr Michael Hayter's typed summary of the discussion points from the interview [**MAL.1081.0012.0083**] is at Tab 300 of Exhibit BG-1.
124. An amount of \$600,000 was withdrawn from Caddick NAB Primary Account on 7 April 2014 on page 1139 of the bank statement referred to in paragraph 84. Trace results confirm that this withdrawal was a cheque payable to Pillinger Sales Trust. A copy of the cheque [**MAL.1081.0003.0544**] is at Tab 301 of Exhibit BG-1, at page .0546. Pillinger Real Estate was the vendor's agent for the sale of the Dover Heights Property to Ms Caddick.
125. The balance of Caddick NAB Primary immediately prior to the withdrawal was \$601,792.14. The \$600,000 paid from the Caddick NAB Primary was preceded by two deposits of \$180,000 (narration "*Internet Transfer Comsec Share Purch*") and \$400,000 (narration "*RTGS (CBA-01165) Melissa Louise Caddick Rose Bay*") made into the account on 4 April 2014, as shown in [**MAL.1081.0002.0084**] at Tab 302 of Exhibit BG-1 on page .0085.

\$180,000 Deposit into Caddick NAB Primary Account

126. The deposit of \$180,000 was paid on 4 April 2014 and came from the Maliver NAB Secondary Account. The balance of the Maliver NAB Secondary Account, immediately preceding the transfer to Caddick NAB Primary Account on 4 April 2014 was \$188,492.56, this transaction is shown in [**MAL.1081.0003.0497**] at Tab 303 of Exhibit BG-1.
127. In the days prior to the payment from Maliver NAB Secondary Account referred to above, an amount of \$160,000 was transferred from the Maliver NAB Primary Account to the Maliver NAB Secondary Account on 31 March 2014 the statement is [**MAL.1081.0015.0003**] at Tab 304 of Exhibit BG-1. This transaction is shown in the NAB Primary Account bank statement [**MAL.1081.0003.0498**], at Tab 305 of Exhibit BG-1, on page .0499.
128. On 31 March 2014, immediately prior to the transfer of funds from Maliver NAB Primary Account to the Maliver NAB Secondary Account, the balance was \$190,380.03.
129. The balance of the Maliver NAB Primary Account referred to in the above paragraph partially consisted of a deposit of \$150,000 into the Maliver NAB Primary Account on 27 March 2014 with the narration "*Cheques Deposit*". Trace results show that the deposit of \$150,000 came from [REDACTED]. These are known Investors who invested with Maliver. A copy of the bank statement showing this deposit is referred to in paragraph 127 and the deposit occurs on page .0498. A copy of the trace results [**MAL.1081.0003.0538**] is at Tab 306 of Exhibit BG-1 on page .0540.

\$400,000 Deposit into NAB Primary Account

130. The amount of \$400,000 deposited into the Caddick NAB Primary Account on 4 April 2014 came from a withdrawal of \$400,030 from the Caddick CDIA. The deposit is shown in the NAB Primary Account Statement referred to in paragraph 84.
131. The withdrawal of \$400,030 is shown in the Caddick CDIA account statement [**MAL.1081.0003.0500**] at Tab 307 of Exhibit BG-1, on page .0500. The \$30 was deducted by CBA as a bank fee. As shown on the Caddick CDIA account statement the account had an opening balance of \$407,321.20.



132. A screenshot of the transaction listing for the Caddick CommSec Account shows the sale of shares and transfer of \$395,140.15 to the Caddick CDIA on 3 April 2014 [**MAL.1081.0003.0502**] is at Tab 308 of Exhibit BG-1.

Additional \$20,000

133. The remaining \$20,000 of the \$600,000 deposit was paid from the Caddick NAB Primary Account. Two deposits of \$7,000 and \$16,358.83 were made to the account on 7 April 2014. These deposits can be identified in the bank statement referred to in paragraph 84, on page .1139
134. The \$7,000 deposit was made from the Caddick Credit Card 0053 in the name of Melissa Caddick. The withdrawal of \$7,000 is shown in the Caddick Credit Card 0053 Account statement [**MAL.1081.0010.0483**] at Tab 309 of Exhibit BG-1, on page .0484.
135. The deposit of \$16,358.83 was made from the Maliver NAB Primary Account. The withdrawal of \$16,358.83 is shown in the Maliver NAB Primary Account bank statement [**MAL.1081.0010.0481**] at Tab 310 of Exhibit BG-1, on page .0481.

Settlement funds

136. The initial drawdown for the purchase of the property was \$4,000,000 from the MC and AG Home Loan and \$1,603,312.48 from Caddick NAB 6844 Account on 5 August 2014 as shown in the loan drawdown document that appears at [**MAL.1081.0003.0503**] (that appears to have been signed by Melissa Louise Caddick and [REDACTED] [REDACTED] on 16 July 2014) at Tab 311 of Exhibit BG-1 and the bank statement at Tab 312 of Exhibit BG-1 [**MAL.1081.0003.0552**], on page .0554.
137. The \$1,603,312.48 from the Caddick NAB 6844 Account was preceded by the following deposits into the Caddick NAB 6844 which were from Caddick NAB Primary Account, as shown in the bank documents [**MAL.1081.0003.0507**] at Tab 313 of Exhibit BG-1:

Date	Amount (\$)	Source of funds	Balance immediately prior to deposit (\$)	Pages
30/07/2014	690,000.00	Caddick NAB Primary Account	10,321.84	.0509
30/07/2014	860,000.00	Caddick NAB Primary Account	700,321.84	.0509
1/08/2014	1,000.00	Caddick NAB Primary Account	1,560,487.31	.0510
1/08/2014	10,000.00	Caddick NAB Primary Account	1,561,487.31	.0510
1/08/2014	32,000.00	Caddick NAB Primary Account	1,571,487.31	.0510

\$690,000 of Settlement Funds

138. On 30 July 2014 \$690,000 was transferred from the Maliver NAB Primary Account with the narration "*Internet Transfer Commsec Share Buy... Maliver*" to the Caddick NAB Primary Account. The account had an opening balance of \$704,094.60 on 30 July 2014. This transaction is shown at [**MAL.1081.0003.0505**] located at Tab 314 of Exhibit BG-1.
139. The \$690,000 paid from the Maliver NAB Primary Account detailed in paragraph 138 was preceded by three cheque deposits of Investor Funds:
- The account had an opening balance of \$13,683.55 prior to the first cheque deposit being made on 17 July 2014 totalling \$565,000.
 - On 24 July 2014 the Maliver NAB Primary Account had an opening account balance of \$560,324.72 prior to the cheque deposit of \$4,680.68 made. This cheque deposit relates to management fees paid by the Wooden Superannuation Fund.
 - The Maliver NAB Primary Account had an opening account balance of \$565,005.40 prior to the second cheque deposit of \$140,000 being made on 28 July 2014.

140. The cheque deposit of \$565,000 was made up of:
- (a) \$50,000 from [REDACTED] is a known Investor who invested with Maliver. As shown at [MAL.1081.0003.0538] located at Tab 315 of Exhibit BG-1, on page .0541;
 - (b) \$465,000 from Westpac Banking Corporation. Based on information provided by the Investor, this amount was provided by [REDACTED] ([REDACTED] being the trustee of the fund with Ms Caddick) [REDACTED] is a known Investor who invested with Maliver, as shown in the document referred to in paragraph 140(a) on page .0541; and
 - (c) \$50,000 from [REDACTED] was a known Investor who invested with Maliver shown in the document referred to in paragraph 140(a), on page .0542.

This is shown in the bank documents referred to in paragraph 138.

141. The deposit of \$140,000 came from [REDACTED] & Melissa Louise Caddick [REDACTED] as shown in the bank documents referred to in paragraph 140(a) on page 0543. [REDACTED] Fund was a known Investor who invested with Maliver.

\$860,000 of Settlement Funds

142. On 29 July 2014 an amount of \$860,000 was withdrawn from the Caddick CDIA and deposited into the Caddick NAB Primary Account, and then was transferred to the Caddick 6844 NAB Account with the narration "[REDACTED] Transfer". After the \$860,000 was paid the balance of the Caddick CDIA was \$10,612.33, a copy of the Caddick CDIA statement [MAL.1081.0003.0513] is located at Tab 316 of Exhibit BG-1. The transaction shown in the Caddick NAB Primary Account statement referred to in paragraph 137 and is located on page .0509.
143. It appears that the source of most of the \$860,000 paid from the Caddick CDIA to the Caddick NAB 6844 Account came from the sale of shares in the Caddick CommSec Account.
144. A screenshot of the transaction listing for the Caddick CommSec Account, showing the sale of shares and transfers of individual amounts of \$74,399.69, \$66,838.68,

\$190,249.15, \$178,846.89 and \$250,584.23, totalling \$760,918.64 between 22 July 2014 and 28 July 2014 to the Caddick CDIA [**MAL.1081.0003.0515**] is at Tab 317 of Exhibit BG-1. The transaction listing was obtained from CommSec as a result of a written request being sent to CommSec, as detailed in paragraph 19.

145. In addition, the following amounts were deposited into the Caddick CDIA:
- (a) \$15,000 on 17 July 2014 with the narration "Chq Dep Branch Rose Bay". A copy of the bank statement showing this deposit is referred to at paragraph 142. A copy of the trace results in [**MAL.1081.0003.0547**] is at Tab 318 of Exhibit BG-1, on page .0548, show that the deposit of \$15,000 came from a cheque from Juli Robertson Superannuation made payable to Melissa Caddick. [REDACTED] is a known Investor. While the cheque was made payable to Melissa Caddick, this Investor received portfolio statements from Maliver.
 - (b) \$100,000 on 23 July 2014 with the narration "Chq Dep Branch Rose Bay". A copy of the bank statement and the trace results are referred to in paragraph 145(a). The deposit of \$100,000 appears on the trace results at page .0549. This deposit came from a cheque from [REDACTED] made payable to Melissa Caddick. [REDACTED] is a known Investor. A copy of a portfolio statement for [REDACTED] with account number [REDACTED] dated 11 August 2014 is [**MAL.2015.0001.0332**] at Tab 319 of Exhibit BG-1.

\$53,312.48 Settlement Funds

146. The remaining \$53,312.48 required to pay the settlement balance was procured from credits into the Caddick 6844 NAB Account.
147. Below is a table showing my analysis of credits into the Caddick 6844 NAB Account for the period 11 February 2014 to 8 August 2014. A copy of the bank statements showing these [**MAL.1081.0003.0552**] are at Tab 320 of Exhibit BG-1.

Date	Source of funds	Narration	Amount In (\$)	Pages
11/02/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED]	1,000	.0552
28/02/2014	[REDACTED]	Caddick Cs [REDACTED] [REDACTED]	752	.0552
13/03/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED]	1,000	.0552
28/03/2014	[REDACTED]	Caddick Cs [REDACTED] [REDACTED]	752	.0552
11/04/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED] r	1,200	.0552
11/04/2014	Caddick NAB Primary Account	Internet transfer – transfer	20,000	.0552 and .0553
28/04/2014	[REDACTED]	Caddick Cs [REDACTED] [REDACTED]	752	.0553
29/04/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED]	1,000	.0553
12/05/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED]	100	.0553
19/05/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED]	4,000	.0553
28/05/2014	[REDACTED]	Caddick Cs [REDACTED] [REDACTED]	752	.0553
2/06/2014	Caddick NAB Primary Account	Internet transfer – Mummy to [REDACTED]	1,000	.0553
2/06/2014	Caddick NAB Primary Account	Internet transfer – mum back to [REDACTED]	10,000	.0553
24/06/2014	Caddick NAB Primary Account	Internet transfer – mum back to [REDACTED]	8,000	.0553
30/06/2014	[REDACTED]	Caddick Cs [REDACTED] [REDACTED]	752	.0553
28/07/2014	[REDACTED]	Caddick Cs [REDACTED] [REDACTED]	752	.0554
30/07/2014	Caddick NAB Primary Account	Internet transfer – dover heights M Caddick	690,000	.0554
30/07/2014	Caddick NAB Primary Account	From [REDACTED] Transfer	860,000	.0554

1/08/2014	Caddick NAB Primary Account	Internet transfer - house purchase mc buy house	1,000	.0554
1/08/2014	Caddick NAB Primary Account	Internet transfer – transfer	10,000	.0554
1/08/2014	Caddick NAB Primary Account	Internet transfer – house purchase Mc buy house	32,000	.0554

148. This shows that the Caddick 6844 NAB Account was provided with funds either from the Caddick NAB Primary Account or from [REDACTED]. The payments from [REDACTED] were for child support and were only \$752 per month.

Loan repayments

149. The MC and AG Home Loan was an interest only loan for the first five (5) years i.e. 2014-2019. Monthly interest payments were being accrued and were being direct debited from the MC and AG NAB Account.
150. Loan repayments were made to the MC and AG Home Loan from 30 August 2019. These payments were made from the MC and AG NAB Account, Caddick NAB Primary Account or Maliver NAB Primary Account. They were \$303,000 in total, made up as follows:
- (a) \$42,000 from the MC and AG NAB Account;
 - (b) \$140,000 from the Caddick NAB Primary Account;
 - (c) \$121,000 from the Maliver NAB Primary Account
151. Withdrawals from the MC and AG Home Loan over the same period were \$144,000 and were made to the Caddick NAB Primary Account.
152. The MC and AG NAB Account was serviced mainly by payments from Caddick NAB Primary Account, but also from Maliver NAB Primary Account and the Qantas 3418.
- (a) The MC and AG NAB Account statements for the period 9 January 2016 to 30 December 2020 [**MAL.1081.0010.0490**] are at Tab 321 of Exhibit BG-1;




- (b) A spreadsheet prepared by Jones Partners staff under my supervision setting out the payments made towards the MC and AG NAB Home Loan account is at [**MAL.1081.0022.0003**] in Tab 322 of Exhibit BG-1; and
- (c) A spreadsheet prepared by Jones Partners staff under my supervision setting out the payments made towards the MC and AG NAB account is at [**MAL.1081.0010.0511**] in Tab 323 of Exhibit BG-1.
153. Total deposits into the MC and AG NAB Account over the period 29 March 2016 to 28 October 2020 were \$818,221, made up as follows:
- (a) \$630,000 from the Caddick NAB Primary Account;
- (b) \$127,000 from the Maliver NAB Primary Account;
- (c) \$11,000 from Qantas 3418;
- (d) \$50,221 unknown.
154. Withdrawals from the MC and AG NAB Account over the same period totalled \$73,000, made up as follows:
- (a) \$48,000 to the MC and AG Home Loan
- (b) \$25,000 to the NAB Primary Account

My conclusion regarding funds used to purchase the Dover Heights Property

155. In paragraphs 7.11 and 7.12 (page 43) the Receivers' Report states:

"Our preliminary tracing regarding the funding of the deposit for the Dover Heights Property on or around 4 April 2014 is that:

- (a) *\$180,000 was transferred from the Company's bank account which was sourced solely from Investor Funds;*
- (b) *The balance was paid from monies from Ms Caddick's bank accounts, the majority of which arose from the sale of shares held in Ms Caddick's name immediately prior to the payment; and*



- (c) *As noted above, it would appear that the funds held in Ms Caddick's bank accounts and shares at the time of the transaction were sourced directly or indirectly from Investor Funds.*

Our preliminary tracing regarding the funding of the balance due on settlement of the Dover Heights Property is:

- (a) *\$690,000 was transferred from the Company's bank account which was sourced solely from Investor Funds;*
- (b) *\$860,000 was paid from monies from Ms Caddick's bank accounts, the majority of which arose from the sale of shares held in Ms Caddick's name immediately prior to payment; and*
- (c) *As noted above, it would appear that the funds held in Ms Caddick's bank accounts and shares at the time of the transaction were sourced from directly or indirectly from Investor Funds.*

156. Based on the above analysis, and my conclusions regarding the other sources of funds available to Ms Caddick and Maliver set out in paragraph 25 above, my conclusion is that Investor Funds were used to pay for deposit, settlement funds and mortgage payments in relation to the Dover Heights Property.

EDGECLIFF PROPERTY

157. This part of my affidavit addresses the tracing undertaken in relation to the funds used to purchase the Edgecliff Property and meet the payments under the loan taken out to Purchase the Edgecliff Property, the MC Home Loan. The tracing analysis is divided up by reference to:
- a) Deposit funds at [**MAL.1081.0003.0349**] in Tab 324 of Exhibit BG-1; and
- b) Settlement funds which are referred to in the document at paragraph 157a); and
- c) Loan repayments as shown in the bank statements referred to in paragraph 173 .

Deposit

158. The contract for sale for the Edgecliff Property is dated 28 November 2016 and shows a purchase price of \$2,550,000 with a deposit of \$255,000. The contract for sale,



obtained from Richard Bartalesi and Associates the solicitors acting for Ms Caddick in respect of the sale, lists the purchaser as Melissa Louise Caddick and provides for a settlement date of 18 January 2017. A copy of the contract [**MAL.1081.0003.0285**] is at Tab 325 of Exhibit BG-1.

159. A copy of the transfer dated 7 February 2017 [**MAL.1081.0003.0286**] is at Tab 326 of Exhibit BG-1.
160. A cheque for \$255,000 payable to Sothebys was drawn on the Caddick NAB Primary Account on 29 November 2016 to pay the deposit. A copy of the bank records showing this payment bears ASIC barcode [**MAL.1081.0003.0287**] and is at Tab 327 of Exhibit BG-1, on page .0290. Sothebys was the vendor's agent on the sale as noted on the contract for sale. The payment of \$255,000 was preceded by the following four deposits into the Caddick NAB Primary Account and detailed in the table below:

Date	Description	Amount (\$)	Source of funds	Pages
22/11/2016	CBA To NAB Melissa Caddick 068523	77,000	Caddick CDIA	0290
28/11/2016	Internet Transfer mummy property mummy property	55,000	Caddick 6844 NAB Account	0290
28/11/2016	Cba to NAB Melissa Caddick 068523	60,000	Caddick CDIA	0290
28/11/2016	Cba to NAB Melissa Caddick 068523	100,000	Caddick CDIA	0290

161. A copy of the screenshot of a transaction listing for the Caddick CommSec Account showing the sale of shares and transfers totalling \$342,194.92 (made up of individual transfer amounts of \$160,442.03, \$14,052.42 and \$164,700.47) to the Caddick CDIA



over the period on 14 November 2016 to 24 November 2016 [**MAL.1081.0002.0165**] is at Tab 328 of Exhibit BG-1. A copy of the Caddick CDIA bank statement detailing these transactions [**MAL.1081.0002.0142**] is at Tab 329 of Exhibit BG-1.

162. I have determined that the funds in the Caddick 6844 NAB Account for the \$55,000 withdrawal came from the credits set out in the following table. A copy of the bank statements for the Caddick 6844 NAB Account for the relevant period [**MAL.1081.0010.0514**] is at Tab 330 of Exhibit BG-1.

Date	Narration	Amount In (\$)	Source of funds	Balance immediately prior to deposit (\$)	Pages
5/08/2016	Internet transfer – Mummy to [REDACTED]	33,000	Caddick NAB Primary Account	1,552.46	.0515
9/08/2016	Internet transfer – Mummy to [REDACTED]	17,000	Caddick NAB Primary Account	34,552.46	.0515
29/08/2016	Internet transfer – Mum to [REDACTED]	2,000	Caddick NAB Primary Account	51,552.46	.0516
30/08/2016	Caddick Cs – [REDACTED]	690	[REDACTED]	53,552.46	.0516
1/09/2016	Internet transfer – Mum to [REDACTED]	3,000	Caddick NAB Primary Account	54,317.95	.0516
2/09/2016	Internet transfer – casual wages [REDACTED] cwages from Mali	14,000	Caddick NAB Primary Account	57,317.95	.0517
28/09/2016	Caddick Cs – [REDACTED]	690	[REDACTED]	31,317.95	.0517
3/10/2016	Internet transfer – Mum to [REDACTED]	24,000	Caddick NAB Primary Account	32,101.64	.0517
28/10/2016	Caddick Cs – [REDACTED]	690	[REDACTED]	56,101.64	.0517
28/11/2016	Caddick Cs – [REDACTED]	690	[REDACTED]	56,883.10	.0517

163. This shows that the Caddick 6844 NAB Account was provided with funds either from Caddick NAB Primary Account or from [REDACTED]. The payments from [REDACTED] were for child support and were only \$690 per month.

Settlement funds

164. The initial drawdown for the purchase of the Edgecliff property was \$1,800,000 from the MC Home Loan. A copy of the loan drawdown document [**MAL.1081.0003.0295**] is at Tab 331 of Exhibit BG-1. It appears this document has been signed by Melissa Louise Caddick on 8 December 2016, as shown on page .0296.
165. Correspondence from Ms Caddick to her conveyancing solicitor [**MAL.1081.0003.0297**] is at Tab 332 of Exhibit BG-1. This was obtained from Richard Bartalesi and Associates the solicitors acting for Ms Caddick in respect of the sale. This also indicates that she was to provide an amount of \$621,012.60 for settlement and that settlement was scheduled for 18 January 2017.
166. On 18 January 2017, an amount of \$627,813.35 was debited from the Caddick NAB Primary Account with the narration "*Balance Required for Settlement*". The balance of the account immediately prior to the withdrawal on 18 January 2017 was \$630,846.2424. This is shown at at Tab 333 of Exhibit BG-1 [**MAL.1081.0010.0520**], transaction on page .0522.
167. An amount of \$625,000 was deposited into the Caddick NAB Primary Account from the Maliver NAB Primary Account on 16 January 2017, the opening balance of the Caddick NAB Primary Account on 16 January 2017 was \$1,846.24. A copy of the bank statement is referred to in paragraph 166 and the transaction occurs on page .0521.
168. On 16 January 2017, an amount of \$625,000 was transferred from the Maliver NAB Secondary Account to the Maliver NAB Primary Account. The balance of the account at 16 January 2017 was \$2967.83. A copy of the bank statement [**MAL.1081.0003.0303**] is at Tab 334 of Exhibit BG-1, and the transaction is on page .0304.
169. A copy of the statements for the Maliver NAB Secondary Account [**MAL.1081.0003.0305**] are at Tab 335 of Exhibit BG-1. A review of the statements show the following transfers from the Maliver NAB Primary Account to the Maliver NAB Secondary Account prior to the transfer of \$625,000 back into the Maliver NAB Primary Account:



Date	Amount (\$) from Maliver NAB Primary Account to Maliver NAB Secondary Account	Balance immediately prior to deposit (\$)	Pages
28/12/2016	130,000.00	12,249.67	.0305
30/12/2016	20,000.00	142,262.44	.0305
03/01/2017	55,000.00	162,262.44	.0307
06/01/2017	100,000.00	217,262.44	.0307
09/01/2017	100,000.00	317,262.44	.0307
09/01/2017	200,000.00	417,262.44	.0307
11/01/2017	10,000.00	617,262.44	.0307
Total	615,000.00		

170. I have determined that the funds in the Maliver NAB Primary Account ultimately came from the following deposits from the Caddick CDIA. This is shown by the bank statements and tracing records [**MAL.1081.0003.0309**] at Tab 336 of Exhibit BG-1:

Date	Deposit (\$)	Narration	Balance immediately prior to deposit (\$)	Pages
23/12/2016	100,000.00	CBA to NAB Melissa Caddick 068523	4,481.23	.0309
28/12/2016	50,000.00	CBA to NAB Melissa Caddick 068523	104,481.23	.0309
29/12/2016	20,000.00	CBA to NAB Melissa Caddick 068523	4,158.83	.0310
03/01/2017	55,000.00	CBA to NAB Melissa Caddick 068523	3,765.83	.0311
05/01/2017	100,000.00	CBA to NAB Melissa Caddick 068523	3,765.83	.0311
06/01/2017	100,000.00	CBA to NAB Melissa Caddick 068523	103,765.83	.0311
09/01/2017	30,000.00	CBA to NAB Melissa Caddick 068523	103,765.83	.0311
09/01/2017	100,000.00	CBA to NAB Melissa Caddick 068523	133,765.83	.0311
09/01/2017	100,000.00	CBA to NAB Melissa Caddick 068523	233,765.83	.0311
Total	655,000.00			

171. The payments from the Caddick CDIA to the Caddick NAB Primary Account were made after the sale of CommSec shares. This shown at [**MAL.1081.0010.0526**] in Tab 337 or Exhibit BG-1.

172. A screenshot of the transaction listing for the Caddick CommSec Account showing the sale of shares and the following transfers to the Caddick CDIA [**MAL.1081.0002.0144**] is at Tab 338 of Exhibit BG-1. The below table summarises the transfers to the Caddick CDIA from the Caddick CommSec Account. The transaction listing was obtained from CommSec as a result of a written request being sent to CommSec, as detailed in paragraph 19.

Date	Deposit (\$)	Pages
23/12/2016	173,972.75	.0144
30/12/2016	57,665.17	.0144
05/01/2017	450,003.55	.0144
Total	681,641.47	

Loan repayments

173. The statements for the MC Home Loan from 17 February 2017 to 30 December 2020 appear at [**MAL.1081.0003.0316**] at Tab 339 of Exhibit BG-1. Summaries of the payments made towards the MC Home Loan account based on these statements, prepared by Jones Partners staff under my direction and supervision, appear at [**MAL.1081.0010.0528**] in Tab 340 of Exhibit BG-1. The analysis below relates to the period 24 February 2017 to 14 October 2020.
174. There were a number of payments made towards the amount owing, even though the loan was an interest only loan for the first 5 years.
175. I have identified payments to the MC Home Loan from [REDACTED] of \$6,000 per month (with the narration "Rent" in most circumstances), totalling \$126,000.
176. [REDACTED] also made total payments of \$18,000 to the Caddick NAB Primary Account. The first two of these payments were described as repayments and the rest as rent.
177. An amount of \$723,000 was paid from Caddick NAB Primary Account to the MC Home Loan, however there were also loan redraws from MC Home Loan to the Caddick NAB Primary Account totalling \$868,000.
178. \$90,000 was transferred from the Maliver NAB Primary Account to the MC Home Loan.

179. Monthly interest payments were being accrued and were being direct debited from the Caddick 4254 NAB Account. A summary of payments made towards this account, prepared by Jones Partners staff under my supervision and direction, is at [**MAL.1081.0003.0332**] at Tab 341 of Exhibit BG-1. Copies of the relevant bank statements are in [**MAL.1081.0010.0529**] at Tab 342 of Exhibit BG-1.
180. The Caddick 4254 NAB Account was serviced mainly by payments from Caddick NAB Primary Account, but also from Maliver NAB Primary Account.
181. There were also withdrawals / loan redraws from the Caddick 4254 NAB Account totalling \$11,000.

Claim

182. On 7 December 2020 and 18 December 2020, [REDACTED] imley lodged two (2) caveats over the Edgecliff Property. A copy of the caveat lodged on 7 December 2020 [**MAL.1081.0003.0333**] is at Tab 343 of Exhibit BG-1, and a copy of the caveat lodged on 18 December 2020 [**MAL.1081.0010.0546**] is at Tab 344 of Exhibit BG-1.
183. A copy of the correspondence between my solicitors Gillis Delaney and the Parents solicitors William James, [**MAL.1081.0008.0003**] is at Tab 345 of Exhibit BG-1.
184. On 18 December 2020, Gillis Delaney wrote to Ms Caddick's Parents requesting further information regarding their caveat, a copy of this correspondence is at page .0003 to .0004 of the bundle of documents referred to in paragraph 183, in Tabs x to x of Exhibit BG-1. Their solicitor, responded by letter dated 21 December 2020. A copy of their response [**MAL.1081.0022.0007**] is at Tab 346 of Exhibit BG-1;
- (a) *"\$1,000,000.00 ...was provided to Ms Caddick to apply in and to the purchase of the Edgecliff Property, which [REDACTED] would have an interest in with Ms Caddick [REDACTED] were also to live in the property for the rest of their lives or until they decided to vacate the Edgecliff Property";*
- (b) *"the \$1,000,000 was applied towards the purchase price in circumstances where it was always Ms Caddick's and [REDACTED]; intention that that money be strictly for their benefit and not for the benefit of Ms Caddick in any way."*




- (c) *"notwithstanding that Ms Caddick is the legal owner of the Edgecliff Property, it was always the intention of Ms Caddick and [REDACTED]; that [REDACTED] own the Edgecliff Property to the extent of their respective initial contributions to the purchase price (i.e. 37.37%)". This was the basis provided for the first caveat lodged on 7 December 2020;*
- (d) *"Ms Caddick would remain as sole proprietor of the Edgecliff Property upon the understanding that she grants an estate or interest in the land to [REDACTED] as joint tenants, for life, or their earlier vacation of the land (we note that this arrangement is also reflected in clause 48 of the enclosed Last Will and Testament of Melissa Louise Caddick)". This was the basis for the second caveat lodged on 7 December 2020..*

185. The letter referred to in paragraph 184 included, as the evidence of these claims, the following documents:

- (a) A copy of the NSW caveat AQ623920 lodged 7 December 2020 on the title of the Edgecliff Property [**MAL.1081.0013.0003**]; in Tab 347 of Exhibit BG-1
- (b) A copy of the second NSW caveat AQ664219 lodged 18 December 2020 on the title of the Edgecliff Property [**MAL.1081.0013.0005**]; in Tab 348 of Exhibit BG-1
- (c) An email from Ms Caddick to her Parents dated 22 November 2016 [**MAL.1081.0013.0007**] in Tab 349 of Exhibit BG-1;
- (d) A copy of Last Will and Testament of Ms Caddick [**MAL.1081.0013.0008**] in Tab 350 of Exhibit BG-1;
- (e) A spreadsheet prepared by Ms Caddick of her estimated expenditure on the Edgecliff Property [**MAL.1081.0013.0027**] in Tab 351 of Exhibit BG-1;
- (f) an email from Ms Caddick to her Parents dated 28 November 2016 [**MAL.1081.0013.0028**] in Tab 352 of Exhibit BG-1; and
- (g) a copy of the settlement statement of the Connells Point Property dated 7 April 2017 [**MAL.1081.0013.0030**] in Tab 353 of Exhibit BG-1.

186. My solicitors Gillis Delaney wrote to William James seeking further details regarding the Parents' claims, as follows:




- (a) on 23 December 2020, asking for confirmation that [REDACTED] was the email address for their clients; whether their clients responded to the proposal in the 28 November 2016 email; and whether any agreement was drafted as appeared to be contemplated in that email. A copy of this correspondence is at page .0009 to .0010 of the bundle of documents referred to in paragraph 183, in Tab 345 of Exhibit BG-1
- (b) on 11 January 2021 seeking a response to the 23 December 2020 letter. A copy of this correspondence is at page .0011 of the bundle of documents referred to in paragraph 183, in Tab 345 of Exhibit BG-1;
- (c) on 13 January 2021 again seeking a response to the 23 December 2020 letter and asking whether Ms Caddick's Parents would make themselves available for a voluntary interview. A copy of this correspondence is at page .0012 to .0013 of the bundle of documents referred to in paragraph 183, in Tab 345 of Exhibit BG-1. William James wrote to Gillis Delaney on 18 January 2021 indicating that their clients would not take part in a voluntary interview due to their advanced age but suggested that questions might be put to them in writing. A copy of this correspondence is at page .0015 of the bundle of documents referred to in paragraph 183, in Tab 345 of Exhibit BG-1.
- (d) on 3 February 2021 seeking;
- (i) a response to the 23 December 2020 letter regarding the Parents' claim against the Edgecliff Property;
 - (ii) clarification and particulars regarding any funds they provided to Ms Caddick or Maliver as an investment and thus whether the Parents are creditors of Ms Caddick or Maliver or both.

A copy of this correspondence is at page .0016 to .0017 of the bundle of documents referred to in paragraph 183, in Tab 345 of Exhibit BG-1:

- (e) on 28 April 2021 to follow up on a response to the letter dated 3 February 2021, a copy of the letter is [**MAL.1081.0019.0079**] at Tab 354 of Exhibit BG-1.

187. The last communication received from William James solicitors was the email dated 8 February 2021 suggesting that they were in the process of finalising a response to my

solicitor's letters. A copy of this correspondence is page .0018 of the bundle of documents referred to in paragraph 183, in Tab 345 of Exhibit BG-1

188. No response has been received to my solicitor's letter dated 28 April 2021. No further particulars have been provided regarding the Parents' claims against Ms Caddick, Maliver or the Edgecliff Property.
189. The settlement statement supplied by Ms Caddick's Parents, referred to in paragraph (g) indicates that they sold their property at Connells Point on 7 April 2017 and that Ms Caddick was paid \$1,154,390.48 from the proceeds of the sale, by a bank cheque. A cheque for this amount was deposited into the Caddick NAB Primary Account on 7 April 2017. A copy of the bank statement showing this deposit [**MAL.1081.0010.0548**] is on page .0549 at Tab 355 of Exhibit BG-1.
190. Immediately prior to this deposit, the balance of the Caddick NAB Primary Account was \$37,359.86. On 7 April 2017, a further deposit of \$80,000 was made which has been identified as a transfer from the Caddick CDIA to the Caddick NAB Primary Account as shown at [**MAL.1081.0010.0554**] are at Tab 356 of Exhibit BG-1.
191. The table below sets out the following outgoing transactions from the Caddick NAB Primary Account for the period 7 April 2017 to 26 April 2017, as shown in the bank statements at paragraph 189, in Tab 355 of Exhibit BG-1:

Date	Outgoing transaction (\$)	Account balance after (\$)	Destination of outgoing transaction	Pages
07/04/2017	Balance	1,271,750.34	-	.0549
07/04/2017	7,000.00	1,264,750.34	Maliver NAB Primary	.0549
07/04/2017	7,500.00	1,257,250.34	NAB Credit Card 6235	.0549
07/04/2017	15,000.00	1,242,250.34	Maliver NAB Primary	.0549
07/04/2017	211.20	1,242,039.14	Living Expenses	.0549
07/04/2017	49,314.24	1,192,724.90	Evojets (Living Expenses)	.0549
07/04/2017	190.92	1,192,533.98	BP Rose Bay (Living Expenses)	.0549
07/04/2017	502.95	1,192,031.03	Westfield Bondi Junction (Living Expenses)	.0549
07/04/2017	492.00	1,191,539.03	ATM Withdrawal	.0549

10/04/2017	22,000.00	1,169,539.03	██████████ ██████████ (Investor Repayment)	.0549
10/04/2017	1,002.00	1,168,537.03	ATM Withdrawal	.0550
11/04/2017	35.06	1,168,501.97	Evojets (Living Expenses)	.0550
11/04/2017	5,000.00	1,163,501.97	Caddick 6844 Account	.0550
11/04/2017	10,000.00	1,153,501.97	NAB Credit Card 6235	.0550
11/04/2017	20,000.00	1,133,501.97	Caddick NAB 4254 Account (MC Home Loan offset account)	.0550
11/04/2017	40,000.00	1,093,501.97	MC and AG NAB (Mc and AG Home Loan offset account)	.0550
11/04/2017	55,000.00	1,038,501.97	Caddick 6844 NAB Account	.0550
11/04/2017	275.00	1,038,226.97	Living Expenses	.0550
11/04/2017	52,000.00	986,226.97	Unknown	.0550
11/04/2017	300,000.00	686,226.97	Canturi	.0550
12/04/2017	15,500.00	670,726.97	NAB Credit Card 6235	.0550
12/04/2017	10,000.00	660,726.97	Unknown	.0550
12/04/2017	386.10	660,340.87	Bell Landscapes (Living Expenses)	.0550
13/04/2017	12,000.00	648,340.87	NAB Credit Card 6235	.0550
13/04/2017	280,000.00	368,340.87	MC Home Loan	.0550
13/04/2017	300,000.00	68,340.87	MC Home Loan	.0550
13/04/2017	48,000.00	20,340.87	Unknown	.0550
13/04/2017	1,000.00	19,340.87	ATM Withdrawal	.0550
18/04/2017	596.00	18,744.87	Living Expenses	.0550
21/04/2017	10,500.00	8,244.87	Unknown	.0550
24/04/2017	162.00	8,082.87	Caltex Woolworths (Living Expenses)	.0550
24/04/2017	325.86	7,757.01	Parisis Food Hall (Living Expenses)	.0550
26/04/017	200.23	7,556.78	Energy Australia (Living Expenses)	.0550




26/04/2017	211.20	7,345.58	Living Expenses	.0550
------------	--------	----------	-----------------	-------

192. On 13 April 2017, amounts of \$280,000 and \$300,000 were withdrawn from the Caddick NAB Primary Account. Those amounts were paid to the MC Home Loan account which had the effect of reducing the balance of MC Home Loan account by \$580,000. A copy of the bank statement showing those transactions [**MAL.1081.0010.0555**] on page .0556 is at Tab 357 of Exhibit BG-1
193. Between 28 April 2017 and 19 May 2017 a number of loan redraws were made from the MC Home Loan to the Caddick NAB Primary Account totalling \$580,000 (which ultimately brought the Edgecliff mortgage balance back to \$1,800,000). A copy of the bank statements showing those transactions is referred to in paragraph 173, the transactions appear on page .0317.
194. The effect of the redraws from the MC Home Loan between 28 April 2017 and 19 May 2017 referred to above was to redraw the amounts totalling \$580,000 paid towards the MC Loan back to the Caddick NAB Primary Account over a period of approximately one month. These redraws were intermingled with other funds in the Caddick NAB Primary Account including Investor Funds. These mixed funds were subsequently used to pay Ms Caddick's living expenses and transferred to other bank accounts including the Caddick CDIA.
195. The transfers to Caddick CDIA were comingled with other funds in that account, including Investor Funds, to settle share purchases in the Caddick CommSec Account. As the funds have been so readily comingled across multiple accounts, it is not possible to trace and determine the allocation of any payments received from Ms Caddick's Parents paid as a lump sum to any specific assets.

Conclusion regarding [REDACTED] claim

196. In paragraph 4.79 (page 34) the Receivers' Report states:

"Our preliminary view and the more likely position based on information available is that the Parents have paid monies to Ms Caddick from their perspective to acquire a life estate in the Edgecliff Property. However, as we have indicated further legal advice will be required."

197. Since the Receivers Report, I have further investigated the assertions made by the Parents and traced the funds provided by them. My solicitors have also written to the solicitors for the Parents seeking clarification regarding any claim the Parents wish to make to the Edgecliff Property or against Ms Caddick as a creditor or investor and any further documents they can provide to support their claim (as set out in paragraph 186 above). However, I have not received any further information from them.
198. The Edgecliff Property was purchased by Ms Caddick before the Connells Point property was sold and thus Ms Caddick's Parents did not contribute towards the purchase price.
199. In addition on the basis of my analysis of amounts paid out of the Caddick NAB Primary Account after the deposit of \$1,154,717.09 from the sale of the Parents' Connells Point property I conclude that the money was used by Ms Caddick in paying living expenses, purchasing a diamond ring, transferred between other bank accounts controlled by Ms Caddick including the Caddick CDIA account and also co-mingled with other funds in that account including Investor Funds provided for the purchase of shares. While an amount of \$580,000 was paid into the MC Home Loan, the same amount was redrawn within one month and intermingled with other funds and used to pay living expenses of Ms Caddick as well as fund share purchases.
200. From our analysis of the bank accounts of Ms Caddick and Maliver, our investigations indicate that between the period 22 October 2012 to 2 October 2020, Ms Caddick transferred a total amount of \$266,500 which appeared to have been received by the Parents, the payments to the Parents were usually made at the start of the month in the amount of \$4,000. The payments were identified from the description used on the bank statements. I have not requested trace results of these payments. A copy of a spreadsheet prepared by my staff showing these payments [**MAL.1081.0020.0005**] is at Tab 358 of Exhibit BG-1.
201. Further, records obtained by ASIC included a spreadsheet prepared by Ms Caddick detailing rental income to be received by Ms Caddick relating to the Edgecliff Property. The spreadsheet suggests that Ms Caddick may have received rental income of \$2,000 per month between March 2017 to June 2018 (total \$32,000) and \$6,000 per month between November 2018 to February 2020 (total \$96,000) from [REDACTED]. A copy of this spreadsheet [**MAL.2004.004.8933**] is at Tab 359 of Exhibit BG-1. My review of the bank statements for Ms Caddick and Maliver has not identified rental income of \$2,000 per month being received by Ms Caddick between March 2017 to June 2018.

My comments regarding the payments made by ██████ regarding the Edgecliff Property made between November 2018 and October 2020 are detailed in paragraphs 173 - 181 of this affidavit.

202. As such, the Parents' claim, which I had assessed in the Receivers Report, as being at best a claim to a life estate, may ultimately need to be determined by the Court and subject to consideration of any affidavit material filed by the Parents in support of their claim.
203. The proposed orders in the FAOP would enable the Parents to put forward any claim they wish to make against the Edgecliff Property or alternative as a creditor / Out-of-Pocket Investor, and compel them to provide documents to support ant such claim prior to the Final Receivers realising the Edgecliff Property.

██████ **Claim**

204. As detailed above, whilst it appears that ██████ made a number of payments towards the MC Home Loan account he has not asserted a claim in the Edgecliff Property or to the repayment of the amounts he paid. In their letter dated 21 December 2020 William James solicitors stated that ██████ had been satisfying the mortgage repayments in respect of the Edgecliff Property from, on or around, November 2018, in the amount of \$6,000 per month and thus "*may have an interest in the property however, to what extent, we are uncertain.*" I therefore instructed my solicitors Gillis Delaney to send a letter to ██████ solicitors, which was dated 13 January 2021, asking whether ██████ asserted a claim to the Edgecliff Property appears at Tab 360 of Exhibit BG-1 [MAL.1081.0010.0569]. A copy of ██████ solicitor's response dated 14 January 2021 appears in [MAL.1081.0012.0110] at Tab 361 of Exhibit BG-1, in which they state "*At this stage, noting all the various issues that are the subject of further investigation and advice, ██████ (no doubt like a number of parties) is not yet in a position to articulate the extent to which he may have any claim against, or interest in, any of Ms Caddick's property and he reserves all his rights in relation to any claims he may have in this regard.*"

Conclusion in respect of Edgecliff Property

205. Paragraphs 7.13 and 7.14 (pages 43 and 44) of the Receivers' Report states:

"Our preliminary tracing regarding the funding of the deposit for the Edgecliff Property on or around 29 November 2016 is that:

- (a) \$255,000 was transferred from a bank account in the name of Ms Caddick;*
- (b) This amount was funded from monies held in other bank accounts in the name of Ms Caddick and the sale of shares in Ms Caddick's name; and*
- (c) The source of funds deposited into those accounts were the Investor Funds through deposits made by the Company.*

Our preliminary tracing regarding the funding of the balance due on settlement of the Edgecliff Property is:

- (a) \$625,000 was deposited into Ms Caddick's bank account immediately prior to settlement;*
- (b) This amount was transferred from a bank account in the name of the Company;*
- (c) The Company appears to have sourced these funds from deposits made from Ms Caddick's bank accounts in the one (1) month prior to settlement;*
- (d) The monies from Ms Caddick's bank accounts resulted from the sale of shares in Ms Caddick's name; and*
- (e) The ultimate source of funds to purchase the Edgecliff Property was Investor Funds which sourced monies held in the bank accounts and share trading accounts of Ms Caddick."*

206. Based on the above analysis, and my conclusions regarding the other sources of funds available to Ms Caddick and Maliver set out in paragraph 25 above, my conclusion is that Investor Funds were used to pay the deposit and settlement funds in relation to the Edgecliff Property.
207. Further information is required from Ms Caddick's Parents and [REDACTED] to assess any claim they wish to assert to the Edgecliff Property or whether they should simply be entitled to be included with the Out-of-Pocket Investors as persons entitled to receive a distribution from the sale of the assets of Ms Caddick or Maliver purchased with Investor Funds.

AUDI MOTOR VEHICLE

208. A search of the records of Roads and Maritime Services (RMS) shows that Maliver has been the registered owner of an Audi R8 with plate number [REDACTED], from 27 May 2016, with a buyer declared value of \$371,000. A copy of the search [**MAL.1081.0003.0589**] is at Tab 362 of Exhibit BG-1.
209. On 21 January 2021, we received documentation from Audi Centre Sydney regarding the purchase of the Audi R8. A copy of this documentation [**MAL.1081.0003.0590**] is at Tab 363 of Exhibit BG-1. The documentation discloses that:
- (a) The customer name on the contract and tax invoice was Maliver;
 - (b) The purchase price was \$390,000;
 - (c) The purchase price partly consisted of \$60,000 from a trade in of an Audi RS5 8T MU15 Coupe. The Audi RS5 was also a motor vehicle registered in the name of Maliver and had been purchased in May 2014 from Audi Centre Sydney, as shown in the documentation [**MAL.1081.0003.0599**] at Tab 364 of Exhibit BG-1;
 - (d) The remainder of the purchase price consisted of a deposit of \$10,000 and a payment of \$320,000; and
 - (e) The contract was signed on 27 May 2016 which is consistent with the registration of the Audi R8 referred to in the paragraph 208 above.
210. An amount of \$330,015 was withdrawn from the Caddick CDIA on 26 May 2016 (*narration "Wld Branch Double Bay"*), as shown in the bank statement [**MAL.1081.0003.0607**] at Tab 365 of Exhibit BG-1.
211. The bank trace at [**MAL.1081.0003.0610**] in Tab 366 of Exhibit BG-1 discloses that the cheque withdrawn from the Caddick CDIA was payable to Audi Australia Retail Operations in the amount of \$330,000 with a fee of \$15. Ms Caddick sought to amend the amount of the cheque and therefore the cheque was repurchased on 27 May 2016 in the amount of \$320,000. An amount of \$10,000 was then deposited back into the Caddick CDIA account on 27 May 2016 (*narration "Cash Dep Branch Double Bay"*). This payment was preceded by the sale of shares in the amount of \$345,939.67 on 26 May 2016. A screenshot of the transaction listing for the Caddick CommSec Account

showing the sale of the shares and the following transfer to the Caddick CDIA [**MAL.1081.0003.0609**] is at Tab 367 of Exhibit BG-1.

212. The Audi R8 is listed as an asset of Maliver in Maliver's draft financial statements for the year ended 30 June 2020 as provided by Maliver's external accountant. A copy of the draft financial statements [**MAL.1081.0003.0614**] is at Tab 368 of Exhibit BG-1.
213. As mentioned above, the Audi R8 was purchased partly by a trade in of an Audi RS5 8T MU15 Coupe. The Audi RS5 8T MU15 Coupe was initially purchased by the Company in June 2014 for the amount of \$160,730, as shown on the contract referred to in paragraph 206(c) This amount was entirely financed by Audi Finance. I have identified the finance payments for the Audi RS5 8T MU15 Coupe as being paid from Maliver NAB Primary. The bank statements evidencing this appear in [**MAL.1081.0012.0086**] at Tab 369 of Exhibit BG-1. As Maliver did not have any income or funds apart from Investor Funds, it is my view that the finance payments for the Audi RS5 8T MU15 were being funded by Investor Funds.
214. Therefore, as the purchase of the Audi R8 was funded by the trade in of the Audi RS5 8T MU15 Coupe and realisation of shares from the Caddick Commsec account, it is my view that the funds used to purchase the Audi R8 were ultimately Investor Funds.

MERCEDES-BENZ MOTOR VEHICLE

215. As shown on the RMS search referred to in paragraph 208, Maliver has been the registered owner of a Mercedes Benz M-AMG with plate number [REDACTED] from 19 October 2017, with a buyer declared value of \$84,100.
216. Documentation received from Mercedes Benz Rushcutters Bay regarding the purchase of the Mercedes, is at [**MAL.1081.0003.0560**] in Tab 370 of Exhibit BG-1. The documentation discloses:
- (a) The customer name on the contract and tax invoice was Maliver;
 - (b) The purchase price was \$88,781.62;
 - (c) The purchase price consisted of a deposit of \$5,000 and a payment of \$83,781.62;
 - (d) The deposit of \$5,000 was paid by AMEX; and

- (e) The contract was signed on 20 October 2017 which is consistent with the registration of the Mercedes noted above.
217. On 18 October 2017 an amount of \$83,781.62 was paid to Mercedes Benz Rushcutters Bay from the Maliver NAB Primary Account. Copies of the documents showing this payment [**MAL.1081.0010.0571**] are at Tab 371 of Exhibit BG-1.
218. It appears that this amount was preceded by a deposit into the Maliver NAB Primary Account on 17 October 2017 in the amount of \$83,000 from the Caddick NAB Primary Account. Copies of the bank statements [**MAL.1081.0010.0573**] are at Tab 372 of Exhibit BG-1.
219. There is also a deposit into the Caddick NAB Primary Account on 17 October 2017 for \$83,000 with the narration "*Internet Transfer commsec*" which based on my investigations is a further transfer from the Caddick 6844 NAB Account held in the name of Melissa Louise Caddick. The transfer appears at [**MAL.1081.0010.0579**] at Tab 373 of Exhibit BG-1.
220. It is also noted that the Mercedes is listed as an asset of Maliver in Maliver's draft financial statements for the year ended 30 June 2020 as provided by Maliver's external account referred to in paragraph 212.
221. It is my view that the funds to purchase the Mercedes Benz were ultimately Investor Funds.

CADDICK SERVICES TRUST – CANTURI DIAMOND RING

222. On the date of my appointment as joint Receiver, there was a bank account in the name of "Melissa Caddick ATF Caddick Services Trust" with a balance of USD\$33,350 (**Caddick Services Account**).
223. I have reviewed the Trust Deed for the Caddick Services Trust. It indicates that Ms Caddick is the trustee and Ms Caddick and [REDACTED] ick are the primary beneficiaries. A copy of the Trust Deed [**MAL.0014.0002.0017**] is at Tab 374 of Exhibit BG-1.
224. In [**MAL.1081.0003.1199**] at Tab 375 of Exhibit BG-1 are copies of all bank statements from the date of establishment of the trust (15 May 2018) to the date of my appointment,

Deposit to Caddick Services Account in June 2018 from sale of ring

225. A review of these bank statements shows that the only deposit into the Caddick Services Account was a deposit of USD\$339,359.85 on 15 June 2018 from Bonhams (Hong Kong) Limited (**Bonhams Hong Kong**).
226. It appears that this deposit was from the sale of a ring by Bonhams Hong Kong on 7 June 2018. The settlement of the sale was due on 17 June 2018. At [**MAL.1081.0003.1230**] in Tab 376 of Exhibit BG-1 is a copy of the seller auction statement, obtained from ASIC, disclosing the net sale proceeds as HK\$2,669,697 which approximately equates to USD\$340,110 (converted at the spot rate as at 15 June 2018).
227. The item that was auctioned is a Diamond Single Stone ring. At [**MAL.1081.0003.1231**] in Tab 377 of Exhibit BG-1 is a copy of an email dated 15 February 2018 from Ms Caddick to Bonhams, obtained from ASIC, advising that she had a 6.03ct D/FL Type 2A Emerald Cut Diamond that she would like to discuss. I am of the view that the diamond ring referred to in the seller auction statement is the same ring referred to in Ms Caddick's email.
228. I understand the diamond identified in the Canturi purchase order was not recovered by the ASIC under the search warrant executed on 11 November 2020, nor was it sighted at the valuation conducted on Tuesday 22 December 2020. In my view, it is reasonable to conclude that the diamond ring has been sold.

Purchase of ring on 11 April 2017

229. A copy of the Canturi purchase order for a 6.03ct D FL Emerald Cut Diamond addressed to Ms Caddick and printed on 11 April 2017 [**MAL.1081.0003.1234**] is at Tab 378 of Exhibit BG-1. This was obtained from ASIC. The price was \$590,000 and the payment history was as follows \$290,000 paid on 28 February 2017 and \$300,000 paid on 11 April 2017.
230. On 27 February 2017 \$290,030 (incl bank fee) was transferred from the Caddick CDIA, the opening balance of the account was \$292,995.10, as shown in the bank statement [**MAL.1081.0003.1239**] at Tab 379 of Exhibit BG-1.

231. On 11 April 2017, \$300,000 was transferred from the Caddick NAB Primary Account. The opening balance of the account on 11 April 2017 was \$1,168,537.03. This transfer appears on the Caddick NAB Primary Account statement referred to at paragraph 189.
232. The \$300,000 paid on 11 April 2017 from the Caddick NAB Primary Account was immediately preceded by deposits of:
- (a) \$1,154,717.09 on 7 April 2017 from the sale of Ms Caddick's Parents' Connell Point property;
 - (b) \$80,000 on 7 April 2017 from the Caddick CDIA to the Caddick NAB Primary Account.

Payments out of the Caddick Services Account

233. The current balance of the Caddick Services Account is USD\$33,350.57. The other proceeds from the sale of the diamond ring were used to pay Ms Caddick's living expenses and transferred to other accounts controlled by Ms Caddick. Copies of all statements showing the money paid from the Caddick Services Account into the Caddick NAB Primary Account are referred to in paragraph 221.
234. The table below is summary of withdrawals from the Caddick Services Account which shows how the current balance of USD\$33,350.57 was reached.

Date	Payment (USD\$)	Account balance after (USD\$)	Source	Pages
15/06/2018	Balance	339,350.57	-	.1200
27/06/2018	50,000.00	289,350.57	Caddick NAB Primary Account	.1201
2/07/2018	20,000.00	269,350.57	Foxweb (Internet expenses)	.1201
13/08/2018	50,000.00	219,350.57	Caddick NAB Primary Account	.1202
4/09/2018	50,000.00	169,350.57	Caddick NAB Primary Account	.1203
31/10/2018	17,760.00	151,590.57	North of Nell (Living Expenses)	.1205
19/02/2019	100,000	51,590.57	Caddick NAB Primary Account	.1208
31/10/2019	18,240.00	33,350.57	North of Nell (Living Expenses)	.1217

235. I note that in the Receivers' Report, the view was expressed that the funds or assets held in trust for beneficiaries are not assets of the trustee personally, notwithstanding that Ms Caddick is one of two discretionary beneficiaries of the Caddick Services Trust (the other being [REDACTED]).
236. In formulating the Receivers' Report I took the conservative view that the money held in this bank account should not at that stage be taken into account for determining the amount that might be distributed to the Out-of-Pocket Investors bearing in mind the issue as to ownership. However, upon the conduct of further tracing as identified above, I am of the view that the funds held in the Caddick Services Trust can be ultimately sourced from a combination of Investor Funds and funds from Ms Caddick's Parents.
237. Ultimately, whether Ms Caddick's Parents' have any interest in the Edgecliff Property arising from the monies advanced by them will impact on my assessment regarding the funds held in the Caddick Service Account.

THE JEWELLERY

238. ASIC with the assistance of officers of the Australian Federal Police executed a search warrant at 5 Wallangra Road, Dover Heights on 11 November 2020. ASIC seized, among other things, a quantity of jewellery which is currently being stored at ASIC's Sydney offices.
239. ASIC also seized and imaged physical and electronic records belonging to Ms Caddick. I subsequently wrote to ASIC and was provided with Ms Caddick's records pursuant to orders made by the Court on 15 December 2020.
240. One of the documents provided to me by ASIC is an excel spreadsheet from Ms Caddick records (**Ms Caddick's jewellery spreadsheet**) which provides:
- (a) A list of jewellery;
 - (b) The purchase date;
 - (c) The cost price;
 - (d) Description of the jewellery;
 - (e) Supplier of the jewellery;

- (f) Owner of the jewellery; and
- (g) Purchaser of the jewellery.

A PDF copy of Ms Caddick's jewellery spreadsheet [**MAL.1081.0005.0013**] is at Tab 381 of Exhibit BG-1.

241. While Ms Caddick's jewellery spreadsheet states that it is a listing of jewellery as at 30 June 2018, there appears to be further jewellery purchased after that date up to 6 February 2019. The cost price of all of the jewellery is listed as \$2,500,700.
242. I have also incorporated into my investigations the following documents:
- (a) A folder from Ms Caddick records of jewellery valuations and invoices, provided to me by ASIC and obtained under the search warrant, a copy of which is at Tab 382 of Exhibit BG-1 [**MAL.1081.0005.0014**];
 - (b) The Last Will and Testament of Ms Caddick dated 30 August 2019, a copy of which is at Tab 383 of Exhibit BG-1 [**MAL.1081.0005.0300**], which I obtained from William James Lawyers;
 - (c) An excel spreadsheet containing a schedule of assets provided to Chubb for the purposes of contents insurance, a pdf copy of which is at Tab 384 of Exhibit BG-1 [**MAL.1081.0005.0299**], obtained from ASIC;
 - (d) Invoices provided to ASIC by Stefano Canturi of Canturi regarding purchases made by Ms Caddick [**MAL.1081.0005.0319**] Tab 385 of Exhibit BG-1.
243. Ian Abeshouse (Fellow of the Gemmological Association of Australia and Registered Valuer No. 166) attended the offices of ASIC to conduct a valuation of the jewellery and assets seized by ASIC. A copy of his valuation report is attached to the Receivers Report and is Annexure B to Annexure H "Pickles Valuations Appraisal Report".
244. As part of my investigations, I have reviewed the above documents and prepared an excel spreadsheet detailing my investigations (**Jewellery Spreadsheet**). A copy of the Excel Spreadsheet [**MAL.1081.0005.0397**] is at Tab 386 of Exhibit BG-1. The excel spreadsheet sets out the following:
- (a) Re-orders the jewellery in chronological order by purchase date;




- (b) Confirms whether such jewellery was insured in the Chubb insurance schedule;
 - (c) Confirms whether such jewellery was disclosed in the Will;
 - (d) Confirms whether such jewellery was sighted at ASIC's offices and valued by the valuer; and
 - (e) If identified, determines the source of funds used to acquire the jewellery.
245. I note that there are some inconsistencies with the purchase date and the date of payments because the majority of the purchases were funded across multiple days and sometimes from different bank accounts or credit cards.
246. A copy of the bank or credit card statements [**MAL.1081.0010.0581**] confirming the source of funds used to acquire the jewellery are at Tab 387 of Exhibit BG-1.
247. Canturi hold a number of jewellery items. These have been identified as being items 2, 6, 33, 51, 64, 76, 77 and 78 in the Jewellery Spreadsheet.
248. I have been provided with unsigned financial statements for the year ended 30 June 2019 for the Caddick Services Trust, obtained from LSI Taxation, the external accountants for Maliver and Ms Caddick. A copy of the unsigned financial statements [**MAL.1081.0005.0399**] are at Tab 388 of Exhibit BG-1. These financial statements reveal that:
- (a) The Caddick Services Trust's major asset was an 'alternate asset investment' totalling \$2,348,000. The depreciation schedule shows that this investment relates to jewellery which was not itemised or identified;
 - (b) The major liabilities of Caddick Services Trust are loans from Maliver (\$2,335,131.02) and loans from Ms Caddick (\$87,073.91).
249. Ms Caddick is the trustee of the Caddick Services Trust which was allegedly established on 1 June 2016. A copy of the signed Trust Deed [**MAL.1081.0005.0409**] is at Tab 389 of Exhibit BG-1.
250. While the financial statements appear to indicate that the jewellery is owned by the Caddick Services Trust, I note the following:
- (a) All jewellery invoices I have been provided with were made out to Ms Caddick;

- (b) All payments for jewellery were made from either bank accounts or credit cards in the name of Ms Caddick, not from bank accounts in the name of the Caddick Services Trust or Maliver;
- (c) If the jewellery was purchased with Ms Caddick's funds by way of an advance to the Caddick Services Trust, then the financial statements would show that Ms Caddick is the major creditor of the Caddick Services Trust, not Maliver Pty Ltd;
- (d) My investigations have not identified any consideration or funds being paid by Caddick Services Trust for the purchase of the jewellery; and
- (e) It appears that only *appraisals* were received and addressed to Caddick Services Trust *after* the purchase of jewellery by Ms Caddick.

251. I have not been able to source all of the bank accounts and credit cards used to purchase the jewellery at this stage. For instance, I have not been provided with all credit card statements by American Express.

252. Paragraph 7.19 (page 44) of the Receivers' Report states:

"Our preliminary tracing indicates that all payments made to Canturi Jewellery since November 2016 appear to have been made from accounts in the name of Ms Caddick, meaning that the likely initial source of such payments was the Investor Funds."

253. In the Jewellery Spreadsheet referred to in paragraph 244, I have categorised the items into five different categories and my conclusions regarding the jewellery following further investigations are as follows:

- (a) Items purchased prior to October 2012 (yellow highlighted). These items would not have been purchased with Investor Funds;
- (b) Items for which I have identified the source of the purchase price as being wholly funds obtained after October 2012 (white highlighted). These items have been determined to be paid from bank accounts controlled by Ms Caddick which contained Investor Funds;
- (c) Items for which I have identified the source of the purchase price as being partly funds obtained after October 2012 (light blue highlighted), but I have not been able to identify where all of the amounts paid came from. These items have been

traced to be partly paid from bank accounts controlled by Ms Caddick which contained Investor Funds and given the purchase was made after October 2012, it is likely that all of the funds used to acquire the jewellery were from Investor Funds.

- (d) Items for which I have not been able to identify the source of funds used to purchase them (orange highlighted). Given the purchases were made after October 2012, it is likely that the funds used to acquire the jewellery were Investor Funds.
- (e) Items which were gifted to Ms Caddick by Canturi (green highlighted). These cannot be attributable to Investor Funds.

254. I have identified items that were purchased prior to October 2012 (yellow highlighted) and subsequently upgraded in the period after October 2012; as follows

- (a) Item 4 was initially purchased in May 2009 for \$17,500 as shown by the document at paragraph 242(d) at page .0008. However, the ring was subsequently upgraded in December 2013 listed as item 20, the upgrade cost \$11,700 as shown in the same document.
- (b) Item 14 is a 18ct WG Diamond Claw Ring. A copy of the invoice paragraph 242(d) at page .0338. The invoice discloses that it was Ms Caddick's diamond and the upgrade cost was \$6,500. The valuation of the ring provided by Canturi subsequent to the upgrade was \$39,200. A copy of the valuation is referred to in paragraph 240, on page .0176.

The documents referred to in this paragraph were obtained from ASIC.

255. The upgrades of jewellery purchased prior to October 2012 which was funded after October 2012 lead to the conclusion that these items of jewellery have been partly funded with Investor Funds.

256. Subject to determination of Ms Caddick's Parents' claim, and any claim made by ■■■■■ I propose to treat the jewellery referred to in paragraphs 250(b), (c) and (d) as assets purchased with Investor Funds if ASIC is successful in its application referred to in paragraph 6.

OTHER ASSETS

257. In the Reports I also refer to clothing and artworks purchased in the name of Ms Caddick or Maliver. I propose to treat such of these assets purchased after 16 October 2012 as having being purchased with Investor Funds if ASIC is successful in its application referred to in paragraph 6.

MAINTENANCE OF BOOKS AND RECORDS / FALSIFICATION OF BOOKS AND RECORDS

258. Paragraph 6.12 (page 41) of the Receivers' Report states:

"Our preliminary view is that not only did the Company fail to keep proper records but that a substantial portion of the books and records kept were false and misleading being based on fictitious documents and transactions."

259. I have undertaken further reviews of records maintained by Ms Caddick and Maliver. Those records confirm that Maliver did not maintain books and records to adequately reflect Maliver's transactions and enable the preparation of audited financial accounts. Therefore, Maliver breached Section 286 of the Corporations Act.
260. My investigations also confirm that Ms Caddick created fictitious documents provided to external parties which purported to transactions that did not occur, such as share transactions and receipt of Investor Funds being recorded as revenue from consulting services.

INVESTOR RETURNS IF REALISED ASSETS POOLED

261. Paragraph [4.89(f)] of the Receivers' Report indicates that if the pooling of property of Ms Caddick and Maliver occurs, the return to Investors will be greater. In this part I explain in a bit more detail why I hold this view.
262. It is my opinion that due to the intermingling of the amounts paid by Investors to Ms Caddick and then Maliver, the Investors are creditors of both Maliver and Ms Caddick as identified in the Receivers' Report and Provisional Liquidators' Report. Apart from other minor creditors, such as credit cards and the ATO (as joint trustee of SMSFs) totalling approximately \$144,018.95, Ms Caddick has minimal other creditors in number and value. The only other creditor of Maliver appears to be LSI Taxation for accounting fees totalling \$6,930.

263. However, the assets of Maliver are distinct from the assets of Ms Caddick.
264. Having the administrations of Ms Caddick and Maliver operating separately and distinctly would mean:
- (a) The Liquidators of Maliver would be required to conduct an exercise of tracing amounts paid to Ms Caddick from funds invested with Maliver, quantifying them and then making a claiming against Ms Caddick;
 - (b) Extensive tracing would be required to determine what assets / property is owned by Maliver and Ms Caddick and the source of funds used to purchase it. Further, there may be constructive trust claims against assets held by Ms Caddick acquired with funds of Maliver and vice versa.
 - (c) In order for Ms Caddick's property to be realised, in the absence of ASIC's application, it is likely that a Bankruptcy Trustee would need to be appointed.
 - (d) Any distribution from the property of Ms Caddick would be paid to her creditors (Investors) and to Maliver in liquidation given that Investor Funds were transferred from Maliver to Ms Caddick.
 - (e) Maliver in liquidation would then pay a distribution to Maliver's creditors, including Investors.
 - (f) In this scenario, two sets of costs would be incurred in dealing with the two distinct administrations, and this would reduce the overall distributions to creditors / Investors across the two administrations.
 - (g) There could also be time delays in dealing with the above matters.
265. Having regard to the above, in my view the pooling of the assets and liabilities of Maliver and Ms Caddick will significantly reduce the overall costs and expenses compared to two administrations. It would also negate the complications of possible additional Court applications and possible delays which may follow in determining the possible competing claims of Maliver and Ms Caddick to the available pool of assets.
266. Pooling occurs where the creditors of two or more insolvent entities have their claims "pooled" so that, in effect, they are treated as creditors of one entity.



267. In practice, insolvency laws and the Courts have endorsed pooling where creditors have agreed by resolution or a Court Order is obtained to consolidate or pool separate administrations. Subject to the appropriate approval being obtained, the pooling of the assets and liabilities of separate entities as one entity is contradictory to general insolvency laws and priority of distributions. However, pooling can provide a cost-effective approach to assist in untangling the affairs of insolvent entities and restating their creditors, assets and intercompany accounts in order to maximise the returns to certain creditors.
268. The regime contemplated by the FAOP is in the best interests of Investors and likely to lead to a quicker realisation of assets and more efficient distribution to Investors as opposed to a traditional and completely separate process of treating the affairs of Ms Caddick and Maliver distinctly. Accordingly, Mr Soire and I consent to the being appointed as Final Receivers and Liquidators and the relief sought in the FAOP. A copy Jones Partners schedule of rates [**MAL.1081.0003.0004**] is at Tab 390 of Exhibit BG-1.
269. Mr Soire and I would be appointed Final Receivers of Receivership Property (as defined in the FAOP) as set out in paragraph 9A of the FAOP. The regime in the FAOP provides for a process of:
- (a) Identifying Receivership Property, being Property specified in the FAOP and Property purchased or obtained with Investor Funds;
 - (b) The Final Receivers to take possession of and realise Receivership Property;
 - (c) Finalising and identifying the extent of Out-of-Pocket Investors;
 - (d) The Court dealing with any objections by Interested Parties (as defined in the FAOP) to the sale of any identified Receivership Property;
 - (e) The manner in which the Receivership Property is to be distributed by seeking directions of the Court; and
 - (f) The manner in which Investors may seek orders varying any distributions to Investors by applying to the Court.




270. Based on my experience in dealing with groups of insolvent entities, in my view, the proposed regime provides a more efficient method of realising Receivership Property and is likely to lead to a better outcome for investors as a result of significant cost savings.

Sworn by the deponent
at Sydney
in the State of New South Wales
on 12 May 2021
Before me:

)
)
) Signature of deponent
)
)




Signature of witness
Stephen Johnson
Solicitor of the Supreme Court of New South Wales

Schedule

Federal Court of Australia

No. NSD1220 of 2020

District Registry: New South Wales

Division: Commercial and Corporations

IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)

ABN or ACN or ARBN: ACN 164 334 918

Defendants

Second Defendant: MALIVER PTY LTD (ACN (ACN 164 334 918)

Date: 12 May 2021