

NOTICE OF FILING

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
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File Number: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v
FORUM FINANCE PTY LIMITED (IN LIQUIDATION) ACN 153 301 172 &
ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

IA was heard, 8 February 2023 before Cheeseman J



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

Registrar

Important Information

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 of the filing of the document is determined pursuant to the Court's Rules.



Form 59
Rule 29.02(1)

Affidavit

No. NSD616/2021

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

Westpac Banking Corporation ABN 33 007 457 141 and another named in the Schedule
Applicants

Forum Finance Pty Limited ACN 153 301 172 and others named in the Schedule
Respondents

Affidavit of: Caitlin Maria Murray
Address: Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
Occupation: Solicitor
Date: 8 February 2023

Contents

Document number	Details	Paragraph	Page
1.	Affidavit of Caitlin Maria Murray sworn on 8 February 2023	[1] – [22]	1 - 8
2.	Exhibit CMM-31 – Paginated bundle of documents	[2]	1 - 67

I, Caitlin Maria Murray of Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000, Solicitor, say on oath:

- I am a partner of the firm of solicitors, MinterEllison and the solicitor for the first applicant, Westpac Banking Corporation and the second applicant Westpac New Zealand Limited (together, **Westpac**, or the **Applicants**).

Filed on behalf of (name & role of party) Westpac Banking Corporation and Westpac New Zealand Limited, Applicants
 Prepared by (name of person/lawyer) Caitlin Murray
 Law firm (if applicable) MinterEllison
 Tel (02) 9921 8888 Fax 02 9921 8123
 Email caitlin.murray@minterellison.com
Address for service Governor Macquarie Tower, 1 Farrer Place, SYDNEY NSW 2000
 (include state and postcode) Our reference: CMM:AGS:1353397

Version 3 form approved 02/05/2019

2. Shown to me at the time of swearing this affidavit and exhibited to this affidavit is a paginated bundle of documents marked 'Exhibit CMM-31' (**CMM-31**). Throughout this affidavit I make reference to documents which appear at CMM-31.

Background

3. I have previously sworn affidavits in relation to these proceedings, including (but not limited to) my affidavit sworn 1 December 2021 in support of Westpac's application seeking an order granting Westpac leave to serve the Applicants' Fourth Further Amended Originating Application (**4FAOA**) and Second Further Amended Statement of Claim (**2FASOC**) outside Australia pursuant to rule 10.43 of the *Federal Court Rules 2011* (Cth) (**Rules**) in accordance with the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* done at the Hague on 15 November 1965 (**Hague Convention**) on certain respondents in the Hellenic Republic (**Greece**).
4. On 7 December 2021, his Honour Justice Lee granted Westpac leave to serve the 4FAOA and 2FASOC outside of Australia pursuant to rule 10.43 of the Rules and the Hague Convention (orders 4 and 5) (the **Service Out Orders**). Specifically leave was granted to serve the 4FAOA and the 2FASOC in Greece on the Forty-Third Respondent, Iugis Energy SA. A copy of the orders made by his Honour Justice Lee on 7 December 2021 are at pages 1 to 6 of CMM-31.
5. I swear this affidavit in support of an interlocutory application for orders that service be deemed effective on Iugis Energy SA.

The Hague Convention

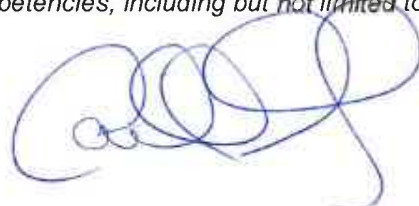
6. On 2 February 2023, I caused a search to be undertaken of the Private International Law section of the Commonwealth Attorney-General's Department's website to obtain updated information as to the appropriate method of transmitting documents for service in Greece.
7. I believe that Australia, the UK and Greece are all parties to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters 1965 (**Hague Convention**). A copy of an extract from the website of the Hague Conference on Private International Law, a global inter-governmental organisation (<https://www.hcch.net/en/instruments/conventions/status-table/?cid=17>), which lists the countries who are a party to the Hague Convention is located at pages 7 to 10 of CMM-31.
8. A copy of the Hague Convention is at pages 11 to 16 of CMM-31.
9. I have also caused searches to be conducted on the website of the Hague Conference on Private International Law, which details the reservations which members states have made to the Hague Convention and the manner in which documents will be served by the member states' Central Authority.
10. In relation to Greece, the Hague Conference on Private International Law has published on its website information about the Central Authority and practical information, which appears at pages 17 to 19 of CMM-31.

11. Based on this information:
- (a) Greece has declared that formal service will be effected only if the document to be served is written in, or translated into, Greek;
 - (b) the competent Australian Central Authority shall forward the request to the Greek Central Authority, which is the Ministry of Justice, Department of International Judicial Cooperation in Civil and Criminal Cases;
 - (c) upon receipt of the documents, the Greek Central Authority shall forward them to the competent Public Prosecutor, namely the Prosecutor of the district where the person being served is resident (in this case, Thessaloniki) and the service of documents will be performed by a process server; and
 - (d) the Public Prosecutor or the Greek Central Authority shall then send the Certificate of Service under Article 6 of the Hague Convention to the Australian Central Authority.
12. Both Australia and Greece have made declarations of applicability for Article 15(2) of the Hague Convention. The details of Greece's declaration are at page 20 of CMM-31. The details of Australia's declaration obtained from the website of the Hague Conference on Private International Law are at page 21 of CMM-31.

Company details for Iugis Energy SA

13. In July 2021, a report was provided by Control Risks, a global risk and strategic consulting firm engaged by MinterEllison on behalf of Westpac (**Report**). The Report said (at pages 3 and 6) that "Bill Papas" was the 100% shareholder of Iugis Holdings Limited (formerly known as Orca Enviro Holdings Limited), and that Iugis Energy SA is 98% owned by UK company Iugis Holdings Limited and 2% owned by Craig Stephen Rollinson. A copy of the relevant extracts of the Report are at pages 22 to 25 of CMM-31.
14. A company extract for Iugis Energy SA from the Thessaloniki Chamber of Tradesmen (Department of Registry/GEMI Service) dated 7 September 2021 with a certified translation is at pages 26 to 29 of CMM-31.
15. On 7 February 2023, I caused Christos Paraskevopoulos, a partner in the Greek law firm Bernitsas, to obtain a 'Representation Certificate' from the Thessaloniki Chamber of Tradesmen (Department of Registry/GEMI Service) with respect to Iugis Energy SA. A copy of that document together with its certified translation is at pages 30 to 36 of CMM-31. That document records that 'GIAMOURIDIS ANASTASIOS' is the 'Chairman & Managing Director (CEO)' of Iugis Energy SA pursuant to a resolution of the shareholders of Iugis Energy SA dated 6 April 2021. That document also records as follows:

The Board of Directors unanimously and in accordance with the provisions of the articles of association of the company, resolves and assigns to Mr Anastasios Giamouridis, Managing Director (CEO) the following competencies, including but not limited to:

- To represent the company in and out of court before any Greek Court and Greek Judicial or Administrative Authority as well as before any foreign court or any foreign authority

...

Attempts to serve Iugis Energy SA

16. After the Service Out Orders were made, the Applicants have undertaken the following steps to effect service on each of the Greek based respondents to the Proceedings including Iugis Energy SA in accordance with those orders:
- (a) on 9 December 2021, Andrew Clarke, a solicitor of MinterEllison attended the Department of Foreign Affairs (**DFAT**) office in Canberra to submit Westpac's 4FAOA and 2FASOC to be apostilled (as required by Greek authorities). I am informed by Mr Clarke and verily believe that it was not possible for this to be completed at this time, as due to the size of the documents, each needed to be bound and notarised before the documents could be apostilled;
 - (b) on 15 December 2021, after the 4FAOA and 2FASOC had been bound and notarised, Mr Clarke attended the DFAT office for the pleadings to be apostilled;
 - (c) on 22 December 2021, the apostilled 4FAOA and 2FASOC were transmitted in hard copy to Greece, to the applicants' Greek Legal advisers the firm Bernitsas in Greece by express international shipping for the purposes of being translated into the Greek language;
 - (d) on 6 June 2022, the apostilled Pleadings bound with the official translations were delivered, in hard copy to MinterEllison;
 - (e) I am informed by Michael Swain, a solicitor of MinterEllison, and verily believe that on 22 June 2022 he delivered to the registry of the Federal Court of Australia six boxes each containing three copies of the following documents in respect of each Greek respondent including Iugis Energy SA (one box per respondent):
 - (i) a request for service abroad under rule 10.64 of the *Federal Court Rules 2011* (Cth) in accordance with Form 25;
 - (ii) a summary of documents to be served in accordance with Form 26;
 - (iii) an English and Greek translated version of the apostilled the 4FAOA and 2FASOC;
 - (iv) a receipt for a payment of 50 Euros to the Hellenic Ministry of Justice (which were made in respect of each Greek respondent; i.e. six payments of 50 Euros), the Greek Central Authority, which they require under the Hague Convention to affect service;

- (f) on 13 July 2022, I was copied to an email from Ms Bernadette Henderson, Principal registry, Legal of the Federal Court of Australia, that confirmed that the documents, including the Form 25 and Forum 26 were ready to be dispatched to Greece;
- (g) on 14 July 2022, I was copied to a further email from Ms Henderson that said that the documents had been dispatched to Greece;
- (h) between 6 September 2022 and 6 October 2022, I was copied to various emails exchanged between Mr Clarke and Ms Henderson in relation to the status of the requests for service abroad in respect of each of the Greek respondents; and
- (i) on 14 October 2022, I was copied to an email sent from Ms Henderson to Mr Clarke to the effect that the 4FAOA and 2FASOC were unable to be served on Iugis Energy SA because "the addressee was unknown at the address given" attached to which was a certificate dated 14 September 2022 recording the location of the endorsement as 'THESSALONIKI' (**Certificate of Non-Service**)

(a copy of an email chain with the emails with Ms Henderson referred to in subparagraphs (f) to (i) above together with the Certificate of Non-Service are at pages 37 to 54 of CMM-31).

Service on Mr Giamouridis

- 17. By way of the Service Out Orders, the Applicants were also granted leave to serve the 4FAOA and the 2FASOC on the Twenty-Ninth Respondent, Anastasios Giamouridis, in the proceedings in Greece in accordance with the Hague Convention at the address of Eirinis 50, Evosmos 56224 Thessaloniki, Greece.
- 18. As noted above at paragraph 16(g) above, a request for service abroad was transmitted by the Federal Court of Australia to the Hellenic Ministry of Justice in relation to Mr Giamouridis.
- 19. On 23 August 2022, Mr Giamouridis was served at *Eirinos 40, Evosmos Thessaloniki Greece* in accordance with the Service Out Orders and in accordance with the request for service abroad submitted by the Federal Court of Australia to the Hellenic Ministry of Justice. A copy of a certificate attestation from the Greek Authorities (a certificate of service) confirming service on Mr Giamouridis on 23 August 2022 is at page 55 of CMM-31.
- 20. On 15 September 2022, I received an email from Gayanie Walton of GA Lawyers attaching an unsealed Notice of Acting – Appointment of Lawyer in the proceedings. A copy of that email and its attachment is at pages 56 to 60 of CMM-31. This advised that Mr Giamouridis had appointed George Anton of GA Lawyers to represent him in the proceedings and the notice of address for service on the 29th Respondent is:

Place: Level 1, 254 Kingsgorove (sic) Road, Kingsgrove, NSW, 2208

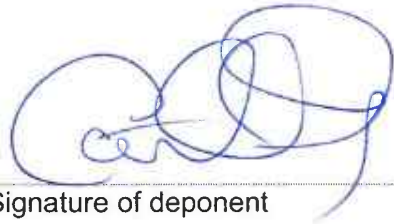
Email: info@galawyers.com.au




- 21. On 16 September 2022, I caused Alana Galasso (a solicitor of MinterEllison) to send an email by way of service containing a sharefile link to the 4FAOA and the 2FASOC to Mr Giamouridis' solicitors. A copy of that email is at pages 61 to 65 of CMM-31.
- 22. A sealed copy of the Notice of Acting – Appointment of Lawyer filed 20 September 2022 with respect to Mr Giamouridis obtained from the Commonwealth Courts Portal is at pages 66 to 67 of CMM-31.

Sworn by the deponent
 at Sydney in New South Wales
 on 8 February 2023

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Signature of deponent

Before me:



Signature of witness

SIMON HENRY BRANDIS

Solicitor
 Level 40, Governor Macquarie Tower, 1 Farrer
 Place NSW 2000.

As a witness, I certify the following matters concerning the person who made this affidavit (**deponent**):

- 1. I saw the face of the deponent.
- 2. I have known the deponent for twelve months.

Schedule of Parties

No. NSD616/2021

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

Applicants

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

Respondents

First Respondent Forum Finance Pty Limited (in liquidation) ACN 153 301 172
 Second Respondent: Basile Papadimitriou
 Third Respondent Vincenzo Frank Tesoriero
 Fourth Respondent: Forum Group Financial Services Pty Ltd (provisional liquidators appointed) ACN 623 033 705
 Fifth Respondent: Forum Group Pty Ltd (Receivers Appointed) (in liquidation) ACN 153 336 997
 Sixth Respondent: Forum Enviro Pty Ltd (provisional liquidators appointed) ACN 168 709 840
 Seventh Respondent: Forum Enviro (Aust) Pty Ltd (provisional liquidators appointed) ACN 607 484 364
 Eighth Respondent 64-66 Berkeley St Hawthorn Pty Ltd ACN 643 838 662
 Ninth Respondent 14 James Street Pty Ltd (in liquidation) ACN 638 449 206
 Tenth Respondent 26 Edmonstone Road Pty Ltd (in liquidation) ACN 622 944 129
 Eleventh Respondent 5 Bulkara Street Pty Ltd (in liquidation) ACN 630 982 160
 Twelfth Respondent 6 Bulkara Street Pty Ltd (in liquidation) ACN 639 734 473
 Thirteenth Respondent 23 Margaret Street Pty Ltd ACN 623 715 373
 Fourteenth Respondent 1160 Glen Huntly Road Pty Ltd ACN 639 447 984
 Fifteenth Respondent 14 Kirwin Road Morwell Pty Ltd (administrators appointed) ACN 641 402 093
 Sixteenth Respondent Canner Investments Pty Ltd (in liquidation) ACN 624 176 049
 Seventeenth Respondent 123 High Street Taradale Pty Ltd (administrators appointed) ACN 639 872 512
 Eighteenth Respondent 160 Murray Valley Hwy Lake Boga Pty Ltd ACN (administrators appointed) 641 392 921
 Nineteenth Respondent 31 Ellerman Street Dimboola Pty Ltd (administrators appointed) ACN 641 392 887
 Twentieth Respondent 4 Cowslip Street Violet Town Pty Ltd (administrators appointed) ACN 639 872 352
 Twenty-First Respondent 55 Nolan Street Maryborough Pty Ltd (administrators appointed) ACN 641 392 912

Twenty-Second Respondent	89 Betka Road Mallacoota Pty Ltd (administrators appointed) ACN 641 393 179
Twenty-Third Respondent	9 Gregory Street Ouyen Pty Ltd (in liquidation) ACN 641 392 707
Twenty-Fourth Respondent	9 Main Street Derrinallum Pty Ltd (administrators appointed) ACN 639 872 736
Twenty-Fifth Respondent	286 Carlisle Street Pty Limited (in liquidation) ACN 610 042 343
Twenty-Sixth Respondent	275 High Street Golden Square Pty Ltd (administrators appointed) ACN 639 870 545
Twenty-Seventh Respondent	Mazcon Investments Hellas IKE
Twenty-Eighth Respondent	Palante Pty Ltd (in liquidation) ACN 135 344 151
Twenty-Ninth Respondent	Anastasios Giamouridis
Thirtieth Respondent	The Forum Group of Companies Pty Ltd (in liquidation) ACN 151 964 626
Thirty-First Respondent	Iugis Pty Ltd (in liquidation) ACN 632 882 243
Thirty-Second Respondent	Iugis (UK) Limited (Company Number 10745974)
Thirty-Third Respondent	Iugis Holdings Limited (Company Number 11123437)
Thirty-Fourth Respondent	Iugis Global Financial Services Limited (Company Number 11785331)
Thirty-Fifth Respondent	Iugis Finance Limited (Company Number 11124046)
Thirty-Sixth Respondent	Spartan Consulting Group Pty Ltd (in liquidation) ACN 168 989 544
Thirty-Seventh Respondent	Intrashield Pty Ltd (in liquidation) ACN 133 426 534
Thirty-Eighth Respondent	Tesoriero Investment Group Pty Ltd (in liquidation) ACN 161 088 115
Thirty-Ninth Respondent	Mangusta (Vic) Pty Ltd ACN 631 520 682
Fortieth Respondent	193 Carlisle Street Enterprises Pty Ltd (in liquidation) ACN 612 615 237
Forty-First Respondent	8-12 Natalia Ave Oakleigh Pty Ltd (in liquidation) ACN 643 838 626
Forty-Second Respondent	Iugis Hellas IKE
Forty-Third Respondent	Iugis Energy SA
Forty-Fourth Respondent	Eric Constantinidis
Forty-Fifth Respondent	Giovanni (John) Tesoriero
Forty-Sixth Respondent	Moussa (Tony) Bouchahine
Forty-Seventh Respondent	Louisa Maria Agostino
Forty-Eighth Respondent	D&D Group O.E
Forty-Ninth Respondent	Aromatika Fyta Olympou Theion Ike
Fiftieth Respondent	A Giamouridis P.C.