

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 25/08/2021 2:45:17 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Interlocutory Application - if seeking Freezing or Search Order - Form 35 - Rule 17.01(1)(a)
File Number:	NSD616/2021
File Title:	WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v FORUM FINANCE PTY LIMITED & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Interlocutory Hearing
Time and date for hearing:	27/08/2021, 9:30 AM
Place:	Court Room 19B, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney; By Web Conference, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney



Sia Lagos

Dated: 25/08/2021 3:37:24 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

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.



Interlocutory application

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

To Third Respondent, Vincenzo Frank Tesoriero
Thirteenth Respondent, 23 Margaret Street Pty Ltd ACN 623 715 373

The Applicants apply for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

Time and date for hearing:

Place:

The Court ordered that the time for serving this application be abridged to

Date: 25 August 2021

Signed by an officer acting with the authority
of the District Registrar

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 4279	Fax	(02) 9921 8123
Email	caitlin.murray@minterellison.com		
Address for service (include state and postcode)	Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000		
	Our reference: 1353397		

[Form approved 01/08/2011]



Interlocutory orders sought

General Orders

1. An order that the Applicants be granted leave to file:
 - (a) this interlocutory application dated 25 August 2021;
 - (b) the affidavit of Caitlin Maria Murray sworn on 25 August 2021.
2. An order that paragraphs 1 to 4 of this interlocutory application be returnable *instanter*.
3. An order pursuant to rule 1.39 of the *Federal Court Rules 2011* (Cth) (**FCR**) abridging the time for service of the interlocutory application and the supporting affidavit to 4.00pm on 25 August 2021 with service to be effected by email to the solicitor for third respondent, Vincenzo Frank Tesoriero, and the thirteenth respondent, 23 Margaret Street Pty Ltd ACN 623 715 373 (Christopher Nehme of Fortis Law) at cnehme@fortislaw.com.au.
4. This interlocutory application be listed for hearing on August 2021.

Freezing Orders

5. The freezing order made against the third respondent, Vincenzo Frank Tesoriero, by order 4 of the orders made by Justice Lee on 2 July 2021 in relation to the interlocutory application dated 2 July 2021 (as varied on 9 July 2021) be varied in the form of **Annexure A** and be extended and apply until further order.
6. A freezing order against the thirteenth respondent, 23 Margaret Street Pty Ltd ACN 623 715 373, pursuant to section 23 of the *Federal Court of Australia Act 1976* (Cth) (**Act**) and rule 7.32 of the FCR, in the form of **Annexure B** to this interlocutory application.

Appointment of Receiver

7. Pursuant to section 23 of the Act and rule 7.33 of the FCR, further or alternatively pursuant to section 57 of the Act and 14.21 of the FCR, Jason Ireland and Jason Preston of McGrathNicol, Level 12, 20 Martin Place Sydney in the State of New South Wales be appointed as receivers and managers (**Receivers**) of the property with folio identifier 106/1021924 known as 23 Margaret Street, Rozelle NSW 2039 (**Rozelle Property**).
8. The Receivers be authorised to take possession of, preserve and maintain the Rozelle Property.



9. The costs, expenses and remuneration of the Receivers in acting as Receivers of the Rozelle Property be paid from any sale proceeds or income of the Rozelle Property.
10. The need for the Receivers to file a guarantee under rule 14.21 and rule 14.22 of the FCR in respect of their appointment under order 7 be dispensed with.

General orders

11. Leave to enter these orders forthwith.
12. Such further or other orders as the Court deems fit or necessary.
13. Costs.

Service on the Respondents

It is intended to serve this interlocutory application on the third respondent and the thirteenth respondent.

Date: 25 August 2021

A handwritten signature in blue ink, appearing to read 'Caitlin Murray'.

Signed by Caitlin Murray
Lawyer for the Applicants



Schedule of Parties

No. NSD616/2021

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

Applicants

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

Respondents

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



Twenty-First Respondent: 55 Nolan Street Maryborough Pty Ltd ACN 641 392 912
Twenty-Second Respondent: 89 Betka Road Mallacoota Pty Ltd ACN 641 393 179
Twenty-Third Respondent: 9 Gregory Street Ouyen Pty Ltd ACN 641 392 707
Twenty-Fourth Respondent: 9 Main Street Derrinallum Pty Ltd ACN 639 872 736
Twenty-Fifth Respondent: 286 Carlisle Street Pty Limited ACN 610 042 343
Twenty-Sixth Respondent: 275 High Street Golden Square Pty Ltd ACN 639 870 545
Twenty-Seventh Respondent: Mazcon Investments Hellas IKE
Twenty-Eighth Respondent: Palante Pty Ltd ACN 135 344 151
Twenty-Ninth Respondent: Anastasios Giamouridis



ANNEXURE A – FREEZING ORDER

PENAL NOTICE – FREEZING ORDER

TO: VINCENZO FRANK TESORIERO

IF YOU (BEING THE PERSON BOUND BY THIS ORDER):

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU NOT TO DO,**

YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.

TO VINCENZO FRANK TESORIERO

This is a '*freezing order*' made against you on 2 July 2021 by Justice Lee at a hearing without notice to you after the Court was given the undertakings set out in Schedule A to this order and after the Court read the affidavits listed in Schedule B to this order and varied on 9 July 2021 and on August 2021 by Justice Lee at hearings with notice.

THE COURT ORDERS:

INTRODUCTION

- (1) [Deleted]
- (2) Subject to the next paragraph, in accordance with the order 1 of the orders made by Justice Lee on August 2021, this order has effect until further order of the Court.
- (3) Anyone served with or notified of this order, including you, may apply to the Court at any time to vary or discharge this order or so much of it as affects the person served or notified.
- (4) In this order:
 - (a) '*applicant*', if there is more than one applicant, includes all the applicants;
 - (b) '*you*', where there is more than one of you, includes all of you and includes you if you are a corporation;
 - (c) '*third party*' means a person other than you and the applicant;
 - (d) '*unencumbered value*' means value free of mortgages, charges, liens or other encumbrances.
 - (e) '*Relevant Amount*' means the amount of AUD\$253,766,555.76 and NZD\$44,097,969.



- (5) (a) If you are ordered to do something, you must do it by yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions.
- (b) If you are ordered not to do something, you must not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions or with your encouragement or in any other way.

FREEZING OF ASSETS

- (6) (a) You must not remove from Australia or in any way dispose of, deal with or diminish the value of any of your assets in Australia ('Australian assets') up to the unencumbered value of AUD\$253,766,555.76 and NZD\$44,097,969 (the *Relevant Amount*).
- (b) If the unencumbered value of your Australian assets exceeds the Relevant Amount, you may remove any of those assets from Australia or dispose of or deal with them or diminish their value, so long as the total unencumbered value of your Australian assets still exceeds the Relevant Amount.
- (c) If the unencumbered value of your Australian assets is less than the Relevant Amount, and you have assets outside Australia (**Worldwide Assets**):
- (i) You must not dispose of, deal with or diminish the value of any of your Australian assets or your Worldwide Assets up to the unencumbered value of the Relevant Amount; and
- (ii) You may dispose of, deal with or diminish the value of any of your Worldwide Assets, so long as the unencumbered value of all of your Australian assets and Worldwide Assets still exceeds the Relevant Amount.
- (7) For the purposes of this order,
- (a) your assets include:
- (i) all your assets, whether or not they are in your name and whether they are solely or co-owned;
- (ii) any asset which you have the power, directly or indirectly, to dispose of or deal with as if it were your own (you are to be regarded as having such power if a third party holds or controls the asset in accordance with your direct or indirect instructions); and
- (iii) the following assets in particular:
- (A) your shares in each of the following companies:
- a. 23 Margaret Street Pty Limited ACN 623 715 373;
- b. 1160 Glen Huntly Road Pty Limited ACN 639 447 984;
- c. 14 Kirwin Road Morwell Pty Limited ACN 641 402 093;
- d. 64-66 Berkeley St Hawthorn Pty Limited ACN 643 838 662;
- e. 14 James Street Pty Limited ACN 638 449 206;
- f. Canner Investments Pty Limited ACN 624 176 049;
- g. Tesoriero Investment Group Pty Limited ACN 161 088 115;



- h. 123 High Street Taradale Pty Limited ACN 639 872 512;
- i. 160 Murray Valley Hwy Lake Boga Pty Limited ACN 641 392 921;
- j. 31 Ellerman Street Dimboola Pty Limited ACN 641 392 887;
- k. 4 Cowslip Street Violet Town Pty Limited ACN 639 872 352;
- l. 55 Nolan Street Maryborough Pty Limited ACN 641 392 912;
- m. 89 Betka Road Mallacoota Pty Limited ACN 641 393 179;
- n. 9 Gregory Street Ouyen Pty Limited ACN 641 392 707;
- o. 9 Main Street Derrinallum Pty Limited ACN 639 872 736;
- p. Forum Group Financial Services Pty Limited ACN 623 033 705;
- q. 26 Edmonstone Road Pty Limited ACN 622 944 129;
- r. 5 Bulkara Street Pty Limited ACN 630 982 160;
- s. 6 Bulkara Street Pty Limited ACN 639 734 473;
- t. Pankarn Pty Ltd ACN 104 616 051;
- u. 275 High Street Golden Square Pty Ltd ACN 639 870 545;
- v. 22 High Street Rushworth Pty Ltd ACN 641 392 903;
- w. 8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626;
- x. Vintes Qld Pty. Ltd. ACN 624 585 922;
- y. 65 Nelson Street Enterprises Pty. Ltd. ACN 612 614 632;
- z. 193 Carlisle Street Enterprises Pty. Ltd. ACN 612 615 237;
- aa. Vintes No 4 Pty Ltd ACN 639 726 524;
- bb. BV Holdings VT Pty Ltd ACN 639 891 624;
- cc. BV Holdings TD Pty Ltd ACN 639 895 257;
- dd. BV Holdings GS Pty Ltd ACN 640 218 864;
- ee. Vintes Qld No 3 Pty Ltd ACN 640 879 152;
- ff. BV Holdings DB Pty Ltd ACN 641 393 151;
- gg. BV Holdings RW Pty Ltd ACN 641 393 197;
- hh. BV Holdings MB Pty Ltd ACN 641 393 240;
- ii. BV Holdings LB Pty Ltd ACN 641 393 268;
- jj. BV Holdings MC Pty Ltd ACN 641 393 277;
- kk. BV Holdings MW Pty Ltd ACN 641 393 286;
- ll. BV Holdings DN Pty Ltd ACN 639 895 239;
- mm. 308 Carlisle Street Holdings Pty. Ltd. ACN 613 047 439;
- nn. 286 Carlisle Street Pty Ltd ACN 610 042 343;
- oo. Thrivi Group Pty Ltd ACN 625 491 858;
- pp. Mangusta (Vic) Pty. Ltd. ACN 631 520 682;



- qq. San Pel One Pty LTD ACN 651 919 265; and
- rr. San Pel Two Pty Ltd ACN 651 927 356;
- (B) the following vehicles and vessels:
 - a. Vessel "XOXO" Cayman Islands Official Number 734587;
 - b. 2018 Porsche Cayenne with VIN WPiZZZ9YZKDA90623
 - c. 2014 Alfa Romeo;
 - d. 2020 Mini Cooper S with VIN WMWXX920802M95982;
 - e. 2008 Ducati 1098R with registration DUCR;
 - f. 2020 BMW S1000 with registration EOZ12;
 - g. 1957 Chevrolet Bel Air;
 - h. 2007 Toyota Yaris with registration UQM112;
 - i. 2019 BRP Can-Am Ryker 600 registration RYKER;
 - j. 2001 Ducati 996 S;
 - k. 1978 Ducati Desmo 900 SS; and
 - l. 1990 Aprillia RS250.

- (b) the value of your assets is the value of the interest you have individually in your assets.

PROVISION OF INFORMATION

- (8) Subject to paragraph 9, you must:
 - (a) at or before **5pm** on **14 July 2021** (or within such further time as the Court may allow) to the best of your ability inform the applicant in writing of all your assets in Australia, giving their value, location and details (including any mortgages, charges or other encumbrances to which they are subject) and the extent of your interest in the assets;
 - (b) by **5pm** on **14 July 2021**, swear and serve on the applicant an affidavit setting out the above information
 - (c) by **5pm** on **3 September 2021** (or within such further time as the Court may allow) to the best of your ability, swear and serve on the applicants an affidavit setting out all your assets outside of Australia (**Worldwide Assets**), giving their value, location and details (including any mortgages, charges or other encumbrances to which they are subject) and the extent of your interest in the Worldwide Assets.
- (9) (a) This paragraph (9) applies if you are not a corporation and you wish to object to complying with paragraph 8 on the grounds that some or all of the information required to be disclosed may tend to prove that you:
 - (i) have committed an offence against or arising under an Australian law or a law of a foreign country; or
 - (ii) are liable to a civil penalty.
- (b) This paragraph (9) also applies if you are a corporation and all of the persons who are able to comply with paragraph 8 on your behalf and with whom you have been able to



communicate, wish to object to your complying with paragraph 8 on the grounds that some or all of the information required to be disclosed may tend to prove that they respectively:

- (i) have committed an offence against or arising under an Australian law or a law of a foreign country; or
 - (ii) are liable to a civil penalty.
- (c) You must:
- (i) disclose so much of the information required to be disclosed to which no objection is taken; and
 - (ii) prepare an affidavit containing so much of the information required to be disclosed to which objection is taken, and deliver it to the Court in a sealed envelope; and
 - (iii) file and serve on each other party a separate affidavit setting out the basis of the objection.

EXCEPTIONS TO THIS ORDER

(10) This order does not prohibit:

- (a) you paying up to \$5,000 a week on your ordinary living expenses;
- (b) paying \$30,000 per month (up to the sum of \$350,000 unless varied by subsequent order) on your reasonable legal expenses;
- (c) dealing with or disposing of any of your assets in the ordinary and proper course of your business, including paying business expenses bona fide and properly incurred; and
- (d) in relation to matters not falling within (a), (b) or (c), dealing with or disposing of any of your assets in discharging obligations bona fide and properly incurred under a contract entered into before this order was made, provided that before doing so you give the applicant, if possible, at least two working days written notice of the particulars of the obligation.

(10A) This order does not prohibit:

- (a) you from directing Australia and New Zealand Banking Group Limited in respect of the bank account in the name of 65 Nelson St Enterprises Pty Ltd (ACN 612 614 632) as trustee of the 65 Nelson Street Enterprises Trust (ABN 74 545 512 288) (**65 Nelson St Co**) to make payments in respect of bona fide expenses:
 - (i) for weekly wage payments for employees employed by and working in the business operated by 65 Nelson St Co;
 - (ii) lease payments for premises occupied by the business operated by 65 Nelson St Co;
 - (iii) operating expenses incurred by the business operated by 65 Nelson St Co;
- (b) you from directing any financial institution that holds bank accounts for any of the following entities:
 - (i) 23 Margaret Street Pty Limited ACN 623 715 373;



- (ii) 1160 Glen Huntly Road Pty Limited ACN 639 447 984;
- (iii) 14 Kirwin Road Morwell Pty Limited ACN 641 402 093;
- (iv) 64-66 Berkeley St Hawthorn Pty Limited ACN 643 838 662;
- (v) 14 James Street Pty Limited ACN 638 449 206;
- (vi) Forum Group Financial Services Pty Ltd ACN 623 033 705;
- (vii) Canner Investments Pty Limited ACN 624 176 049;
- (viii) 123 High Street Taradale Pty Limited ACN 639 872 512;
- (ix) 160 Murray Valley Hwy Lake Boga Pty Limited ACN 641 392 921;
- (x) 31 Ellerman Street Dimboola Pty Limited ACN 641 392 887;
- (xi) 4 Cowslip Street Violet Town Pty Limited ACN 639 872 352;
- (xii) 55 Nolan Street Maryborough Pty Limited ACN 641 392 912;
- (xiii) 89 Betka Road Mallacoota Pty Limited ACN 641 393 179;
- (xiv) 9 Gregory Street Ouyen Pty Limited ACN 641 392 707;
- (xv) 9 Main Street Derrinallum Pty Limited ACN 639 872 736;
- (xvi) 26 Edmonstone Road Pty Limited ACN 622 944 129;
- (xvii) 5 Bulkara Street Pty Limited ACN 630 982 160; and
- (xviii) 6 Bulkara Street Pty Limited ACN 639 734 473,

to make payments in respect of bona fide expenses of the following types in relation to properties owned by the entity:

- (xix) repayments of registered mortgages that were in existence before 2 July 2021;
- (xx) land tax;
- (xxi) insurance premiums;
- (xxii) council rates;
- (xxiii) water.

(11) You and the applicant may agree in writing that the exceptions in the preceding paragraph are to be varied. In that case the applicant or you must as soon as practicable file with the Court and serve on the other a minute of a proposed consent order recording the variation signed by or on behalf of the applicant and you, and the Court may order that the exceptions are varied accordingly.

(12) (a) This order will cease to have effect if you:

- (i) pay the sum of AUD\$253,766,555.76 and NZD\$44,097,969 into Court; or
- (ii) pay that sum into a joint bank account in the name of your lawyer and the lawyer for the applicant as agreed in writing between them; or
- (iii) provide security in that sum by a method agreed in writing with the applicant to be held subject to the order of the Court.



- (b) Any such payment and any such security will not provide the applicant with any priority over your other creditors in the event of your insolvency.
- (c) If this order ceases to have effect pursuant 12(a) above, you must as soon as practicable file with the Court and serve on the applicant notice of that fact.

COSTS

- (13) The costs of this application are reserved to the Court hearing the application on the Return Date.

PERSONS OTHER THAN YOU AND THE APPLICANT

(14) Set off by banks

This order does not prevent any bank from exercising any right of set off it has in respect of any facility which it gave you before it was notified of this order.

(15) Bank withdrawals by you

No bank need inquire as to the application or proposed application of any money withdrawn by you if the withdrawal appears to be permitted by this order.

(16) Persons outside Australia

- (a) Except as provided in subparagraph (b) below, the terms of this order do not affect or concern anyone outside Australia.
- (b) The terms of this order will affect the following persons outside Australia:
 - (i) you and your directors, officers, employees and agents (except banks and financial institutions);
 - (ii) any person (including a bank or financial institution) who:
 - (A) is subject to the jurisdiction of this Court; and
 - (B) has been given written notice of this order, or has actual knowledge of the substance of the order and of its requirements; and
 - (C) is able to prevent or impede acts or omissions outside Australia which constitute or assist in a disobedience of the terms of this order; and
 - (iii) any other person (including a bank or financial institution), only to the extent that this order is declared enforceable by or is enforced by a court in a country or state that has jurisdiction over that person or over any of that person's assets.

(17) Assets located outside Australia

Nothing in this order shall, in respect of assets located outside Australia, prevent any third party from complying or acting in conformity with what it reasonably believes to be its bona fide and properly incurred legal obligations, whether contractual or pursuant to a court order or otherwise, under the law of the country or state in which those assets are situated or under the proper law of any contract between a third party and you, provided that in the case of any future order of a court of that country or state made on your or the third party's application, reasonable written notice of the making of the application is given to the applicant.



SCHEDULE A

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

- (1) The applicant undertakes to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.
- (2) As soon as practicable, the applicant will file and serve upon you copies of:
 - (a) this order;
 - (b) the application for this order for hearing on the return date;
 - (c) the following material in so far as it was relied on by the applicant at the hearing when the order was made:
 - (i) affidavits (or draft affidavits);
 - (ii) exhibits capable of being copied;
 - (iii) any written submission; and
 - (iv) any other document that was provided to the Court.
 - (d) a transcript, or, if none is available, a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put, to the Court;
 - (e) the originating process.
- (3) As soon as practicable, the applicant will cause anyone notified of this order to be given a copy of it.
- (4) The applicant will pay the reasonable costs of anyone other than you and the respondents which have been incurred as a result of this order, including the costs of finding out whether that person holds any of your assets.
- (5) If this order ceases to have effect the applicant will promptly take all reasonable steps to inform in writing anyone who has been notified of this order, or who the applicant has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.
- (6) The applicant will not, without leave of the Court, use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in or outside Australia, other than this proceeding except for the purposes of any police, regulatory authority or prudential disclosure.
- (7) The applicant will not, without leave of the Court, seek to enforce this order in any country outside Australia or seek in any country outside Australia an order of a similar nature or an order conferring a charge or other security against you or your assets.

**SCHEDULE B****AFFIDAVITS RELIED ON****Name of deponent**

- (1) Geoffrey Keith Anderson
- (2) Nicholas Anthony O'Brien

- (3) Caitlin Maria Murray

Date affidavit made

28 June 2021; 8 July 2021

27 June 2021; 1 July 2021

28 June 2021; 2 July 2021;
7 July 2021; 8 July 2021; 12 July
2021; 14 July 2021; 15 July
2021; 25 August 2021

NAME AND ADDRESS OF APPLICANTS' LAWYERS

The Applicants' lawyers are:

MinterEllison
Governor Macquarie Tower
Level 40, 1 Farrer Place
Sydney NSW 2000

Attention: Caitlin Murray

caitlin.murray@minterellison.com ; T +61 2 9921 8514 ; M +61 422 977 971 ; +61 2 9921 8123
ref: CMM:1353397



ANNEXURE B – FREEZING ORDER

PENAL NOTICE – FREEZING ORDER

TO: 23 MARGARET STREET PTY LTD ACN 623 715 373

IF YOU (BEING THE PERSON BOUND BY THIS ORDER):

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU NOT TO DO,**

YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.

TO: 23 MARGARET STREET PTY LTD ACN 623 715 373

This is a '*freezing order*' made against you on ___ August 2021 by Justice _____ at a hearing after the Court was given the undertakings set out in Schedule A to this order.

THE COURT ORDERS:

INTRODUCTION

- (1) Subject to the next paragraph, this order has effect until further order.
- (2) Anyone served with or notified of this order, including you, may apply to the Court at any time to vary or discharge this order or so much of it as affects the person served or notified.
- (3) In this order:
 - (a) 'applicant', if there is more than one applicant, includes all the applicants;
 - (b) 'you', where there is more than one of you, includes all of you and includes you if you are a corporation;
 - (c) 'third party' means a person other than you and the applicant;
 - (d) 'unencumbered value' means value free of mortgages, charges, liens or other encumbrances.
 - (e) 'Relevant Amount' means the amount of AUD\$253,766,555.76 and NZD\$44,097,969.
- (4) (a) If you are ordered to do something, you must do it by yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions.



- (b) If you are ordered not to do something, you must not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions or with your encouragement or in any other way.

FREEZING OF ASSETS

- (5) (a) You must not remove from Australia or in any way dispose of, deal with or diminish the value of any of your assets in Australia ('Australian assets') up to the unencumbered value of AUD\$253,766,555.76 and NZD\$44,097,969 ('the Relevant Amount').
- (b) If the unencumbered value of your Australian assets exceeds the Relevant Amount, you may remove any of those assets from Australia or dispose of or deal with them or diminish their value, so long as the total unencumbered value of your Australian assets still exceeds the Relevant Amount.
- (6) For the purposes of this order,
- (a) your assets include:
- (i) all your assets, whether or not they are in your name and whether they are solely or co-owned;
- (ii) any asset which you have the power, directly or indirectly, to dispose of or deal with as if it were your own (you are to be regarded as having such power if a third party holds or controls the asset in accordance with your direct or indirect instructions); and
- (iii) the following assets in particular the property known as 23 Margaret Street, Rozelle NSW 2039 (folio 106/1021924),
- (b) the value of your assets is the value of the interest you have individually in your assets.

PROVISION OF INFORMATION

- (7) Subject to paragraph 8, you must:
- (a) within 5 business days after being served with this orders (or within such further time as the Court may allow) to the best of your ability inform the applicants in writing of all your Australian assets and Worldwide assets, giving their value, location and details (including any mortgages, charges or other encumbrances to which they are subject) and the extent of your interest in the assets;
- (b) within 5 working days after being served with this order, swear by a proper officer and serve on the applicant an affidavit setting out the above information.
- (8) (a) This paragraph (8) applies if you are not a corporation and you wish to object to complying with paragraph 7 on the grounds that some or all of the information required to be disclosed may tend to prove that you:
- (i) have committed an offence against or arising under an Australian law or a law of a foreign country; or
- (ii) are liable to a civil penalty.
- (b) This paragraph (8) also applies if you are a corporation and all of the persons who are able to comply with paragraph 7 on your behalf and with whom you have been able to communicate, wish to object to your complying with paragraph 7 on the grounds that some or all of the information required to be disclosed may tend to prove that they respectively:



- (i) have committed an offence against or arising under an Australian law or a law of a foreign country; or
 - (ii) are liable to a civil penalty.
- (c) You must:
- (i) disclose so much of the information required to be disclosed to which no objection is taken; and
 - (ii) prepare an affidavit containing so much of the information required to be disclosed to which objection is taken, and deliver it to the Court in a sealed envelope; and
 - (iii) file and serve on each other party a separate affidavit setting out the basis of the objection.

EXCEPTIONS TO THIS ORDER

- (9) This order does not prohibit:
- (a) dealing with or disposing of any of your assets in the ordinary and proper course of your business, including paying business expenses bona fide and properly incurred; and
 - (b) in relation to matters not falling within (a) or (b), dealing with or disposing of any of your assets in discharging obligations bona fide and properly incurred under a contract entered into before this order was made, provided that before doing so you give the applicant, if possible, at least two working days written notice of the particulars of the obligation.
- (10) You and the applicant may agree in writing that the exceptions in the preceding paragraph are to be varied. In that case the applicant or you must as soon as practicable file with the Court and serve on the other a minute of a proposed consent order recording the variation signed by or on behalf of the applicant and you, and the Court may order that the exceptions are varied accordingly.
- (11) (a) This order will cease to have effect if you:
- (i) pay the sum of AUD\$253,766,555.76 and NZD\$44,097,969 into Court; or
 - (ii) pay that sum into a joint bank account in the name of your lawyer and the lawyer for the applicant as agreed in writing between them; or
 - (iii) provide security in that sum by a method agreed in writing with the applicant to be held subject to the order of the Court.
- (b) Any such payment and any such security will not provide the applicant with any priority over your other creditors in the event of your insolvency.
- (c) If this order ceases to have effect pursuant 11(a) above, you must as soon as practicable file with the Court and serve on the applicant notice of that fact.

COSTS

- (12) The costs of this application are reserved to the Court hearing the application on the Return Date.



PERSONS OTHER THAN THE APPLICANT AND RESPONDENT

(13) Set off by banks

This order does not prevent any bank from exercising any right of set off it has in respect of any facility which it gave you before it was notified of this order.

(14) Bank withdrawals by the respondent

No bank need inquire as to the application or proposed application of any money withdrawn by you if the withdrawal appears to be permitted by this order.

(15) Persons outside Australia and New Zealand

- (a) Except as provided in subparagraph (b) below, the terms of this order do not affect or concern anyone outside Australia or New Zealand.
- (b) The terms of this order will affect the following persons outside Australia and New Zealand:
 - (i) you and your directors, officers, employees and agents (except banks and financial institutions);
 - (ii) any person (including a bank or financial institution) who:
 - (A) is subject to the jurisdiction of this Court; and
 - (B) has been given written notice of this order, or has actual knowledge of the substance of the order and of its requirements; and
 - (C) is able to prevent or impede acts or omissions outside Australia which constitute or assist in a disobedience of the terms of this order; and
 - (iii) any other person (including a bank or financial institution), only to the extent that this order is declared enforceable by or is enforced by a court in a country or state that has jurisdiction over that person or over any of that person's assets.

(16) Assets located outside Australia

Nothing in this order shall, in respect of assets located outside Australia, prevent any third party from complying or acting in conformity with what it reasonably believes to be its bona fide and properly incurred legal obligations, whether contractual or pursuant to a court order or otherwise, under the law of the country or state in which those assets are situated or under the proper law of any contract between a third party and you, provided that in the case of any future order of a court of that country or state made on your or the third party's application, reasonable written notice of the making of the application is given to the applicant.



SCHEDULE A

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

- (1) The applicants undertake to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.
- (2) As soon as practicable, the applicant will file and serve upon the thirteenth respondent copies of:
 - (a) this order;
 - (b) the following material in so far as it was relied on by the applicant at the hearing when the order was made:
 - (i) affidavits (or draft affidavits);
 - (ii) exhibits capable of being copied;
 - (iii) any written submission; and
 - (iv) any other document that was provided to the Court.
 - (c) a transcript, or, if none is available, a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put, to the Court;
 - (d) the originating process, or, if none was filed, any draft originating process produced to the Court.
- (3) As soon as practicable, the applicants will cause anyone notified of this order to be given a copy of it.
- (4) The applicant will pay the reasonable costs of anyone other than the respondents which have been incurred as a result of this order, including the costs of finding out whether that person holds any of assets of thirteenth respondent.
- (5) If this order ceases to have effect the applicants will promptly take all reasonable steps to inform in writing anyone to who has been notified of this order, or who he has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.
- (6) The applicants will not, without leave of the Court, use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in or outside Australia, other than this proceeding.
- (7) The applicants will not, without leave of the Court, seek to enforce this order in any country outside Australia or seek in any country outside Australia an order of a similar nature or an order conferring a charge or other security against the respondent or the respondent's assets.

**SCHEDULE B****AFFIDAVITS RELIED ON****Name of deponent**

- (1) Geoffrey Keith Anderson
- (2) Nicholas Anthony O'Brien

- (3) Caitlin Maria Murray

Date affidavit made

28 June 2021; 8 July 2021
27 June 2021; 1 July 2021
28 June 2021; 2 July 2021;
7 July 2021; 8 July 2021; 12 July
2021; 14 July 2021; 15 July
2021; 25 August 2021

NAME AND ADDRESS OF APPLICANTS' LAWYERS

The Applicants' lawyers are:

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