

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 28/06/2021 11:00:07 AM 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: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 v FORUM
FINANCE PTY LIMITED & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



Sia Lagos

Dated: 28/06/2021 11:12:05 AM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 59
Rule 29.02(1)

Affidavit

No. NSD of 2021

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

Westpac Banking Corporation ABN 33 007 457 141

Applicant

Forum Finance Pty Limited ACN 153 301 172 and another
Respondents

Affidavit of: Geoffrey Keith Anderson

Address: Level 30, 275 Kent Street, Sydney NSW 2000

Occupation: Director, Asset Finance (Westpac Institutional Bank), Westpac Banking Corporation

Date: 28 June 2021

Contents

| Document number | Details | Paragraph | Page |
|-----------------|--|-----------|------|
| 1. | Affidavit of Geoffrey Keith Anderson in support of application for Freezing Orders and Search Orders sworn on 28 June 2021 | 1 | 2 |
| 2. | Exhibit 'GKA-1', being a paginated bundle of documents | 4 | 2 |

Filed on behalf of (name & role of party) Westpac Banking Corporation, Applicant
 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

I, Geoffrey Keith Anderson of Level 30, 275 Kent Street, Sydney NSW 2000, Director, Asset Finance (Westpac Institutional Bank), Westpac Banking Corporation, say on oath:

Introduction

1. I am employed by the Applicant, Westpac Banking Corporation (**Westpac**), as a Director, in the Asset Finance team in the Westpac Institutional Bank division of Westpac.
2. I am authorised to make this affidavit on behalf of Westpac. Except where otherwise indicated, I make this affidavit from my own knowledge. Where I set out information based on information and belief, I believe that information to be true based on my enquiries of the identified people.
3. I make this affidavit in support of Westpac's Interlocutory Application dated [28 June 2021].
4. Shown to me at the time of swearing this affidavit is an exhibit marked '**GKA-1**' (**Exhibit GKA-1**). In this affidavit I make reference to material within Exhibit GKA-1, and where I refer to page numbers I am referring to page numbers within Exhibit GKA-1.

Summary of the concerns involving Forum Finance

5. As explained in more detail in this affidavit, Westpac has over the course of the last two weeks (since 10 June 2021) become aware of falsified documents which have resulted in funding being paid to Forum Finance Pty Ltd (**Forum Finance**). As at the date of this affidavit, Westpac estimates the total balance owing by Forum Finance in relation to these falsified contracts to be approximately A\$254,500,000 in relation to Westpac, and approximately A\$39,800,000 in relation to Westpac New Zealand Limited, a related entity of Westpac.
6. The funding was paid to Forum Finance pursuant to the following arrangements:
 - (a) a Principal and Agency Agreement between Westpac and Eqwe Pty Ltd (**Eqwe**), pursuant to which Eqwe was authorised to act as Westpac's agent in sourcing customers who required equipment or receivables finance; and
 - (b) a Master Sale of Receivables and Goods Agreement between Forum Finance and Eqwe (as agent for Westpac), Forum Finance could offer to sell to Eqwe (as agent for Westpac) customer receivables (and related securities) on advancing finance, which was provided by Forum Finance to its customers and if the offer was accepted, Forum Finance would assign to Eqwe (as agent for Westpac) the

Signed:



Taken by:



right and title to the receivables and security in exchange for an advance of the finance provided.

7. These arrangements internally are sometimes referred to as the **Eqwe/Forum Programme**, and are explained further at paragraphs 17 to 24 below.
8. I am informed by Sam Leong of Westpac and verily believe that payments made to Forum Finance in respect of transactions introduced by Eqwe pursuant to the Eqwe/Forum Programme were paid to an account in the name of Forum Finance, held at National Australia Bank Limited BSB 082-080, account number 848483695 (**Forum Account**). Mr Leong has informed me that on or about 26 June 2021 he randomly selected a sample of customer contracts in respect of the Eqwe/Forum Programme, and that each payment to Forum Finance in respect of each of those sample contracts was paid to the Forum Account. A copy of an email (including its attachment) that I received from Mr Leong dated 26 June 2021 at 2.42pm (AEST) is at pages 1 – 2 of Exhibit GKA-1. I am further informed by Sam Leong and verily believe that on 27 June 2021 he had confirmed that all contracts with Affected Customers (see paragraphs 12 - 15 below) were paid to the Forum Account. A copy of an email that I received from Mr Leong dated 27 June 2021 at 3.42pm (AEST) is at page 3 of Exhibit GKA-1.
9. Westpac's investigations carried out over the last fortnight reveal that funding was paid to Forum Finance in relation to approximately 100 contracts (plus a further 10 contracts for Veolia that have been refinanced), for the supply of equipment in the names of seven (7) customers (referred to as the **Affected Customers**, see paragraphs 12 - 15 below) pursuant to the Eqwe/Forum Programme that are not legitimate contracts executed by those Affected Customers. These matters are set out in paragraphs 32 to 79 below.
10. Westpac has attempted to contact Mr Bill Papas (also known as Basile Papadimitriou) (**Mr Papas**), the director and chief executive officer of Forum Finance about these contracts, but has not been able to make contact with Mr Papas and has not spoken to, or received a direct communication from Mr Papas since 15 June 2021. Westpac has received information which suggests that Mr Papas may have been in hospital in Perth. On 21 June 2021, I received a letter from Vobis Equity Attorneys that informed me that in the absence of Mr Papas, an interim working group had been formed. This is set out in paragraphs 52, 53 and 64 below.
11. Eqwe has communicated to Westpac that it was, prior to June 2021, not aware of the concerns with the contracts. This is set out in paragraph 73 below.

Signed:



Taken by:



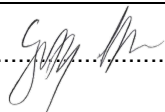
Background

12. I have been in my role with Westpac since 2014. In my role, I am responsible for managing asset finance relationships for several institutional banking clients which includes lending and leasing to institutional, corporate and government asset financing clients. Asset financing involves the provision of finance to clients for the purpose of acquiring assets to be used in their business.
13. In my role, I am also responsible for managing Westpac's relationships with certain Asset Finance customers. This includes:
- (a) Veolia Environmental Services (Australia) Pty Ltd (**Veolia**);
 - (b) Coles Supermarkets Australia Pty Limited (**Coles**); and
 - (c) HWL Ebsworth Lawyers (**HWLE**).
14. In this affidavit, I also refer to my role in investigations on behalf of Westpac in relation to other Asset Finance customers, namely:
- (a) WesTrac Pty Limited (**WesTrac**);
 - (b) Australian Leisure and Hospitality Group Pty Ltd (**ALH**);
 - (c) Scentre Shopping Centre Management Pty Ltd (**Scentre**); and
 - (d) Catholic Healthcare Limited (**Catholic Healthcare**),
- for whom I am not otherwise directly responsible in my day-to-day role.
15. The customers named in paragraphs 13 and 14 above are referred to in this affidavit as the **Affected Customers**.
16. My colleague Tim Ewing, who is also a Director in the Asset Financing team at Westpac, is the Asset Finance relationship manager for WesTrac within the Asset Financing team. Until mid-2019, I was the relationship manager for WesTrac within the Asset Financing team. Mr Ewing has assisted with aspects of Westpac's investigation and communications with some of the Affected Customers.

Contractual relationships between Forum Finance, Eqwe Pty Ltd and Westpac

17. Westpac (as the 'Principal') and Eqwe Pty Ltd ACN 630 535 554 (formerly named BHO Funding Pty Ltd) (**Eqwe**) (as the 'Agent') are parties to a Principal and Agency Agreement dated on or about 15 July 2019 (**Agency Agreement**). A copy of the Agency Agreement is at pages 6 – 39 of Exhibit GKA-1. I understand that Eqwe is paid a trailing commission under the Agency Agreement.

Signed:

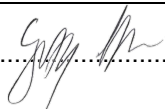


Taken by:

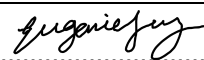


18. Westpac and Eqwe are also parties to a document titled 'Business Terms Letter BHO Funding Pty Limited – Disclosed Principal and Agency Program' dated 15 July 2019 (**Business Terms Letter**). A copy of the Business Terms Letter is at pages 40 – 49 of Exhibit GKA-1.
19. Before the Agency Agreement, Westpac and BHD Leasing Pty Ltd trading as BHO Finance ACN 154 478 707 (**BHD Leasing**) (an entity related to Eqwe) were parties to a Principal and Agency Agreement dated 8 May 2017 (**Previous Agency Agreement**). A copy of the Previous Agency Agreement is at pages 50 – 83 of Exhibit GKA-1. I understand that BHD Leasing was paid an arranger fee under the Previous Agency Agreement.
20. Eqwe (as the 'Purchaser') and Forum Finance Pty Ltd ACN 153 301 172 (as the 'Seller') are parties to a Master Sale of Receivables and Goods Agreement dated 12 July 2019 (**Master Agreement**). A copy of the Master Agreement is at pages 84 – 113 of Exhibit GKA-1. Before to the Master Agreement, Forum Finance and BHD Leasing were parties to a Master Sale of Receivables and Goods Agreement dated 31 August 2018 (**Previous Master Agreement**). A copy of the Previous Master Agreement is at pages 114 – 141 of Exhibit GKA-1.
21. Under the Agency Agreement, Eqwe was authorised to act as Westpac's disclosed agent to source receivables and equipment financing opportunities, which may then be financed by Westpac.
22. Under the Master Agreement, if Forum Finance supplied relevant equipment to a customer, Eqwe could arrange receivables finance by way of funding through a purchase of lease receivables owing to Forum Finance by the customer (referred to in the Master Agreement as 'Purchased Receivables').
23. In accordance with the terms of the Agency Agreement and the Master Agreement, if the transactions were genuine:
- (a) Westpac was to be disclosed to the Relevant Customer as the financier at origination, with Westpac's direct credit risk recorded against the Relevant Customer;
 - (b) Forum Finance was required to direct all Relevant Customers to pay all Purchased Receivables into an account held by Eqwe with Westpac under clause 4.1.3 of the Master Agreement (referred to in the Master Agreement as the '**Purchaser's Account**');

Signed:



Taken by:

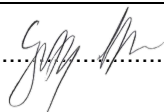


- (c) Forum Finance was to assign to Eqwe (acting as Westpac's agent under the Agency Agreement) its rights to the payments in respect of Purchased Assets; and
- (d) Westpac held a security interest over the Purchaser's Account and a direct debit operated whereby it direct debited the Purchaser's Account on the first or fifteenth day of each month to make the scheduled repayment in respect of each Purchased Receivable.
24. Westpac has uncovered serious concerns in relation to the transactions that are the subject of the Eqwe/Forum programme. Due to the number of transactions involved, Westpac has not yet completed its review of all of the transactions documents and funds transfers in relation to each transaction. However, I have obtained from Westpac's records the transaction documents for two transactions the subject of the EQWE/Forum programme which are of concern and which the respective Affected Customer has indicated the signatures on the contracts have been falsified: one for Veolia and one for WesTrac.

WesTrac February 2021 Transaction; Veolia June 2021 Transaction

25. On 16 February 2021 at approximately 10.56am (AEST), I received an email from Katrina Constable of Eqwe, together with my colleagues in the Asset Financing team, Michael Daniel, an Associate Director in the Asset Finance team at Westpac, and Lily Quach, a Senior Associate in the Asset Finance team who works with me on day-to-day basis. This email relates to a purchase of receivables payable by WesTrac in respect of equipment accepted on 12 February 2021 scheduled to settle on 18 February 2021 (**WesTrac February 2021 Transaction**). A copy of this email (including its attachments) is at pages 142 – 173 of Exhibit GKA-1.
26. On 16 February 2021 at approximately 4.20pm (AEST), Ms Quach received an email from Ms Constable in respect of the WesTrac February 2021 Transaction. A copy of this email (including its attachment) is at pages 174 – 177 of Exhibit GKA-1.
27. A copy of the settlement pack for the WesTrac February 2021 Transaction (referred to in paragraph 26) is at pages 178 – 193 of Exhibit GKA-1.
28. A copy of a payment detail report dated 18 February 2021 in respect of the WesTrac February 2021 Transaction is at page 194 – 195 of Exhibit GKA-1.
29. On 7 June 2021 at approximately 12.39pm (AEST), I received an email from Ms Constable of Eqwe relating to a purchase of receivables payable by Veolia in respect

Signed:



Taken by:



of equipment accepted on 7 June 2021 for lugis organic waste digestors scheduled to settle on Wednesday 9 June 2021 (**Veolia June 2021 Transaction**). A copy of this email (including its attachments) is at pages 196 – 211 of Exhibit GKA-1.

30. On 8 June 2021 at approximately 10.47am (AEST), I received an email from Lily Quach, a Senior Associate of the Asset Financing team at Westpac in respect of the Veolia June 2021 Transaction. A copy of this email (including its attachments) is at pages 212 – 232 of Exhibit GKA-1.
31. On 9 June 2021 at approximately 10.46am (AEST), I was copied to an email from Nitesh Duggad of the Asset Financing team at Westpac, sent to Ms Quach. A copy of this email is at page 236 of Exhibit GKA-1.

Discovery of a concern

32. In this section of this affidavit I set out chronologically Westpac's communications with the Affected Customers, Eqwe and Forum Finance as part of its investigation into Forum Finance.
33. On 10 June 2021 at sometime between 5.00pm and 6.00pm (AEST), I received a telephone call from Mr Ewing and Mr Michael Daniel, who is an Associate Director, in the Asset Finance team at Westpac. During that telephone call Mr Ewing, Mr Daniel and I had a conversation using words to the following effect:

Mr Ewing: *I'm calling regarding the WesTrac exposures under its leasing facilities regarding the Eqwe / Forum programme, in response to a question Nick O'Brien and I received from WesTrac as to its exposures under the leasing facilities. WesTrac have advised us today that they have no records of signing the relevant equipment finance documents with Forum Finance and cannot identify the relevant equipment to which those finance documents relate.*

Me: *I'll call Luke Price at Eqwe, to see if he can give us any further information that might assist WesTrac identify the equipment.*

34. On 10 June 2021 at approximately 5.15pm (AEST), I telephoned Luke Price, who is a Director at Eqwe, and with whom I have communicated with in respect of the Eqwe / Forum programme. During that telephone call, Mr Price and I had a conversation using words to the following effect:

Me: *I understand that WesTrac is saying to us that it has no records relating to some equipment under the Forum Finance programme. Could you talk to*

Signed:



Taken by:



Bill Papas about this? Do you have any information that you could provide to us that would assist WesTrac to identify the equipment?

I understood through my role at Westpac and dealings with Forum Finance that Mr Papas was a director and the Chief Executive Officer of Forum Finance.

Mr Price: *I will talk to Bill about this, and get back to you.*

Me: *Thanks.*

35. On 10 June 2021 at approximately 9.30pm (AEST) I received a text message from Mr Price, in which he had copied a text message from Mr Papas. I no longer have access to a copy of this text message, because it has been deleted from my mobile phone, but I recall that the text message from Mr Price to me stated words to the effect of *"Bill Papas had confirmed that he received my message and would respond Friday"*.
36. On 11 June 2021 at approximately 9.15am (AEST), I met with Mr Price at Eqwe's offices at Milsons Point, with the objective of viewing the deposit records from WesTrac into the Eqwe bank account held with Westpac to assist with the WesTrac reconciliations.
37. During my visit, Mr Price and I had a conversation using words to the following effect:

Mr Price: *I do not have access to the relevant bank accounts where the funds are deposited. Katrina has the relevant NAB account tokens, and she does not work today, so I can't access.*

I understand it occurs this way:

- *A customer pays into Forum's NAB account BSB 082 080 account number 848483695.*
- *Forum transfers funds to a NAB Forum account controlled by Eqwe BSB 082 080 account number 761644257. I'm advised Forum do not have signatories on this account.*
- *Funds are transferred from this account to the Eqwe Westpac account BSB 032 298 account number 455 353.*

Me: *Please get the relevant details of the WesTrac payments over to me as soon as you can.*

38. I understood the reference to Katrina during this conversation to be a reference to Katrina Constable who I know works with Mr Price at Eqwe.

Signed:



Taken by:



39. On 11 June 2021 at approximately 12.40pm (AEST), I received an email from Mr Price forwarding an email from Mr Papas and Kathleen Wang of Forum Finance showing two credits into the Forum Finance working account from WesTrac totalling \$48,022.46 and \$80,592.99. A copy of this email is at pages 241 – 245 of Exhibit GKA-1.

40. On 11 June 2021 at approximately 6.00pm (AEST), I received a call from Mr Price and Mr Papas. I took this call with Mr Ewing of Westpac also on the line. During that telephone call we had a conversation using words to the following effect:

Mr Price: *I have spoken with Bill today to ascertain information from him and obtain copies of payment receipts from WesTrac to assist with their reconciliation of the accounts.*

Me: *Yes, what's happened?*

Mr Papas: *The WesTrac account is not managed by me personally, but I understand that the telematics software was not working and therefore Forum Finance were making payments on behalf of WesTrac. Forum Finance are receiving approximately \$120,000 to \$150,000 per month from WesTrac and payments are in order with WesTrac. Additionally I will provide you with copies of payment receipts from WesTrac. I will also arrange meetings with Forum's Woolworths and Veolia contacts.*

Me: *What's your solution regarding WesTrac?*

Mr Papas: *We will repay the exposure to WesTrac by COB Friday 18 June 2021.*

41. On 11 June 2021 at approximately 6.15pm (AEST), I sent an email to Nicholas O'Brien and Greg Clark, copied to Peter Deutsch, and Mr Ewing, in respect of the WesTrac investigations.

(a) Mr O'Brien is a Managing Director, Head of Consumer & Industrials within the Westpac Institutional Bank division of Westpac, who I understand from my discussions with him and verily believe, has overall carriage of the WesTrac account and relationship within Westpac;

(b) Greg Clark, is Managing Director, Head of Debt Products, in the Westpac Banking Institution division of Westpac; and

(c) Peter Deutsch, is Executive Director, Head of Trade & Asset Finance, Corporate & Institutional Banking at Westpac.

Signed:



Taken by:



The email provide background to the EQWE / Forum program and summarised information I had obtained in my meeting with Mr Price on 11 June 2021.

42. On 12 June 2021 at approximately 12.28pm (AEST), I sent a further email to Mr O'Brien and Mr Clark, copied to Mr Deutsch and Mr Ewing, in respect of the WesTrac investigations. This email summarised the call I had had with Mr Price and Mr Papas the previous evening.
43. A copy of an email chain with the 11 and 12 June emails I sent to the internal Westpac team to email is at pages 246 – 248 of Exhibit GKA-1.
44. On 15 June 2021 in the morning, I recall that I was informed by Mr Price of Eqwe that Mr Papas:
 - (a) had travelled to Brisbane to investigate the issues identified by WesTrac with his team at Forum Finance, to understand the account issues prior to heading to WesTrac's offices in Perth to meet with representatives of WesTrac; and
 - (b) two other persons from Forum Finance were meeting, whose names are not known to me, with Carly Rossbach-Smith, Robert Maltese and Jimmy Leng of WesTrac at 3.30pm Wednesday 16 June 2021 (AWST) to discuss the issues identified by WesTrac.
45. On 15 June 2021 at approximately 5.32pm (AEST), I sent an email to Mr Price with reference to the Master Agreement, under which Westpac made a demand under clause 9 of that agreement, that Forum Finance repurchase certain receivables relating to WesTrac in accordance with the Master Agreement, in the total amount of \$9,624,791.26 (**Repurchase Notice**). A copy of this email is at pages 249 – 250 of Exhibit GKA-1.
46. On 15 June 2021 at approximately 5.36pm (AEST), I sent a text message to Mr Papas. A copy of this text message, and of Mr Papas' reply text message is at page 251 of Exhibit GKA-1.
47. On 16 June 2021 at approximately 11.53am (AEST), I sent a text message to Mr Papas. A copy of this text message at page 252 of Exhibit GKA-1. My reference to "Pret" is to an officer of Veolia, who is a major customer under the Eqwe/Forum programme.
48. On 16 June 2021:
 - (a) At approximately 12.04pm (AEST), I received an email from Mr Price, in which he confirmed that the Repurchase Notice email had been forwarded to Forum Finance. Mr Price did not provide me with a copy of the communication to Forum Finance.

Signed:



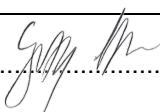

Taken by:



- (b) At approximately 2.10pm (AEST), I was copied to an email from Mr Deutsch to Mr Price following up in relation to the Repurchase Notice.
- (c) At approximately 4.41pm (AEST), I was copied to an email from Mr Price to Mr Deutsch with reference to the Repurchase Notice which said, among other things:

Forum is paying out the 3 Zzoota contracts \$4.425m

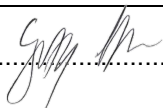
- (d) A copy of this the email chain with these emails is at pages [X] of Exhibit GKA-1.
49. On 16 June 2021 at approximately 4.30pm (AEST), Westpac received copies of remittance advices totalling the amount of \$2,471,643 in partial satisfaction of Forum Finance's obligations in respect of the certain 'telematics' contracts Repurchase Notice. Westpac received a further remittance advice for \$1,953,715 was received on 17 June 2021 at approximately 9.30am (AEST). I refer to the two amounts as the **Repurchase Notice Amount Received**.
50. A copy of the bank account entry recording receipt of the Repurchase Notice Amount Received in Eqwe's bank account held at Westpac (being the Purchaser's Account under the Master Agreement) is at pages 253 – 256 of Exhibit GKA-1.
51. On 16 June 2021 at approximately 6.00pm (AEST), I received a telephone call from Mr Ewing, during which he said words to me to the following effect:
- Mr Ewing: *The Forum team cancelled the WesTrac meeting about half an hour prior to its start time citing a health emergency in relation to Bill Papas.*
52. On 16 June 2021 at approximately 6.05pm (AEST), I called Mr Price by telephone. We had a conversation using words to the following effect:
- Me: *I heard from Tim that the planned meeting with WesTrac was cancelled by Forum. Do you know why?*
- Mr Price: *No. I will chase Bill for an explanation.*
53. On 16 June 2021 at approximately 9.00pm (AEST), I received a text message from Mr Price, in which he had copied a text message from Mr Papas. I no longer have access to a copy of this text message, because it has been deleted from my mobile phone, but I recall that the text message from Mr Price to me stated words to the effect of *"Bill is in a Perth Hospital. Anxiety or heart scare"*.
54. On or about the morning of 17 June 2021, I became concerned about potential risk in relation to the Relevant Customers, for whom I am responsible within the Asset Finance

Signed:  Taken by: 

team at Westpac, in respect of the Eqwe / Forum Finance programme in light of the status of the WesTrac matter. I decided to undertake further investigations in relation to Veolia, as the priority of the Relevant Customers, given Westpac has the greatest exposure to Veolia under the Eqwe / Forum Finance programme (I thought holding approximately 73 contracts with a balance of approximately \$211 million, out of a total of approximately 100 contracts with a total balance of approximately \$254.5 million). A copy of summary of Westpac's Eqwe / Forum Finance programme exposures as at 27 June 2021 prepared by Westpac is at page 257 of Exhibit GKA-1.

55. Based on the information available to me on 27 June 2021 from the records of Westpac, I have learnt that:
- (a) in the period from 13 September 2018 to early June 2021 Westpac advanced funds to Forum Finance having a total balance of approximately \$254.5 million in respect of the Relevant Customers in Australia under the Eqwe / Forum Finance programme as at the date of this affidavit (**Total Amount**); and
 - (b) the amounts comprising the Total Amount were paid by Westpac to the Forum Account.
56. On 17 June 2021 at approximately 9.00am (AEST), Mr Daniel in the Asset Finance team and I called Wasim Mahmud, Group Finance Manager of Veolia, by telephone. We had a conversation using words to the following effect:
- Mr Daniel: *We're just looking into our Forum Finance records. Can you please have a look at a Forum Finance Payment Schedule I'll send you shortly, and can you let me know if this matches up with Veolia's records.*
- Mr Mahmud: *Yes. I understand we have around 250 Orca machines in our books. Send it to me and I'll get back to you.*
57. On 17 June 2021 at approximately 9.59am (AEST), Mr Daniel sent an email to Mr Mahmud of Veolia, copied to me, attaching a copy of the last executed contract Westpac believed it had with Veolia, sourced through the Eqwe/Forum Programme. A copy of this email (including its attachment) is at pages 258 – 263 of Exhibit GKA-1.
58. On 17 June 2021 at approximately 11.32am (AEST), Mr Daniel sent a further email to Mr Mahmud of Veolia, copied to me. A copy of this email is at pages 265 - 266 of Exhibit GKA-1. I am informed by Mr Daniel, and believe, that he called another member of the Veolia internal Orca team with Mr Mahmud, whose name is not known to me, to seek further information, however they have not responded to his calls.

Signed:

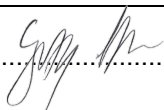


Taken by:




59. On 17 June 2021 at approximately 10.26am (AEST), I sent an email to Mr Price with reference to outstanding amount of \$5,199,433.22 owed to Westpac in respect of the Repurchase Notice in respect of WesTrac (**Repurchase Notice Amount Owing**). A copy of this email is at page 253 of Exhibit GKA-1.
60. On 18 June 2021 at approximately 3.30pm (AEST), I and Mr Deutsch (participating by telephone) met with Mr Price and Craig Rollinson, the Executive General Manager Operations at Forum Finance, at Forum Finance's North Sydney offices. Following this meeting, at approximately 7.12pm (AEST), I sent an email to Mr Rollinson, copied to Mr Deutsch and Mr Price. A copy of this email is at pages 268 of Exhibit GKA-1.
61. On 18 June 2021 at approximately 7.16pm (AEST), I sent an email to Mr Rollinson of Forum Finance, copied to Mr Deutsch and Mr Price, with reference to the Repurchase Notice Amount Owing. A copy of this email is at pages 269 of Exhibit GKA-1.
62. On 21 June 2021 at approximately 11.15am (AEST), I sent an email to Trevor Smith, the National Food Manager of ALH. A copy of this email is at pages 271 - 272 of Exhibit GKA-1.
63. On 21 June 2021 at approximately 2.31pm (AEST), I received an email from Arthur Legrand, the Chief Compliance & Internal Audit Manager of Veolia. In that email Mr Legrand wrote, referring to the payment schedule Westpac had sent to Veolia, "*I was very concerned to note that a forged signature has been used and that Preet Brar did not sign that document*". He also wrote that Ms Brar, the apparent signatory, did not hold the role of CFO, as described on the payment schedule, as at the dates on that document. A copy of this email is at pages 273 of Exhibit GKA-1.
64. On 21 June 2021 at approximately 3.35pm (AEST), I received an email from Alexander Carlos, Associate of Vobis Equity Attorneys, solicitors who I understand act for Forum Finance and its related entity The Forum Group of Companies Pty Ltd, attaching a letter dated 21 June 2021 (**Vobis Letter**). While that letter is marked "Without Prejudice" I am told it is not subject to that privilege. A copy of this email (including the Vobis Letter) is at pages 275 – 277 of Exhibit GKA-1. Westpac has instructed MinterEllison, the solicitors for Westpac, to respond to the Vobis Letter.
65. On 22 June 2021 at approximately 3.46pm (AEST), I received an email from Mr Smith of ALH. A copy of this email is at pages 278 of Exhibit GKA-1.
66. On 23 June 2021 at approximately 9.33am (AEST), I sent an email to Mr Smith of ALH. A copy of this email is at page 279 of Exhibit GKA-1. On 23 June 2021 at 9.40am

Signed:



Taken by:



(AEST), I sent a further email to Mr Smith of ALH. A copy of this email is at pages 280 - 281 of Exhibit GKA-1.

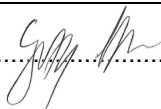
67. On 23 June 2021 at approximately 2.00pm (AEST), I received a telephone call from Mr Smith of ALH, during which he said words to me to the following effect:

Mr Smith: *I can advise that we have 2 machines in NSW, 1 in Adelaide, 2 in Qld, 3 in Victoria with a further 15 waiting to be installed.*

Mr Smith went on to explain the benefits of the Orcas.

68. On 23 June 2021 at approximately 9.51am (AEST), I sent an email to Jeremy Martin, the Assistant Treasurer Funding at Scentre. A copy of this email is at page 283 of Exhibit GKA-1. As at the time of swearing this affidavit, I have not heard from Mr Martin or anyone else on behalf of Scentre in relation to my email.
69. On 23 June 2021 at approximately 10.15am (AEST), I sent an email to Kris Hopkins, the Chief Operating Officer of HWLE. A copy of this email is at page 284 of Exhibit GKA-1.
70. On 23 June 2021 at approximately 10.22am (AEST), I sent an email to Vinay Parikh, Procurement Manager-Energy, Sustainability & Store Expenses of Coles, and Laura Innes, Senior Finance Manager at Coles. A copy of this email is at page 285 of Exhibit GKA-1.
71. On 23 June 2021 at approximately 11.26am (AEST), I was copied to an email from David Dixon Hughes, Relationship Director, Health, in the Westpac Institutional Banking division of Westpac, to Stacy Flanagan, Financial Controller of Catholic Healthcare. On 23 June 2021 at approximately 12.04pm (AEST), I sent an email to Ms Flanagan of Catholic Healthcare. A copy of these emails is at pages 286 – 287 of Exhibit GKA-1. As at the time of swearing this affidavit, I have not heard from Ms Flanagan or anyone else on behalf of Catholic Healthcare in relation to my email.
72. On 23 June 2021 at approximately 11.51am (AEST), I sent an email to Mr Legrand of Veolia. A copy of this email is at page 288 of Exhibit GKA-1.
73. On 23 June 2021 at approximately 2.23pm (AEST), I was copied to an email from Rodney Owen, the Head of Corporate, Vic & SA, Credit Restructuring, Credit Risk, of Westpac, to Mr Price. On 25 June 2021 at approximately 2.44pm (AEST), Mr Owen received an email from Mr Price in response to that email, a copy of which has been shown to me. A copy of these emails is at pages 291 – 293 of Exhibit GKA-1.
74. On 23 June 2021 at approximately 6.40pm (AEST), I received a telephone call from Mr Hopkins of HWLE, during which he said words to me to the following effect:

Signed:



Taken by:

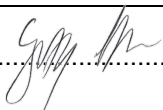


Mr Hopkins: *Since your email I have looked further into the payment schedules and I have not seen them before. I smell a rat.... Our IT manager has reached out to Forum contacts who said they weren't familiar with the contracts. Forum direct debits HWLE for its payments, but I will put a stop of the direct debit pending further advices.*


75. Following this conversation with Mr Hopkins on 23 June 2021, I sent an email to Mr Deutsch at approximately 6.43pm (AEST) in relation to my conversation with Mr Hopkins. A copy of this email (including its attachments) is at pages 294 – 295 of Exhibit GKA-1.
76. On 23 June 2021 at approximately 10.44am (AEST), I received an email from Mr Parikh of Coles. In that email Mr Parikh wrote *"I am unsure where these payment schedules and executed documents have come from-I have never witnessed these documents, let alone signed them. Additionally, that is certainly not my handwriting or signature..."*. A copy of this email is at page 296 of Exhibit GKA-1.
77. On 23 June 2021 at approximately 10.48pm (AEST), I received an email from Mr Legrand of Veolia. I note that Mr Legrand's email was sent to a number of my colleagues at Westpac based in Australia and New Zealand. In that email Mr Legrand reported that Veolia's investigation into the documents Westpac had sent to Mr Legrand *"appear at this stage to be fraudulent in that the signatures on behalf of Veolia on the documents reviewed seem to be forged. I will look at the rest of the documents more closely over the coming days."* He also provided more information as to the signatures he stated were forged. A copy of this email is at page 298 of Exhibit GKA-1.
78. On 24 June 2021 at approximately 11.35am (AEST), I sent an email to Carly Rossbach-Smith of WesTrac. A copy of this email is at page 299 of Exhibit GKA-1.
79. On 25 June 2021 at approximately 11.51am (AEST), I sent an email to Richard Williams of Scentre Group. A copy of this email is at page 300 of Exhibit GKA-1.
80. On 25 June 2021 at approximately 1.30pm (AEST), I had a Google Meet meeting with Tony Roderick, Chief Operating Officer – Waste (**COO**), Preet Brar, the previous CFO, Arthur Legrand, the Head of Compliance and Jane Sandilands, Head of Legal, of Veolia, along with my colleagues at Westpac: Nick O'Brien, Peter Deutsch, Al Welsh and Natalie Dundovic. I recall we had a conversation using words to the following effect:

Ms Brar: *There may be up to \$12 million of contracts with Forum which appear to be legitimate; however, these contracts do not appear to relate to Westpac.*

Signed:



Taken by:



Mr Roderick: *We met with Bill Papas of Forum earlier this year. We were not happy with our contractual arrangements with Forum and the sale of the Orca product had become less profitable so we were not ordering more in FY 21. We also got a letter from a Canadian law firm recently stating that Forum no longer had the licence to supply Orca equipment since March 2020.*


81. I have not been involved in any further communications with any Affected Customers on behalf of Westpac since 25 June 2021.

Sworn by the deponent
at Sydney
in New South Wales
on 28 June 2021

)
)
)
)
)


Signature of deponent

Before me:


Signature of witness
Eugenie Song, Solicitor

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

1. This affidavit is witnessed over audio visual link in accordance with Part 2B of the *Electronic Transactions Act 2000* (NSW).
2. I saw the face of the deponent.
3. I observed the deponent signing a copy of this affidavit in real time.
4. I attest or otherwise confirm witnessing the deponent's signature by signing this affidavit.
5. I am reasonably satisfied this affidavit signed by me is a copy of the affidavit signed by the deponent.
6. I have confirmed the deponent's identity using the following identification document:
Australian passport (document number N7040070)

Signed:

Taken by:

Schedule of Parties

No. of 2021

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

Applicants

Applicant **Westpac Banking Corporation ABN 33 007 457 141**

Respondents

First Respondent **Forum Finance Pty Limited ACN 153 301 172**

Second Respondent: **Basile Papadimitriou**