

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

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

Applicant

**Forum Finance Pty Limited (In Liquidation) ACN 153 301 172** and others

Respondents

Affidavit of: **Jason Ireland**

Address: Level 12, 20 Martin Place, Sydney NSW 2000

Occupation: Solicitor

Date: 29 September 2021

**CERTIFICATE IDENTIFYING EXHIBIT**

This is the exhibit marked "**JI-2**" produced and shown to Jason Ireland at the time of affirming his affidavit this 29 September 2021.

Before me:

*Alexei Gorovtsov*

Witnessed by audio visual link in accordance with  
s 14G of the *Electronic Transactions Act 2000* (NSW)

.....  
Signature of witness

**ASIC Data Extracted 29/09/2021 at 11:17**

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

**- 623 033 705 FORUM GROUP FINANCIAL SERVICES PTY LTD -**

<b>ACN (Australian Company Number):</b>	623 033 705	<b>Document No.</b>
<b>ABN:</b>	45 623 033 705	
<b>Current Name:</b>	FORUM GROUP FINANCIAL SERVICES PTY LTD	
<b>Registered in:</b>	New South Wales	
<b>Registration Date:</b>	23/11/2017	
<b>Review Date:</b>	23/11/2021	
<b>Company Bounded By:</b>		

**- Current Organisation Details -**

<b>Name:</b>	FORUM GROUP FINANCIAL SERVICES PTY LTD
<b>Name Start Date:</b>	23/11/2017
<b>Status:</b>	** Under External Administration And/Or Controller Appointed **
<b>Type:</b>	Australian Proprietary Company
<b>Class:</b>	Limited By Shares
<b>Sub Class:</b>	Proprietary Company

**- Former Organisation Details from 23/11/2017 to 07/07/2021 -**

<b>Name:</b>	FORUM GROUP FINANCIAL SERVICES PTY LTD	6E0433750
<b>Name Start Date:</b>	23/11/2017	
<b>Status:</b>	Registered	
<b>Type:</b>	Australian Proprietary Company	
<b>Class:</b>	Limited By Shares	
<b>Sub Class:</b>	Proprietary Company	

**- Company Addresses -**

<b>- <u>Registered Office</u></b>		7EAV63367
<b>Address:</b>	LEVEL 5 141 WALKER STREET NORTH SYDNEY NSW 2060	
<b>Start Date:</b>	22/04/2020	

<b>- <u>Previous Registered Office</u></b>		6E0433750
<b>Address:</b>	ROTHSAY ACCOUNTING SERVICES PTY LTD LEVEL 1 12-14 O'CONNELL STREET SYDNEY NSW 2000	

**Start Date:** 23/11/2017  
**Cease Date:** 21/04/2020

**- Principal Place of Business**

7EAV63367

**Address:** LEVEL 5 141 WALKER STREET NORTH SYDNEY NSW 2060  
**Start Date:** 08/04/2020

**- Previous Principal Place of Business**

6E0433750

**Address:** 27 MALTON ROAD BEECROFT NSW 2119  
**Start Date:** 23/11/2017  
**Cease Date:** 07/04/2020

**- Company Officers -**

**Note:**

A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.

\* Check documents listed under ASIC Documents Received for recent changes.

**Director**

**Name:** BASILE PAPADIMITRIOU 6E0433750  
**Address:** 27 MALTON ROAD BEECROFT NSW 2119  
**Birth Details:** 25/10/1972 SYDNEY NSW  
**Appointment Date:** 23/11/2017  
**Cease Date:** //

**Previous Director**

**Name:** VINCENZO FRANK TESORIERO 7EAG29922  
**Address:** 46 HOWITT ROAD CAULFIELD NORTH VIC 3161  
**Birth Details:** 21/12/1980 MALVERN VIC  
**Appointment Date:** 13/11/2018  
**Cease Date:** 30/04/2020

**Secretary**

**Name:** BASILE PAPADIMITRIOU 6E0433750  
**Address:** 27 MALTON ROAD BEECROFT NSW 2119  
**Birth Details:** 25/10/1972 SYDNEY NSW  
**Appointment Date:** 23/11/2017  
**Cease Date:** //

**Petitioner Court Action**

**Name:** 007 457 141 WESTPAC BANKING CORPORATION 031085281  
**Address:** 275 KENT STREET SYDNEY NSW 2000  
**Appointment Date:** 12/07/2021  
**Cease Date:** //  
**Abn:** 33 007 457 141

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Provisional Liquidator**

**Name:** JASON CRAIG IRELAND 7EBJ65018  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 15/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Name:** JASON PRESTON 7EBJ65018  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 15/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Name:** JASON PRESTON 031085310  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 16/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Name:** JASON CRAIG IRELAND 031085310  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 16/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

### Controller

**Name:** SIMON JOHN CATHRO 7EBK57337  
**Address:** CATHRO & PARTNERS PTY LTD UNIT 418 10 JAUQUES AVENUE BONDI BEACH NSW  
2026  
**Birth Details:**  
**Appointment Date:** 18/08/2021  
**Cease Date:** //

### Previous Administrator of a Company under Administration

**Name:** DOMENICO ALESSANDRO CALABRETTA 7EBJ31566  
**Address:** MACKAY GOODWIN 'MACKAY GOODWIN' SUITE 1 LEVEL 2 10 BRIDGE STREET  
SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**Name:** GRAHAME ROBERT WARD 7EBJ31566  
**Address:** 'MACKAY GOODWIN' LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**Name:** THYGE TRAFFORD-JONES 7EBJ31566  
**Address:** 'MACKAY GOODWIN' LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

### **- Share Structure -**

#### Current

**Class:** ORDINARY SHARES 6E0433750  
**Number of Shares Issued:** 2  
**Total Amount Paid / Taken to be Paid:** \$2.00  
**Total Amount Due and Payable:** \$0.00

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**Note:**

For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

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**- Share/Interest Holding -****Current**

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**- Holding -**

<b>Class:</b>	ORD	<b>Number Held:</b>	1	6E0433750
<b>Beneficially Owned:</b>	Yes	<b>Fully Paid:</b>	Yes	

**- Members -**

<b>Name:</b>	BASILE PAPADIMITRIOU
<b>Address:</b>	27 MALTON ROAD BEECROFT NSW 2119
<b>Joint Holding:</b>	No

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**- Holding -**

<b>Class:</b>	ORD	<b>Number Held:</b>	1	6E0433750
<b>Beneficially Owned:</b>	Yes	<b>Fully Paid:</b>	Yes	

**- Members -**

<b>Name:</b>	VINCENZO FRANCESCO TESORIERO
<b>Address:</b>	44 HOWITT ROAD CAULFIELD NORTH VIC 3161
<b>Joint Holding:</b>	No

**- External Administration Documents -****Note:**

Documents relating to External Administration and/or appointment of Controller.  
This extract may not list all documents relating to this status. State and Territory records should be searched.

Form Type	Description	Date Lodged	Processed	No. Pages	Document No.
562		17/09/2021	17/09/2021	2	7EBL47403
562	NOTICE OF LIQ EXT TIME SUBMIT RPT CO ACTIVITIES AND PROPERTY				
504		25/08/2021	30/08/2021	4	031394125
504D	NOTIFICATION OF APPOINTMENT OF A BY CONTROLLER OF APPT OF CONTROLLER (OTHER THAN AS RECEIVER)				
505		19/08/2021	19/08/2021	2	7EBK57337
505T	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPT OF CONTROLLER (OTHER THAN RECEIVER/MANAGING CONTROLLER)				
562		13/08/2021	13/08/2021	5	7EBK38612
562	NOTICE OF LIQ EXT TIME SUBMIT RPT CO ACTIVITIES AND PROPERTY				

562		13/08/2021	13/08/2021	5	7EBK38594
562	NOTICE OF LIQ EXT TIME SUBMIT RPT CO ACTIVITIES AND PROPERTY				
5603		22/07/2021	22/07/2021	4	7EBJ72241
5603K	END OF ADMINISTRATION RETURN END RETURN OF ADMINISTRATOR				
505		20/07/2021	20/07/2021	2	7EBJ65018
505S	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPOINTMENT OF PROVISIONAL LIQUIDATOR - BY PROV LIQUIDATOR				
505		19/07/2021	19/07/2021	2	7EBJ59386
505Y	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE RESIGNATION OR REMOVAL OF ADMINISTRATOR OF COMPANY UNDER ADMINISTRATION UNDER S.436E(4), 449B OR 449C				
588		19/07/2021	11/08/2021	28	031312159
588	COURT ORDER TO APPOINT A PROVISIONAL LIQUIDATOR				
519		16/07/2021	05/08/2021	3	031085310
519E	NOTIFICATION OF APPOINTMENT OF PROVISIONAL LIQUIDATOR				
531		15/07/2021	15/07/2021	5	7EBJ52871
531A	DECLARATION OF RELEVANT RELATIONSHIPS AND/OR INDEMNITY COPY OF A DIRRI				
505		09/07/2021	09/07/2021	3	7EBJ31566
505U	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPT OF ADMINISTRATOR UNDER S.436A, 436B, 436C, 436E(4), 449B, 449C(1), 449C(4) OR 449(6)				

## - Charges -

**There are no charges held for this organisation.**

### Notes:

On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.

At that time ASIC transferred all details of current charges to the PPS Registrar.

ASIC can only provide details of satisfied charges prior to that date.

Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, [www.ppsr.gov.au](http://www.ppsr.gov.au).

InfoTrack may cap documents for on-file searches to 250.

## - Document List -

### Notes:

\* Documents already listed under Registered Charges are not repeated here.

\* Data from Documents with no Date Processed are not included in this Extract.

\* Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.

\* The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.

\* In certain circumstances documents may be capped at 250.

<b>Form Type</b>	<b>Date Received</b>	<b>Date Processed</b>	<b>No. Pages</b>	<b>Effective Date</b>	<b>Document No.</b>
519	13/07/2021	15/07/2021	3	12/07/2021	031085281
519G	Notification of Application to Wind Up Company Under S. 459p, 462 or 464				
484	01/05/2020	01/05/2020	2	01/05/2020	7EAW12807
484E	Change to Company Details Appointment or Cessation of A Company Officeholder				
484	15/04/2020	15/04/2020	2	15/04/2020	7EAV63367
484	Change to Company Details				
484B	Change of Registered Address				
484C	Change of Principal Place of Business (Address)				
484	20/11/2018	20/11/2018	2	20/11/2018	7EAG29922
484E	Change to Company Details Appointment or Cessation of A Company Officeholder				
201	23/11/2017	23/11/2017	3	23/11/2017	6E0433750
201C	Application For Registration as a Proprietary Company				

#### **- Company Contact Addresses -**

##### **- Contact Address for ASIC use only**

**Address:** PO BOX 2442 TEMPLESTOWE LOWER VIC 3107

**Start Date:** 21/09/2018

##### **- Previous Contact Address for ASIC use only**

**Address:** GPO BOX 542 SYDNEY NSW 2001

**Start Date:** 12/12/2017

**Cease Date:** 21/09/2018

\*\*\* End of Document \*\*\*



**ASIC Data Extracted 29/09/2021 at 11:17**

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

**- 168 709 840 FORUM ENVIRO PTY LTD -**

<b>ACN (Australian Company Number):</b>	168 709 840	<b>Document No.</b>
<b>ABN:</b>	87 168 709 840	
<b>Current Name:</b>	FORUM ENVIRO PTY LTD	
<b>Registered in:</b>	New South Wales	
<b>Registration Date:</b>	24/03/2014	
<b>Review Date:</b>	24/03/2022	
<b>Company Bounded By:</b>		

**- Current Organisation Details -**

<b>Name:</b>	FORUM ENVIRO PTY LTD
<b>Name Start Date:</b>	13/06/2014
<b>Status:</b>	** Under External Administration And/Or Controller Appointed **
<b>Type:</b>	Australian Proprietary Company
<b>Class:</b>	Limited By Shares
<b>Sub Class:</b>	Proprietary Company

**- Former Organisation Details from 13/06/2014 to 07/07/2021 -**

<b>Name:</b>	FORUM ENVIRO PTY LTD	7E6122168
<b>Name Start Date:</b>	13/06/2014	
<b>Status:</b>	Registered	
<b>Type:</b>	Australian Proprietary Company	
<b>Class:</b>	Limited By Shares	
<b>Sub Class:</b>	Proprietary Company	

**- Former Organisation Details from 16/04/2014 to 12/06/2014 -**

<b>Name:</b>	POWERPERFECTOR AUSTRALIA PTY LTD	7E5988696
<b>Name Start Date:</b>	16/04/2014	
<b>Status:</b>	Registered	
<b>Type:</b>	Australian Proprietary Company	
<b>Class:</b>	Limited By Shares	
<b>Sub Class:</b>	Proprietary Company	

**- Former Organisation Details from 24/03/2014 to 15/04/2014 -**

**Name:** POWER P. AUSTRALIA PTY LTD 2E0358449  
**Name Start Date:** 24/03/2014  
**Status:** Registered  
**Type:** Australian Proprietary Company  
**Class:** Limited By Shares  
**Sub Class:** Proprietary Company

**- Company Addresses -**

**- Registered Office** 2E0358449

**Address:** ROTHSAY ACCOUNTING SERVICES PTY LTD LEVEL 1 12-14 O'CONNELL STREET  
SYDNEY NSW 2000  
**Start Date:** 24/03/2014

**- Principal Place of Business** 5EAA12346

**Address:** LEVEL 5 141 WALKER STREET NORTH SYDNEY NSW 2060  
**Start Date:** 01/06/2018

**- Previous Principal Place of Business** 2E0358449

**Address:** UNIT 20 39 HERBERT STREET ST LEONARDS NSW 2065  
**Start Date:** 24/03/2014  
**Cease Date:** 31/05/2018

**- Company Officers -**

**Note:**

A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.

\* Check documents listed under ASIC Documents Received for recent changes.

**Director**

**Name:** BASILE PAPADIMITRIOU 5EAV01417  
**Address:** 23 MARGARET STREET ROZELLE NSW 2039  
**Birth Details:** 31/08/1972 SYDNEY NSW  
**Appointment Date:** 24/03/2014  
**Cease Date:** //

**Secretary**

**Name:** BASILE PAPADIMITRIOU 5EAV01417  
**Address:** 23 MARGARET STREET ROZELLE NSW 2039  
**Birth Details:** 31/08/1972 SYDNEY NSW  
**Appointment Date:** 24/03/2014  
**Cease Date:** //

**Petitioner Court Action**

**Name:** 007 457 141 WESTPAC BANKING CORPORATION 031085280  
**Address:** C/- WESTPAC GROUP SECRETARIAT WESTPAC PLACE LEVEL 18 275 KENT  
STREET SYDNEY NSW 2000  
**Appointment Date:** 12/07/2021  
**Cease Date:** //  
**Abn:** 33 007 457 141

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Provisional Liquidator**

**Name:** JASON PRESTON 031085311  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 16/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Name:** JASON CRAIG IRELAND 031085311  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 16/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Name:** JASON CRAIG IRELAND 7EBJ65023  
**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 15/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Name:** JASON PRESTON 7EBJ65023

**Address:** MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 15/07/2021  
**Cease Date:** //

**- Court Details Affecting Role -**

**Type:** Federal **State:** New South Wales  
**Application No:** NSD616 **Application Year:** 2021

**Previous Administrator of a Company under Administration**

**Name:** DOMENICO ALESSANDRO CALABRETTA 7EBJ31513  
**Address:** MACKAY GOODWIN 'MACKAY GOODWIN' SUITE 1 LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**Name:** GRAHAME ROBERT WARD 7EBJ31513  
**Address:** 'MACKAY GOODWIN' LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**Name:** THYGE TRAFFORD-JONES 7EBJ31513  
**Address:** 'MACKAY GOODWIN' LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**- Share Structure -**

**Current**

**Class:** ORDINARY SHARES 2E0358449  
**Number of Shares Issued:** 10000  
**Total Amount Paid / Taken to be Paid:** \$10,000.00  
**Total Amount Due and Payable:** \$0.00

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**Note:**

For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the

company.

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## - Share/Interest Holding -

### Current

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#### - Holding -

<b>Class:</b>	ORD	<b>Number Held:</b>	10000	5EAA12346
<b>Beneficially Owned:</b>	Yes	<b>Fully Paid:</b>	Yes	

#### - Members -

<b>Name:</b>	THE FORUM GROUP OF COMPANIES PTY LTD
<b>ACN:</b>	151 964 626
<b>Address:</b>	LEVEL 5 141 WALKER STREET NORTH SYDNEY NSW 2060
<b>Joint Holding:</b>	No
<b>Abn:</b>	72 151 964 626

### Ceased/Former

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#### - Holding -

<b>Class:</b>	ORD	<b>Number Held:</b>	150	2E0358449
<b>Beneficially Owned:</b>	Yes	<b>Fully Paid:</b>	Yes	

#### - Members -

<b>Name:</b>	CARLO BOLADIAN
<b>Address:</b>	54 ANGELICA STREET ELANORA QLD 4221
<b>Joint Holding:</b>	No

#### - Holding -

<b>Class:</b>	ORD	<b>Number Held:</b>	150	2E0358449
<b>Beneficially Owned:</b>	Yes	<b>Fully Paid:</b>	Yes	

#### - Members -

<b>Name:</b>	SAMUEL ELLIOTT DAVEY
<b>Address:</b>	18 PRENTICE STREET ST KILDA EAST VIC 3183
<b>Joint Holding:</b>	No

#### - Holding -

<b>Class:</b>	ORD	<b>Number Held:</b>	2048	2E0358449
<b>Beneficially Owned:</b>	No	<b>Fully Paid:</b>	Yes	

#### - Members -

<b>Name:</b>	PAUL WINDSOR DOIG
<b>Address:</b>	29 GREGORY STREET ERMINGTON NSW 2115
<b>Joint Holding:</b>	No

#### - Holding -

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**Class:** ORD **Number Held:** 910 2E0358449  
**Beneficially Owned:** No **Fully Paid:** Yes

**- Members -**

**Name:** HADIR INVESTMENTS PTY LIMITED  
**ACN:** 140 276 320  
**Address:** 57 LAVINIA STREET MERRYLANDS NSW 2160  
**Joint Holding:** No  
**Abn:** 91 140 276 320

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**- Holding -**

**Class:** ORD **Number Held:** 150 2E0358449  
**Beneficially Owned:** Yes **Fully Paid:** Yes

**- Members -**

**Name:** BRAD LEE HAWKINS  
**Address:** 15 CLORIS AVENUE BEAUMARIS VIC 3193  
**Joint Holding:** No

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**- Holding -**

**Class:** ORD **Number Held:** 2616 2E0358449  
**Beneficially Owned:** No **Fully Paid:** Yes

**- Members -**

**Name:** HAZ CORPORATION PTY LIMITED  
**ACN:** 131 796 417  
**Address:** 51 PEBBLE BEACH DRIVE RUNAWAY BAY QLD 4216  
**Joint Holding:** No  
**Abn:** 69 131 796 417

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**- Holding -**

**Class:** ORD **Number Held:** 450 2E0358449  
**Beneficially Owned:** No **Fully Paid:** Yes

**- Members -**

**Name:** STUART LEE  
**Address:** 10 BRADSTREET ROAD MOUNT WAVERLEY VIC 3149  
**Joint Holding:** Yes

**Name:** NICOLA LEE  
**Address:** 10 BRADSTREET ROAD MOUNT WAVERLEY VIC 3149  
**Joint Holding:** Yes

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**- Holding -**

**Class:** ORD **Number Held:** 910 2E0358449  
**Beneficially Owned:** No **Fully Paid:** Yes

**- Members -**

**Name:** MEECO INVESTMENTS PTY LIMITED  
**ACN:** 140 276 339  
**Address:** 53 MORTLOCK DRIVE ALBION PARK NSW 2527

**Joint Holding:** No  
**Abn:** 81 140 276 339

**- Holding -**

**Class:** ORD **Number Held:** 2616 **2E0358449**  
**Beneficially Owned:** No **Fully Paid:** Yes

**- Members -**

**Name:** SAWTELL GROUP PTY LIMITED  
**ACN:** 132 474 241  
**Address:** 4 OAKS STREET CRONULLA NSW 2230  
**Joint Holding:** No  
**Abn:** 52 132 474 241

**- External Administration Documents -**

**Note:**

Documents relating to External Administration and/or appointment of Controller.  
This extract may not list all documents relating to this status. State and Territory records should be searched.

Form Type	Description	Date Lodged	Processed	No. Pages	Document No.
562		13/08/2021	13/08/2021	5	7EBK38504
562	NOTICE OF LIQ EXT TIME SUBMIT RPT CO ACTIVITIES AND PROPERTY				
5603		21/07/2021	21/07/2021	4	7EBJ69869
5603K	END OF ADMINISTRATION RETURN END RETURN OF ADMINISTRATOR				
505		20/07/2021	20/07/2021	2	7EBJ65023
505S	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPOINTMENT OF PROVISIONAL LIQUIDATOR - BY PROV LIQUIDATOR				
505		19/07/2021	19/07/2021	2	7EBJ59357
505Y	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE RESIGNATION OR REMOVAL OF ADMINISTRATOR OF COMPANY UNDER ADMINISTRATION UNDER S.436E(4), 449B OR 449C				
588		19/07/2021	11/08/2021	28	031312158
588	COURT ORDER TO APPOINT A PROVISIONAL LIQUIDATOR				
519		16/07/2021	20/07/2021	3	031085311
519E	NOTIFICATION OF APPOINTMENT OF PROVISIONAL LIQUIDATOR				
531		15/07/2021	15/07/2021	5	7EBJ52876
531A	DECLARATION OF RELEVANT RELATIONSHIPS AND/OR INDEMNITY COPY OF A DIRRI				
505		09/07/2021	09/07/2021	3	7EBJ31513
505U	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPT OF ADMINISTRATOR UNDER S.436A, 436B, 436C, 436E(4), 449B, 449C(1), 449C(4) OR 449(6)				

## - Charges -

There are no charges held for this organisation.

### Notes:

On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.

At that time ASIC transferred all details of current charges to the PPS Registrar.

ASIC can only provide details of satisfied charges prior to that date.

Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, [www.ppsr.gov.au](http://www.ppsr.gov.au).

InfoTrack may cap documents for on-file searches to 250.

## - Document List -

### Notes:

\* Documents already listed under Registered Charges are not repeated here.

\* Data from Documents with no Date Processed are not included in this Extract.

\* Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.

\* The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.

\* In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
519	13/07/2021	16/07/2021	3	12/07/2021	031085280
519G	Notification of Application to Wind Up Company Under S. 459p, 462 or 464				
484	12/03/2019	12/03/2019	2	12/03/2019	5EAV01417
484A1	Change to Company Details Change Officeholder Name Or Address				
484	04/06/2018	04/06/2018	2	04/06/2018	5EAA12346
484	Change to Company Details				
484C	Change of Principal Place of Business (Address)				
484A2	Change Member Name or Address				
484	26/02/2016	26/02/2016	5	26/02/2016	9E0003815
484N	Change to Company Details Changes to (Members) Share Holdings				
205	13/06/2014	13/06/2014	2	12/06/2014	7E6122168
205A	Notification of Resolution Changing Company Name				
205	16/04/2014	16/04/2014	2	15/04/2014	7E5988696
205A	Notification of Resolution Changing Company Name				
201	24/03/2014	24/03/2014	5	24/03/2014	2E0358449
201C	Application For Registration as a Proprietary Company				



**- Company Contact Addresses -**

**- Contact Address for ASIC use only**

**Address:** GPO BOX 542 SYDNEY NSW 2001

**Start Date:** 24/03/2014

\*\*\* End of Document \*\*\*

**ASIC Data Extracted 29/09/2021 at 11:17**

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

**- 607 484 364 FORUM ENVIRO (AUST) PTY LTD -**

<b>ACN (Australian Company Number):</b>	607 484 364	<b>Document No.</b>
<b>ABN:</b>	78 607 484 364	
<b>Current Name:</b>	FORUM ENVIRO (AUST) PTY LTD	
<b>Registered in:</b>	New South Wales	
<b>Registration Date:</b>	05/08/2015	
<b>Review Date:</b>	05/08/2022	
<b>Company Bounded By:</b>		

**- Current Organisation Details -**

<b>Name:</b>	FORUM ENVIRO (AUST) PTY LTD
<b>Name Start Date:</b>	05/08/2015
<b>Status:</b>	** Under External Administration And/Or Controller Appointed **
<b>Type:</b>	Australian Proprietary Company
<b>Class:</b>	Limited By Shares
<b>Sub Class:</b>	Proprietary Company

**- Former Organisation Details from 05/08/2015 to 07/07/2021 -**

<b>Name:</b>	FORUM ENVIRO (AUST) PTY LTD	2E2243073
<b>Name Start Date:</b>	05/08/2015	
<b>Status:</b>	Registered	
<b>Type:</b>	Australian Proprietary Company	
<b>Class:</b>	Limited By Shares	
<b>Sub Class:</b>	Proprietary Company	

**- Company Addresses -**

<b>- <u>Registered Office</u></b>		2E2243073
<b>Address:</b>	ROTHSAY ACCOUNTING SERVICES PTY LTD LEVEL 1 12-14 O'CONNELL STREET SYDNEY NSW 2000	
<b>Start Date:</b>	05/08/2015	

<b>- <u>Principal Place of Business</u></b>		5EAA12376
<b>Address:</b>	LEVEL 5 141 WALKER STREET NORTH SYDNEY NSW 2060	

**Start Date:** 01/06/2018

**- Previous Principal Place of Business**

2E2243073

**Address:** UNIT 20 39 HERBERT STREET ST LEONARDS NSW 2065

**Start Date:** 05/08/2015

**Cease Date:** 31/05/2018

**- Company Officers -**

**Note:**

A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.

\* Check documents listed under ASIC Documents Received for recent changes.

**Director**

**Name:** BASILE PAPADIMITRIOU

5EAV01018

**Address:** 23 MARGARET STREET ROZELLE NSW 2039

**Birth Details:** 31/08/1972 SYDNEY NSW

**Appointment Date:** 05/08/2015

**Cease Date:** //

**Secretary**

**Name:** BASILE PAPADIMITRIOU

5EAV01018

**Address:** 23 MARGARET STREET ROZELLE NSW 2039

**Birth Details:** 31/08/1972 SYDNEY NSW

**Appointment Date:** 05/08/2015

**Cease Date:** //

**Petitioner Court Action**

**Name:** 007 457 141 WESTPAC BANKING CORPORATION

031085279

**Address:** 275 KENT STREET SYDNEY NSW 2000

**Appointment Date:** 12/07/2021

**Cease Date:** //

**Abn:** 33 007 457 141

**- Court Details Affecting Role -**

**Type:** Federal

**State:** New South Wales

**Application No:** NSD616

**Application Year:** 2021

**Name:** 602 309 366 SMBC LEASING AND FINANCE, INC.

031377918

**Address:** 'THE CHIFLEY TOWER' LEVEL 40 2 CHIFLEY SQUARE SYDNEY NSW 2000

**Appointment Date:** 14/07/2021

**Cease Date:** //

**- Court Details Affecting Role -**

Type: Federal State: New South Wales  
Application No: NSD 681 Application Year: 2021

**Provisional Liquidator**

Name: JASON PRESTON 031085312  
Address: MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
Birth Details:  
Appointment Date: 16/07/2021  
Cease Date: //

**- Court Details Affecting Role -**

Type: Federal State: New South Wales  
Application No: NSD616 Application Year: 2021

Name: JASON CRAIG IRELAND 031085312  
Address: MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
Birth Details:  
Appointment Date: 16/07/2021  
Cease Date: //

**- Court Details Affecting Role -**

Type: Federal State: New South Wales  
Application No: NSD616 Application Year: 2021

Name: JASON CRAIG IRELAND 7EBJ65014  
Address: MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
Birth Details:  
Appointment Date: 15/07/2021  
Cease Date: //

**- Court Details Affecting Role -**

Type: Federal State: New South Wales  
Application No: NSD616 Application Year: 2021

Name: JASON PRESTON 7EBJ65014  
Address: MCGRATHNICOL LEVEL 12 20 MARTIN PLACE SYDNEY NSW 2000  
Birth Details:  
Appointment Date: 15/07/2021  
Cease Date: //

**- Court Details Affecting Role -**

Type: Federal State: New South Wales  
Application No: NSD616 Application Year: 2021

## Previous Administrator of a Company under Administration

**Name:** DOMENICO ALESSANDRO CALABRETTA 7EBJ31498  
**Address:** MACKAY GOODWIN 'MACKAY GOODWIN' SUITE 1 LEVEL 2 10 BRIDGE STREET  
SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**Name:** GRAHAME ROBERT WARD 7EBJ31498  
**Address:** 'MACKAY GOODWIN' LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

**Name:** THYGE TRAFFORD-JONES 7EBJ31498  
**Address:** 'MACKAY GOODWIN' LEVEL 2 10 BRIDGE STREET SYDNEY NSW 2000  
**Birth Details:**  
**Appointment Date:** 08/07/2021  
**Cease Date:** 15/07/2021

## - Share Structure -

### Current

**Class:** ORDINARY SHARES 2E2243073  
**Number of Shares Issued:** 1  
**Total Amount Paid / Taken to be Paid:** \$1.00  
**Total Amount Due and Payable:** \$0.00

---

#### **Note:**

For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

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## - Share/Interest Holding -

### Current

---

#### **- Holding -**

**Class:** ORD **Number Held:** 1 5EAA12376

**Beneficially Owned:** Yes

**Fully Paid:** Yes

**- Members -**

**Name:** THE FORUM GROUP OF COMPANIES PTY LTD  
**ACN:** 151 964 626  
**Address:** LEVEL 5 141 WALKER STREET NORTH SYDNEY NSW 2060  
**Joint Holding:** No  
**Abn:** 72 151 964 626

**- External Administration Documents -**

**Note:**

Documents relating to External Administration and/or appointment of Controller.  
This extract may not list all documents relating to this status. State and Territory records should be searched.

Form Type	Description	Date Lodged	Processed	No. Pages	Document No.
562		13/08/2021	13/08/2021	5	7EBK38483
562	NOTICE OF LIQ EXT TIME SUBMIT RPT CO ACTIVITIES AND PROPERTY				
5603		21/07/2021	21/07/2021	4	7EBJ69859
5603K	END OF ADMINISTRATION RETURN END RETURN OF ADMINISTRATOR				
505		20/07/2021	20/07/2021	2	7EBJ65014
505S	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPOINTMENT OF PROVISIONAL LIQUIDATOR - BY PROV LIQUIDATOR				
505		19/07/2021	19/07/2021	2	7EBJ59362
505Y	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE RESIGNATION OR REMOVAL OF ADMINISTRATOR OF COMPANY UNDER ADMINISTRATION UNDER S.436E(4), 449B OR 449C				
588		19/07/2021	11/08/2021	28	031312157
588	COURT ORDER TO APPOINT A PROVISIONAL LIQUIDATOR				
519		16/07/2021	20/07/2021	3	031085312
519E	NOTIFICATION OF APPOINTMENT OF PROVISIONAL LIQUIDATOR				
531		15/07/2021	15/07/2021	5	7EBJ52877
531A	DECLARATION OF RELEVANT RELATIONSHIPS AND/OR INDEMNITY COPY OF A DIRRI				
505		09/07/2021	09/07/2021	3	7EBJ31498
505U	NOTICE BY EXTERNAL ADMINISTRATOR/CONTROLLER-APPOINT/CEASE APPT OF ADMINISTRATOR UNDER S.436A, 436B, 436C, 436E(4), 449B, 449C(1), 449C(4) OR 449(6)				

**- Charges -**

**[There are no charges held for this organisation.](#)**

**Notes:**

On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.

At that time ASIC transferred all details of current charges to the PPS Registrar.

ASIC can only provide details of satisfied charges prior to that date.

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InfoTrack may cap documents for on-file searches to 250.

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Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
519	14/07/2021	16/07/2021	3	14/07/2021	031377918
519G	Notification of Application to Wind Up Company Under S. 459p, 462 or 464				
519	13/07/2021	15/07/2021	3	12/07/2021	031085279
519G	Notification of Application to Wind Up Company Under S. 459p, 462 or 464				
484	12/03/2019	12/03/2019	2	12/03/2019	5EAV01018
484A1	Change to Company Details Change Officeholder Name Or Address				
484	04/06/2018	04/06/2018	2	04/06/2018	5EAA12376
484	Change to Company Details				
484C	Change of Principal Place of Business (Address)				
484A2	Change Member Name or Address				
201	05/08/2015	05/08/2015	3	05/08/2015	2E2243073
201C	Application For Registration as a Proprietary Company				

**- Company Contact Addresses -****- Contact Address for ASIC use only**

**Address:** GPO BOX 542 SYDNEY NSW 2001

**Start Date:** 21/08/2015

\*\*\* End of Document \*\*\*

# FEDERAL COURT OF AUSTRALIA

## Westpac Banking Corporation v Forum Finance Pty Limited [2021] FCA

807

File number: NSD 616 of 2021

Judgment of: **LEE J**

Date of judgment: 9 July 2021

Catchwords: **CORPORATIONS** – appointment of liquidator – allegations of an elaborate fraud by company in excess of \$250 million – evidence led by Westpac unchallenged by company – purported mastermind Mr Papas located somewhere in Europe – Delphic details of his whereabouts and questionable whether he will return – application for appointment of liquidator ultimately consented to by company – just and equitable that company be wound up – consideration of appropriate liquidators

Legislation: *Corporations Act 2001* (Cth) s 461  
*Evidence Act 1995* (Cth) s 129A

Cases cited: *Ashby v Slipper* [2014] FCAFC 15; (2014) 219 FCR 322  
*Australian Securities and Investments Commission v Austimber Pty Ltd* [1999] FCA 566; (1999) 17 ACLC 893  
*Ex parte Spackman* (1849) 1 Mac & G 170; (1849) 41 ER 1228  
*Hillig v Darkinjung Local Aboriginal Land Council* [2006] NSWSC 1371; (2006) 205 FLR 450  
*Precision Plastics Pty Ltd v Demir* (1975) 132 CLR 362  
*Re Producer's Real Estate v Finance Co Ltd* [1936] VLR 235  
*Re Westbourne Galleries Ltd* [1973] AC 360

Division: General Division

Registry: New South Wales

National Practice Area: Commercial and Corporations

Sub-area: Commercial Contracts, Banking, Finance and Insurance

Number of paragraphs: 27



Date of hearing:	9 July 2021
Counsel for the Applicant:	Mr J Giles SC with Mr J Arnott and Ms C Hamilton-Jewell
Solicitor for the Applicant:	MinterEllison
Counsel for the First Respondent:	Mr A Martin
Solicitor for the First Respondent:	Hunts.Law
Counsel for the Second Respondent:	Mr A Hourigan
Solicitor for the Second Respondent:	Panetta Lawyers
Counsel for the Third Respondent:	Mr G McNally SC
Solicitor for the Third Respondent:	Fortis Law
Counsel for National Australia Bank:	Mr C Colquhoun
Solicitor for National Australia Bank:	Dentons
Counsel for Forum Group Pty Ltd (in administration) (receivers appointed):	Mr D Sulan
Solicitor for Forum Group Pty Ltd (in administration) (receivers appointed):	Cornwalls
Counsel for Societe Generale:	Mr S Gray
Solicitor for Societe Generale:	Ashurst

# ORDERS

NSD 616 of 2021

**BETWEEN:**            **WESTPAC BANKING CORPORATION ABN 33 007 457 141**  
Applicant

**AND:**                 **FORUM FINANCE PTY LIMITED**  
First Respondent

**MR BASILE PAPADIMITRIOU**  
Second Respondent

**VINCENZO FRANK TESORIERO**  
Third Respondent

**ORDER MADE BY: LEE J**

**DATE OF ORDER: 9 JULY 2021**

## **THE COURT ORDERS THAT:**

1A. Prayers for relief 7 and 8 in the amended interlocutory application dated 8 July 2021 be determined separately and on a final basis before the balance of the relief sought in that application.

### **Winding up of the first respondent**

1. Pursuant to s 461(1)(k) of the *Corporations Act 2001* (Cth) (**Act**), the first respondent be wound up on the basis that the Court is of the opinion that it is just and equitable that the first respondent be wound up.
2. Pursuant to s 472(1) of the Act, Jason Preston and Jason Ireland of McGrathNicol, Level 12, 20 Martin Place, Sydney NSW 2000, are appointed jointly and severally as liquidators of the first respondent (**Liquidators**).
3. Compliance with r 5.6 of the *Federal Court (Corporations) Rules 2000* (Cth) be dispensed with.
4. The Liquidators have liberty to apply for directions in relation to the conduct of the liquidation.

5. The Liquidators have access to all documents of the first respondent seized in accordance with the search orders made against the first respondent by order 7 of the orders made by Justice Lee on 28 June 2021.

### **Freezing orders**

6. The freezing order made against the first respondent by order 4 of the orders made by Justice Lee on 2 July 2021 in relation to the interlocutory application dated 28 June 2021 (the **2 July Orders**) be extended until 5pm (AEST) on 16 July 2021.
7. The freezing order made against the second respondent by order 5 of the 2 July Orders be extended until further order.
8. The freezing order made against the third respondent by order 4 of the orders made by Justice Lee on 2 July 2021 in relation to the interlocutory application dated 2 July 2021 be varied in the form of Annexure A and be extended and apply until further order.

### **Orders sought by the Receivers**

9. The freezing order made by Justice Lee on 28 June 2021 in the form of Annexure A be varied by adding:

“(10) This order does not prohibit:

...

- (d) without limiting subparagraphs (b) and (c), dealing with the bank account in the name of Forum Group Pty Ltd with BSB 082-080 Account Number 12-178-2934 held with National Australia Bank Ltd by discharging business expenses of Forum Group Pty Ltd bona fide and properly incurred not limited to obligations bona fide and properly owing to Octet Finance Pty Ltd ACN 124 477 916.

10. The freezing order made by Justice Lee on 28 June 2021 in the form of annexure B be varied by adding:

“(10) This order does not prohibit:

...

- (e) without limiting subparagraphs (b) and (c), dealing with the bank account in the name of Forum Group Pty Ltd with BSB 082-080 Account Number 12- 178-2934 held with National Australia Bank Ltd by discharging business expenses of Forum Group Pty Ltd bona fide and properly incurred not limited to obligations bona fide and properly owing to Octet Finance Pty Ltd ACN 124 477 916.

### **Search Orders**

- 11. The time for compliance by the Independent Computer Experts with order 14 of the 2 July Orders be extended insofar as it applies for the Sydney Premises as follows:
  - a. the Independent Computer Expert provide an interim report to the Independent Solicitor of whether any Listed Things (as defined in the search orders in the 28 June Orders) were or had been located on any of the electronic copies by 5pm on 12 July 2021;
  - b. the Independent Computer Expert provide a final report to the Independent Solicitor of whether any Listed Things were or had been located on any of the electronic copies (but not including the Our Kloud Servers) by 5pm on 19 July 2021;
  - c. the Independent Computer Expert provide a further report to the Independent Solicitor of whether any Listed Things were or had been located on the Our Kloud Servers as soon as practicable; and
  - d. return as soon as practicable to the Independent Solicitor all of the electronic copies.

### **Access to documents**

- 12. Upon the applicant by its counsel giving the usual undertaking as to damages, until further order, the first and second respondents are restrained from deleting or altering (other than in the ordinary course of business) any data held for or on behalf of the first respondent which is stored on servers hosted by Our Kloud Pty Ltd (ACN 603 675 529).

13. The first and second respondents have first access to any documents delivered to the Court from the Brisbane search until 5pm (AEST) on 13 July 2021.
14. Any application by any person to prevent access by the applicant to any hard copy documents delivered to the Court as a result of any of the search orders in these proceedings is to be made and notified to the Associate to Lee J by 4pm on 13 July 2021.
15. The applicant is to have access from 5pm (AEST) on 13 July 2021 to any hard copy documents delivered to the Court as a result of any of the search orders in these proceedings that is not the subject of any application made in accordance with Order 14.

**Other**

16. These orders are to be entered forthwith.
17. The second and third respondents file notice of appearance by no later than 5pm Monday 12 July 2021.
18. The applicant file and serve any application to further amend its originating application by 26 July 2021.
19. The applicant serve the statement of claim it would file if leave were granted to amend the originating application by 26 July 2021.
20. The matter otherwise be relisted for further case management on a date to be fixed as soon as practicable after 2 August 2021 before the docket judge.
21. The parties have liberty to apply on notice to the other parties.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

**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 by Justice Lee at a hearing with notice.

**THE COURT ORDERS:**

**INTRODUCTION**

- (1) [Deleted]
- (2) Subject to the next paragraph, 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\$254,219,440.23.

- (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\$254,219,440.23. (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.
- (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 392912;
  - m. 89 Betka Road Mallacoota Pty Limited ACN 641 393 179;
  - n. 9 Gregory Street Ouyen Pty Limited ACN 641 392707;
  - o. 9 Main Street Derrinallum Pty Limited ACN 639 872 736;
  - p. Forum Group Financial Services Pty Limited ACN 623 033705;
  - q. 26 Edmonstone Road Pty Limited ACN 622 944 129;
  - r. 5 Bulkara Street Pty Limited ACN630 982 160; and
  - s. 6 Bulkara Street Pty Limited ACN 639 734473.
- (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.
- (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 (CAN 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 \$254,219,440.23 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	Date affidavit made
(1) Caitlin Maria Murray	2 July 2021 (2 affidavits)
(2) Nicholas Antony O'Brien	1 July 2021
(3) Geoffrey Keith Anderson	28 June 2021
(4) Nicholas Anthony O'Brien	27 June 2021
(5) Caitlin Maria Murray	28 June 2021 (2 affidavits)

### NAME AND ADDRESS OF APPLICANT'S LAWYERS

The applicant's lawyers are:

MinterEllison

Governor

Macquarie

Tower Level

40, 1 Farrer

Place

Sydney NSW 2000

Attention: Caitlin Murray

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

## REASONS FOR JUDGMENT

(Revised from the Transcript)

**LEE J:**

### A INTRODUCTION

1 This application for the appointment of a liquidator and related relief arises in singular  
circumstances.

2 The evidence on this application indicates that in late May, the first of a series of events  
occurred which ultimately led to Westpac Banking Corporation (**Westpac**) making a sobering  
discovery: a routine call between a Westpac employee and one of its customers identified an  
apparent anomaly with a lease finance facility in the customer's name. A couple of weeks later,  
Westpac discovered that equipment contracts provided to it, as having been entered into  
between the customer and the first respondent, Forum Finance Pty Limited (**Forum Finance**),  
were of doubtful veracity.

3 This initial discovery led to a cascading series of events and investigations, and immediately  
prior to the commencement of this proceeding on an urgent basis in late June, Westpac formed  
the view that in a little under three years, it had paid the staggering sum of in excess of \$254  
million to Forum Finance in Australia pursuant to equipment contracts with seven customers,  
the substantial bulk of which have, it appears on the unchallenged evidence before me, been  
identified by the relevant customer as a forgery.

4 If this is not bad enough, further inquiries revealed an amount of NZ\$42 million has been paid  
to a related entity of Forum Finance by Westpac New Zealand in relation to a contract also  
thought by Westpac to be fraudulent (although no relief is presently sought by Westpac in  
relation to those transactions in this proceeding).

5 During this period of payments, the evidence discloses that Forum Finance had, at least for  
some time, two directors. The first is Basile Papadimitriou (also known as Mr Papas), who has  
been a director since incorporation of the company in 2011. The other director was Vincenzo  
Tesoriero, who was appointed in April 2017. Although Mr Tesoriero continues to be listed as  
a director of Forum Finance in the records of the Australian Securities and Investments  
Commission, I am informed by senior counsel acting on his behalf that he attempted to resign  
on 15 April 2020; although it appears that the requisite documents have not yet been lodged

with the regulator. It is unnecessary to make a finding in relation to the position of Mr Tesoriero at this time. It suffices to note for present purposes that Mr Papas and Mr Tesoriero are the second and third respondents to this proceeding, respectively.

6 In this proceeding to date, Forum Finance, Mr Papas and Mr Tesoriero have not provided any explanation, cogent or otherwise, for what appears to have happened and it looks as though Forum Finance, at least, does not propose to provide any explanation.

## **B PROCEDURAL DEVELOPMENTS**

7 This matter was originally listed before me today, as the Duty Judge, as an application for the appointment of a provisional liquidator. That changed this morning, when Mr Martin, who appeared on behalf of Forum Finance, consented to an order that Forum Finance be liquidated and that appropriate liquidators be appointed: see T7.33–6 and T25.19. Prior to this concession, it would have been necessary for the Court to make a series of interlocutory findings on an interlocutory application pending a final hearing as to whether Forum Finance should be liquidated. The position taken by Forum Finance today, if I may say so, is a sensible one, which has had the effect of saving considerable time.

8 As a consequence, by consent, I made an order that prayers for relief 7 and 8 in the amended interlocutory application dated 8 July 2021 (seeking the winding up of Forum Finance and the appointment of liquidators) be determined separately and on a final basis before the balance of the relief sought in that application.

9 Importantly, a consequence of this forensic decision is that no other evidence will emerge which might cast a different or qualifying light on the picture that is painted from the evidence that has been read before me on a final basis today. As a general proposition, unchallenged evidence which is not inherently incredible ought to be accepted by the tribunal of fact: *Precision Plastics Pty Ltd v Demir* (1975) 132 CLR 362 (at 370–1 per Gibbs J, with whom Stephen J agreed and Murphy J generally agreed). However, it can be rejected if it is contradicted by facts otherwise established by the evidence or particular circumstances point to its rejection: *Ashby v Slipper* [2014] FCAFC 15; (2014) 219 FCR 322 (at 347 [77] per Mansfield and Gilmour JJ). There is no such contradiction nor countervailing circumstances present here.

10 The evidence adduced before me was not inherently unbelievable and should be accepted. The position that emerges from the affidavit material and accompanying documents is alarming. It

is not an overstatement to remark that it appears Forum Finance has, by some means or another, been involved in a long-running, calculated and elaborate fraud ranking high in the catalogue of corporate misfeasance.

11 As I have said, the Court has not heard from the man who appears to be primarily responsible, at least until recent times, for the conduct of the affairs of Forum Finance; the apparently peripatetic Mr Papas, who left Australia for Europe for reasons not established on the evidence (but coincident with when things started to unravel with Westpac). In addition to no details emerging as to any likely defence to the serious allegations made by Westpac, Mr Papas has not, despite two court deadlines, complied with a disclosure order (as that term is defined in s 128A of the *Evidence Act 1995* (Cth)); nor has he caused Forum Finance to provide details of its assets and liabilities.

### C THE APPLICATION

12 Westpac puts its application for the appointment of a liquidator on two grounds: *first*, that Forum Finance should be wound up on the ground of insolvency; and *secondly*, that Forum Finance should be wound up on the basis that it is just and equitable to do so. For reasons I will explain, it is unnecessary for me to form a final view in relation to the solvency or otherwise of Forum Finance; although, given the nature of the evidence advanced there must, at the very least, be real concerns as the company's financial position generally and, more particularly, its capacity to pay its debts as they fall due.

13 A court may order a winding up if it is of the opinion that it is just and equitable that a company be wound up: see s 461(1)(k) of the *Corporations Act 2001* (Cth) (**Act**). That provision has been said to authorise the court to apply broad equitable considerations. Winding up on the just and equitable ground has a long history stemming from s 5(8) of the *Joint Stock Companies Winding Up Act 1848* (UK). It appears that until the end of the 19<sup>th</sup> Century it was thought that winding up on a just and equitable ground only covered situations which were comparable to those envisaged in preceding subsections of that Act. That idea, expressed by Lord Cottenham LC in *Ex parte Spackman* (1849) 1 Mac & G 170; (1849) 41 ER 1228 (at 1229–30), was later abandoned, but courts still tended to limit the breadth of the section by subdividing its application into relevantly narrow categories.

14 The flaw in this approach was made clear by the House of Lords in *Re Westbourne Galleries Ltd* [1973] AC 360 (at 374 per Lord Wilberforce, with whom Viscount Dilhorne, Lord Pearson and Lord Salmon agreed, and at 383–4 per Lord Cross of Chelsea). In that case, their Lordships



stressed that the provision confers upon a court a discretionary power of very wide character and that courts should be ready to apply it to new situations falling outside previous illustrations. However, given the seriousness of the remedy, the discretion must be exercised judicially.

15 This is quite an unusual application because the winding up is consented to by the company. Of course, if a company by special resolution so resolves, it can agree to be wound up by the Court: see s 461(1)(a) of the Act. At least in my experience, this is rarely done because the members could adopt the alternative course of a voluntary winding up. But as Barrett J explained in *Hillig v Darkinjung Local Aboriginal Land Council* [2006] NSWSC 1371; (2006) 205 FLR 450 (at 458 [35]), the body of shareholders have a statutory right to decide that the company should be wound up by the court, being a right exercisable by whatever procedures are sufficient to cause a special resolution to be passed. Although this course has not been undertaken (formally or otherwise), the fact of express consent, through the company's counsel, to orders being made by the court on the application of a third party does seem to me to inform the ultimate consideration of whether it is just and equitable for the company to be wound up.

16 There is no point traversing the various non-exclusive categories where such orders have been made. They include, for example, where a company cannot be carried on consistently with candid and straightforward dealings with the public: see *Australian Securities and Investments Commission v Austimber Pty Ltd* [1999] FCA 566; (1999) 17 ACLC 893 (at 895 per Merkel J), citing *Re Producer's Real Estate v Finance Co Ltd* [1936] VLR 235 (at 246 per Mann CJ). Other examples include where there is a lack of propriety in the management and conduct of a company's affairs and there are public interest considerations which make it desirable that a company, however solvent, be wound up (although most of the examples falling into this category generally relate to applications made on behalf of a regulator).

17 As I have noted, both Mr Papas and Mr Tesoriero have not sought to be heard; nor have they sought to challenge any of the evidence read on this application. At present, it is only necessary to make factual findings for the purposes of determining the separate question as to whether Forum Finance should be wound up, but on the evidence, I have no confidence at all in the ability of Mr Papas to discharge his obligations as a director of Forum Finance in a way which is consistent with the legitimate conduct of the affairs of the company (if the company was to continue to trade in some form).

18 I have already mentioned the fact that Mr Papas is presently overseas. He has previously failed to apprise his solicitor of his whereabouts at a level of specificity other than that he is somewhere on the continent of Europe, although it is now said that he either is in, or presently *en route* to, the Greek capital of Athens. Delphic details of a proposed return to Australia have been provided orally, but no itinerary or corroborative material showing details of a suggested Japan Airlines flight have been provided. It may be that Mr Papas returns to Australia tomorrow, although at present, this is not entirely clear.

19 Forum Finance has two named directors: one of whom does not consider himself a director; and the other is currently not being candid, even with his solicitor, as to his whereabouts and has apparently let the company engage in fraudulent transactions. To use considerable understatement, this is a suboptimal state of affairs. Indeed it is a state of affairs that should not continue. In circumstances where the relevant provision of the Act confers upon a court a discretionary power of very wide character, the company agrees to orders it should be wound up on a just and equitable ground, and no shareholder or officer of the company opposes such a course, I am amply satisfied that such an order should be made.

## **D THE LIQUIDATORS**

20 We then come to the question of the identity of the liquidators to be appointed. There are two competing proposals; although, of course, it is a matter for the Court as to the liquidator that should ultimately be appointed.

21 Westpac proposes the appointment of two registered liquidators from McGrathNicol, being Mr Jason Preston and Mr Jason Ireland. Forum Finance (by which I infer Mr Papas) proposes the appointment of Mr Rahul Goyal and Mr Scott Langdon of KordaMentha. I have no doubt, given the identity of the firms for which these proposed liquidators work, all proposed appointees are fit and proper persons to discharge the role with a high degree of competence.

22 The factors relied upon by Mr Martin to support the appointment of the KordaMentha liquidators are as follows: (1) KordaMentha has a presence and office in New Zealand and there is at least some suggestion that work will need to be done in relation to the liquidation in that country; (2) the fees charged by the two partners of KordaMentha are less than McGrathNicol; and (3) KordaMentha are well known to Westpac, having acted for them on many occasions. Mr Martin also points to the conduct of Forum Finance in consenting to the liquidation, which has been consistent with facilitating the prompt and inexpensive resolution of this aspect of the proceeding.

- 23 Mr Giles SC, who appears on behalf of Westpac, indicates that: (1) McGrathNicol also has a presence in New Zealand; (2) one of the liquidators chosen (Mr Preston), is the chairman of McGrathNicol, and his seniority gives Westpac a degree of comfort in relation to the appointment of that firm; and (3) Westpac reposes particular confidence in McGrathNicol discharging its role because, among other things, it has a global affiliation with other firms.
- 24 To be frank, consistent with what I have said concerning competence, I do not think that there is anything that separates the proposed nominees on the grounds of their ability to conduct the work both in Australia and New Zealand. Although there is reason to think that KordaMentha may be less expensive than McGrathNicol, this is a fairly marginal difference. The prevailing rate for partners of insolvency firms doing this work has reached a stage (one might be forgiven to think somewhat remarkably) where a practitioner can charge \$847 (inclusive of GST) in the case of McGrathNicol and \$797.50 (inclusive of GST) in the case of KordaMentha.
- 25 The key difference is that in the context of the proposed provisional liquidation it appears Westpac and McGrathNicol have come to at least a preliminary arrangement that an indemnity be provided in the amount of \$250,000 for the purposes of initial inquiries being undertaken. Mr Martin makes the valid point that, in the limited time available, no evidence has been adduced by Westpac to the effect that a similar commercial arrangement could not be struck with any other reputable liquidator. This point is well made, however, in circumstances where it is Westpac that is footing the bill initially, it is fair that it do so in circumstances where it has the comfort of reposing confidence in the particular liquidators appointed.
- 26 Finally, I note that leave was given for a further creditor, Societe Generale, to provide submissions on the identity of the liquidators to be appointed (although no evidence was read to support the fact that Societe Generale was a creditor, this was not put in dispute). Societe Generale also indicated its preference for the liquidators suggested by Westpac.
- 27 In all the circumstances, I propose to appoint Messrs Jason Preston and Jason Ireland of McGrathNicol as liquidators of Forum Finance and will make orders accordingly.

I certify that the preceding twenty-seven (27) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice Lee.

Associate: *E. Hynard*

Dated: 15 July 2021