

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 19/10/2021 5:00:07 PM AEDT 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 & ANOR v  
FORUM FINANCE PTY LIMITED & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



*Sia Lagos*

Dated: 19/10/2021 5:00:09 PM AEDT

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 616/2021

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

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

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

Affidavit of: Caitlin Maria Murray  
Address: Level 40, Governor Macquarie Tower, One Farrer Place, Sydney NSW 2000  
Occupation: Solicitor  
Date: 19 October 2021

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1.	Affidavit of Caitlin Maria Murray sworn on 19 October 2021	[1]	2
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Filed on behalf of (name & role of party) Westpac Banking Corporation and Westpac New Zealand Limited, applicants  
Prepared by (name of person/lawyer) Caitlin Murray  
Law firm (if applicable) MinterEllison  
Tel (02) 9921 8888 Fax 02 9921 8123  
Email caitlin.murray@minterellison.com  
**Address for service** Governor Macquarie Tower, 1 Farrer Place, SYDNEY NSW 2000  
(include state and postcode) Our reference: CMM:AGS:1353397



Version 3 form approved 02/05/2019

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

1. I am a partner of the firm of solicitors, MinterEllison and the solicitor for the first applicant, Westpac Banking Corporation (**Westpac**) and the second applicant, Westpac New Zealand Limited (**WNZL**).
2. I have previously sworn affidavits in relation to this proceeding, including (but not limited to):
  - (a) my affidavits sworn 23 September 2021 (**23 Sept Affidavit**) and 18 October 2021 (**18 Oct Affidavit**) in support of the contempt application; and
  - (b) my affidavit sworn 30 September 2021 in support of the freezing order application referred to in this affidavit (**30 Sept Affidavit**).
3. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked 'Exhibit CMM-16' (**CMM-16**) and a further paginated bundle of documents marked Confidential Exhibit **CMM-17**.
4. This affidavit is sworn in support of Westpac and WNZL's:
  - (a) Interlocutory Application dated 23 September 2021 seeking, *inter alia*, an order pursuant to section 31 of the *Federal Court of Australia Act 1976* (Cth) (**Act**) that the second respondent, Basile Papadimitriou (**Mr Papas**) be found guilty of contempt of this Court as set out in the Statement of Charge filed 6 October 2021 (**Contempt IA**);
  - (b) Interlocutory Application dated 30 September 2021 seeking, *inter alia*, freezing orders pursuant to section 23 of the Act and rule 7.32 of the *Federal Court Rules 2011* (Cth) (**FCR**) against the:
    - (i) twenty-eighth respondent, Palante Pty Ltd ACN 135 344 151 (**Palante**);
    - (ii) twenty-fifth respondent, 286 Carlisle Street Pty Limited ACN 610 042 343 (**286 Carlisle St**);
    - (iii) thirty-eighth respondent, Tesoriero Investment Group Pty Ltd ACN 161 088 115 (**TIG**); and
    - (iv) forty-first respondent, 8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626 (**Natalia Ave**)

**(Freezing Order IA).**
5. References to time in this affidavit are in Australian Eastern Standard Time.

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Signed: .....  ..... Taken by: .....  .....

**Contempt IA**



6. On 1 July 2021 at approximately 11:25pm, I received an email from Rocco Panetta (**Mr Panetta**), the then current solicitor for Mr Papas that attached a sealed Notice of Address for Service dated 1 July 2021 (**Notice**) that had been filed on behalf of Mr Papas. A copy of the email and the Notice is at pages 1 to 2 of CMM-16.
7. On 23 September 2021 at approximately 6:13pm, I caused Anthony Sommer (**Mr Sommer**) a solicitor of MinterEllison under my employ, to send an email to [law@panetta.com.au](mailto:law@panetta.com.au), being the email address listed in the Notice, attaching by way of service unsealed copies of the following documents filed with the Registry on 23 September 2021:
  - (a) the Contempt IA;
  - (b) my 23 Sept Affidavit together with the accompanying Exhibit CMM-12; and
  - (c) Form 137 statement of charge.
8. A copy of the email to which I refer at paragraph 7 above (together with only the front two pages of each attachment to that email) is at pages 3 to 11 of CMM-16.
9. On 29 September 2021 at approximately 9:10am, I was copied to an email sent from Mr Panetta to Mr Sommer in which Mr Panetta:
  - (a) enclosed a sealed copy of a Notice of Ceasing to Act for Mr Papas dated 16 September 2021 and filed on 27 September 2021; and
  - (b) confirmed that he no longer acted for Palante.
10. A copy of the email to which I refer to at paragraph 9 above together with its attachment is at pages 12 to 14 of CMM-16.
11. On 6 October 2021 at approximately 5:20pm, I caused Mr Sommer to send an email to [law@panetta.com.au](mailto:law@panetta.com.au) attaching sealed copies of:
  - (a) the Contempt IA;
  - (b) my 23 Sept Affidavit together with the accompanying Exhibit CMM-12; and
  - (c) Form 137 statement of charge filed on 6 October 2021(together referred to as the **Contempt Court Documents**).
12. A copy of the email to which I refer at paragraph 11 above (together with only the front two pages of each attachment to the email) is at pages 15 to 24 of CMM-16.
13. On 6 October 2021, I was provided with:

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Signed: .....  ..... Taken by: .....  .....

- (a) a confidential exhibit marked 'RVP-02' to the affidavit of Rocco Vincenzo Panetta sworn 5 October 2021 containing a telephone number for Mr Papas (**Confidential Exhibit RVP-02**); and
  - (b) a copy of an order made in this proceeding dated 6 October 2021 prohibiting disclosure of Confidential Exhibit RVP-02 pursuant to section 37AF(1) of the Act.
14. On 12 October 2021 at approximately 1:57pm, I sent a text message to the telephone number contained in Confidential Exhibit RVP-02 (**Greek Phone Number**) which included a link to a share-file containing the Contempt Court Documents. I did not receive any error or non-delivery message in response to the text message.
15. A redacted screenshot of the text message to which I refer at paragraph 14 above is at page 25 of CMM-16. The redactions are to redact the Greek Phone Number in light of the suppression order made by this Court on 6 October 2021. An unredacted screenshot of the text message showing the details of the Greek Phone Number is exhibited at page 1 of Confidential CMM-17. A screenshot of the webpage of the share-file showing the contents of that file is at page 26 of CMM-16.
16. At the time of swearing this affidavit, I have not received a response to that text message.
- Mr Papas' Relationship with Louise Agostino
17. On 7 July 2021, I attended a hearing during which Mr Panetta gave evidence under cross-examination to the effect that Mr Panetta had spoken with Ms Agostino regarding Mr Papas returning to Australia. Mr Panetta described Ms Agostino as being Mr Papas' "girlfriend". A copy of page 1 and page 17 of the transcript from that hearing are at pages 27 to 28 of CMM-16.
18. On 24 July 2021, the Australian Financial Review published an article titled "*Revealed: where alleged fraudster Bill Papas is holed up*". The article contained photographs of Mr Papas and asserted he was in Thessaloniki with a person alleged in the article to be Ms Agostino. A copy of that article is at pages 29 to 35 of CMM-16.
19. On 29 July 2021, a subpoena was issued by this Court to the Department of Home Affairs (**DHA**). Documents produced by the DHA in response to the subpoena included:
- (a) two reports titled "TEP Request Details" for Ms Agostino which both record Ms Agostino's address in Australia as "23 Margaret Street, Rozelle, New South Wales, 2039" (which is at pages 36 to 44 of CMM-16);

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Signed: .....  ..... Taken by: .....  .....

- (b) an email sent on 7 July 2021 at approximately 11:28pm from DHA to the email address [lagostino@iugis.com](mailto:lagostino@iugis.com) advising that Ms Agostino's travel request was not exempt (which is at pages 45 to 46 of CMM-16);
  - (c) an undated letter from Ms Agostino the subject line "Application to Leave Australia for Urgent work related purposes" in which the address for Ms Agostino is recorded as being "23 Margaret Street, Rozelle NSW 2039 (which is at page 47 of CMM-16)";
  - (d) a letter dated 8 July 2021 on Iugis letterhead in support of Ms Agostino's travel request (which is at page 48 of CMM-16);
  - (e) an email sent on 13 July 2021 at approximately 1:27pm from DHA to the email address [loulou1743@gmail.com](mailto:loulou1743@gmail.com), advising that Ms Agostino's travel request was "exempt"; (which is at pages 49 to 50 of CMM-16);
  - (f) a movement card for Ms Agostino (which is at page 51 of CMM-16);
  - (g) a report titled "TEP Request Details" for Mr Papas which records Mr Papas' address in Australia as "23 Margaret Street, Rozelle, New South Wales, 2039" (which is at pages 52 to 55 of CMM-16); and
  - (h) various movement cards and incoming passenger cards for Mr Papas. The incoming passenger cards list Ms Agostino as the emergency contact for Mr Papas and identify his address as 23 Margaret Street, Rozelle (extracts of the most recent movement and passenger cards produced which are at pages 56 to 59 of CMM-16).
20. On 30 July 2021, I received three affidavits sworn by Mr Papas as to his assets, delay and "Listed things". A copy of these affidavits is at pages 60 to 69 of CMM-16.
21. On 22 September 2021, I attended a hearing in this proceeding in which Mr Panetta provided information to the Court in relation to Mr Papas. A copy of an extract of the transcript for 22 September 2021 (being page 14) is at page 70 of CMM-16.

Mr Papas' Amex records

22. On 4 August 2021, a subpoena was issued by this Court to The Proper Officer, American Express Australia Limited ACN 108 952 085 (**AMEX**). Documents produced in response to this subpoena included a statement of account for an AMEX in the name of Mr Papas including:
- (a) for the period 29 May 2021 to 28 June 2021 (at pages 71 to 75 of CMM-16); and
  - (b) for the period 29 June 2021 to 28 July 2021 (at pages 76 to 78 of CMM-16).

Signed: .....  .....

Taken by: .....  .....

**Freezing Order IA**

23. On 21 July 2021, I received an affidavit from the third respondent, Vincenzo Frank Tesoriero (**Mr Tesoriero**) in relation to his assets, a copy of which is at pages 79 to 98 of CMM-16. On 3 September 2021 I received a further affidavit from Mr Tesoriero in relation to his overseas assets, a copy of which is at pages 99 to 101 of CMM-16.

Correspondence with Madgwicks Lawyers

24. On 27 September 2021 at approximately 12:38pm, I caused Mr Sommer to send an email to Sazz Nasimi (**Mr Nasimi**) of Madgwicks Lawyers (whom I knew to be the solicitor on the record for Mr Tesoriero) attaching a letter dated 27 September 2021 inviting 286 Carlisle, TIG and Natalia Ave to consent to the orders sought by the Freezing Order IA (**27 September Letter**). A copy of the 27 September Letter is at pages 102 to 104 of CMM-16.

25. On 1 October 2021, I attended a hearing of this proceeding (**1 October Hearing**) during which I heard Mr Nasimi say to the Court words to the effect that 286 Carlisle, TIG and Natalia Ave would consent to the orders sought by the Freezing Order IA. A copy of the relevant extract of the transcript from the case management hearing held on 1 October 2021 is at pages 105 to 107 of CMM-16.



26. On 1 October 2021 at approximately 4:17pm, I caused Mr Sommer to send an email to Mr Nasimi. A copy of that email together with its attachments is at pages 108 to 136 of CMM-16.

27. On 1 October 2021 at approximately 4:52pm, I caused Mr Sommer to send a further email to Mr Nasimi attaching draft short minutes of order seeking Mr Nasimi's urgent confirmation that 286 Carlisle, TIG and Natalia Ave would consent to the orders sought by the Freezing Order IA. A copy of that email together with its attachment is at pages 137 to 162 of CMM-16.

28. I am informed by Mr Sommer and verily believe that Mr Sommer attempted to call Mr Nasimi on 1 October 2021, at approximately 5.02pm, 5.23pm and 5.53pm. I am informed by Mr Sommer and verily believe that:



- (a) on each occasion Mr Nasimi did not answer;
- (b) on each occasion Mr Sommer left voice messages asking that Mr Nasimi return his call; and
- (c) that the number Mr Sommer used to call Mr Nasimi on was the office number listed on Mr Nasimi's email signature.

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Signed: .....  ..... Taken by: .....  .....

29. On 5 October 2021 at approximately 9:39am, I caused Mr Sommer to send a further email to Mr Nasimi attaching the Freezing Order IA, my 30 Sept Affidavit, the 27 September Letter, and draft short minutes of order from the 1 October Hearing. In that email, Mr Sommer:
- (a) referred to the indication given by Mr Nasimi during the 1 October Hearing that 286 Carlisle, TIG and Natalia Ave would consent to the orders sought by the Freezing Order IA; and
  - (b) invited Mr Nasimi to urgently advise if it was the case that he did not hold instructions to accept service on behalf of 286 Carlisle, TIG and Natalia Ave.
30. A copy of the email to which I refer to at paragraph 29 above excluding its attachments is at pages 163 to 165 of CMM-16.
31. On 11 October 2021 at approximately 8:32am, I caused Mr Sommer to send a further email to Mr Nasimi to the effect that MinterEllison had not received a response to the 27 September Letter or to any of the emails to which I refer at paragraphs 24 to 30 above. A copy of that email is at pages 166 to 168 of CMM-16.
32. On 12 October 2021 at approximately 4:06pm, I caused Mr Sommer to send a further email to Mr Nasimi attaching a stamped copy of the Freezing Order IA, my 30 Sept Affidavit and its exhibit (CMM-14). In that email, Mr Sommer:
- (a) referred to service of 286 Carlisle, TIG and Natalia Ave on Mr Tesoriero in accordance with section 109X(1)(b) of the *Corporations Act 2001* (Cth); and
  - (b) noted that the applicants intended to apply for the relief sought in the Freezing Order IA at hearing on 20 October 2021.
33. A copy of the email to which I refer to at paragraph 32 above excluding its attachments is at pages 169 to 172 of CMM-16.
34. As at the time of swearing this affidavit I have not received a response from Mr Nasimi to any of the correspondence referred to above. I am informed by Mr Sommer and verily believe that he has not received a response from Mr Nasimi to the correspondence set out above.
35. On 15 October 2021 at approximately 12:21pm, Mr Sommer and I called Mr Nasimi on the office number on his email signature. Mr Nasimi did not answer and we left a voice message asking that Mr Nasimi return our call. I have not been able to locate a mobile telephone number for Mr Nasimi. As at the date of this affidavit Mr Nasimi has not called me and I am informed by Mr Sommer and verily believe that Mr Nasimi has not called Mr Sommer.

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Signed: .....  ..... Taken by: .....  .....





Palante Pty Ltd

- 36. In paragraphs [41]-[42] of my 30 Sept Affidavit, I refer to extracts of the FGFS Account which refer to transactions that appear to correspond to transactions set out in the Palante worksheet. Additional extracts of the FGFS Account bank statements that show transactions that appear to be for the benefit of Palante are at pages 173 to 204 of CMM-16.
- 37. In paragraph [59] of my 30 Sept Affidavit, I refer to the Palante Withdrawals Workbook that identifies payments out of the account. The extract of the Palante Withdrawals Workbook also records two payments going to an account with BSB 82062 and account number 78124432. I understand this is a National Australia Bank Limited (**NAB**) account in the name "B Papadimitriou". A copy of the account statement for the account ending in 4432 for the period from 17-30 June 2021 is at pages 205 to 206 of CMM-16.
- 38. In paragraph [59] of my 30 Sept Affidavit, I refer to two payments totalling \$720,000.00 which were made from Palante's trading account with Macrovue to an account in the name of E Constantinidis (**Constantinidis Account**).
- 39. In response to a subpoena to NAB, statements for the Constantinidis Account were produced, a copy of which is at pages 207 to 212 of CMM-16.
- 40. In paragraph [54] of my 30 Sept Affidavit, I refer to a letter sent to Panetta Lawyers on 9 September 2021. As set out in paragraph [55] of my 30 Sept Affidavit, no response to that letter had been received as at 30 September 2021. As at the date of this affidavit, I have not received a response to the letter of 9 September 2021. I am also informed by Mr Sommer and verily believe that, as at the date of this affidavit, he has not received a response to the letter of 9 September 2021.
- 41. On 18 October 2021 at approximately 1:55pm, I sent a text message to the Greek Phone Number which included a link to a share-file containing the documents in support of the Freezing Order IA, including the application, my 30 Sept Affidavit, and exhibit CMM-14. A copy of that message, with the Greek Phone Number redacted, is at page 213 of CMM-16. A copy of the unredacted phone number is at page 2 of Confidential CMM-17. I did not receive an error or non-delivery message in connection with the text message. I have also not received a reply or response to that text message.

ASIC Records

- 42. I have previously caused, in connection with these proceedings, solicitors employed by MinterEllison to obtain current and historical extracts from the records held by ASIC in relation to the companies that are respondents to this proceeding. A copy of the extract for Forum Finance Pty Ltd (in liquidation) is at pages 214 to 225 of CMM-16.

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Signed: .....  ..... Taken by: .....  .....

Sworn by the deponent  
 at Sydney in New South Wales  
 on 19 October 2021

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\_\_\_\_\_  
 Signature of deponent

Before me:



\_\_\_\_\_  
 Signature of witness  
 Simon Henry Brandis  
 Solicitor  
 Level 40, Governor Macquarie Tower, One  
 Farrer Place NSW 2000.

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 has confirmed the person's identity based on the following identification document presented to me NSW Drivers' Licence

**Schedule of Parties**

No. NSD616 of 2021

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

**Applicants**

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

**Respondents**

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

Eighteenth Respondent	160 Murray Valley Hwy Lake Boga Pty Ltd ACN 641 392 921
Nineteenth Respondent	31 Ellerman Street Dimboola Pty Ltd ACN 641 392 887
Twentieth Respondent	4 Cowslip Street Violet Town Pty Ltd ACN 639 872 352
Twenty-First Respondent	55 Nolan Street Maryborough Pty Ltd ACN 641 392 912
Twenty-Second Respondent	89 Betka Road Mallacoota Pty Ltd ACN 641 393 179
Twenty-Third Respondent	9 Gregory Street Ouyen Pty Ltd ACN 641 392 707
Twenty-Fourth Respondent	9 Main Street Derrinallum Pty Ltd ACN 639 872 736
Twenty-Fifth Respondent	286 Carlisle Street Pty Limited ACN 610 042 343
Twenty-Sixth Respondent	275 High Street Golden Square Pty Ltd ACN 639 870 545
Twenty-Seventh Respondent	Mazcon Investments Hellas IKE
Twenty-Eighth Respondent	Palante Pty Ltd ACN 135 344 151
Twenty-Ninth Respondent	Anastasios Giamouridis
Thirtieth Respondent	The Forum Group of Companies Pty Ltd (in liquidation) ACN 151 964 626
Thirty-First Respondent	Iugis Pty Ltd (in liquidation) ACN 632 882 243
Thirty-Second Respondent	Iugis (UK) Limited
Thirty-Third Respondent	Iugis Holdings Limited
Thirty-Fourth Respondent	Iugis Global Financial Services Limited
Thirty-Fifth Respondent	Iugis Finance Limited
Thirty-Sixth Respondent	Spartan Consulting Group Pty Ltd (in liquidation) ACN 168 989 544 ACN
Thirty-Seventh Respondent	Intrashield Pty Ltd (in liquidation) ACN 133 426 534
Thirty-Eighth Respondent	Tesoriero Investment Group Pty Ltd ACN 161 088 115
Thirty-Ninth Respondent	Mangusta (Vic) Pty Ltd ACN 631 520 682
Fortieth Respondent	193 Carlisle Street Enterprises Pty Ltd ACN 612 615 237
Forty-First Respondent	8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626
Forty-Second Respondent	Iugis Hellas IKE
Forty-Third Respondent	Iugis Energy SA