

Societe Generale v Forum Finance Pty Limited (In Liquidation) & Ors

Federal Court of Australia NSD642 of 2021

Applicant's Supplementary Written Outline of Opening Submissions

Capitalised terms used here are as defined in the Opening Submissions.

1. The proceedings brought by SG are being heard concurrently with proceedings brought by Westpac and SMBC. Each proceeding was formally called outside of Court on the morning of the first day of hearing. There was no appearance by Mr Papas. Mr Papas is the second respondent in the SG Proceeding.
2. As a consequence, SG seeks the **attached** orders for the proceedings to proceed generally against Mr Papas despite his absence. The Court has this power under rule 30.21(1)(b)(i) of the *Federal Court Rules 2011* (Cth) (**FCR**). The principles applicable to r 30.21(1)(b)(i) of the FCR are correctly set out in Westpac's supplementary submissions dated 6 December 2022 at [18] (*WBC/SMBC Court Book tab B.97; MIN.5000.0019.0007 at 0012*).
3. Mr Papas previously appeared in the proceedings through his solicitor Rocco Panetta: *Affidavit of Ian Timothy Bolster sworn on 9 August 2022 (Bolster 1)* (*SG Court Book tab D7*) at [10] and [12] (*CB 1347*).
4. On 22 July 2021, whilst Mr Papas was legally represented in the proceedings, the Court made orders that subject to further order, the Westpac, SMBC and Societe Generale proceedings were to be case managed together. No such further order was made.
5. Mr Panetta served a Notice of Ceasing to Act on 1 October 2021: *Bolster 1* (*SG Court Book tab D7*) at [15] (*CB 1348*).
6. On 14 October 2022, the Court made orders listing the Westpac, SMBC and Societe Generale proceedings for hearing. A copy of those orders was sent to Mr Panetta, and Westpac's solicitors further informed Mr Papas of the hearing date: *Affidavit of Caitlin Maria Murray sworn on 2 February 2023 (Murray Service Affidavit)* (*WBC/SMBC Court Book tab D.VII.40*) at [53]-[54] and *Annexure A (item 1)* (*MIN.5000.0030.0092 at 0101-0102, 0107-0108*) and *Exhibit CMM-30 to the Murray Service Affidavit* (*WBC/SMBC Court Book tab D.VII.41*) at 49-51 (*MIN.5000.0030.0011 at 0060-0062*).
7. On about 8 September 2022, SG filed its outline of opening submissions for the final hearing (**SG's Opening Submissions**) (*SG Court Book tab B1*).
8. Paragraph 1 of SG opening submissions referred to its proceeding "being heard simultaneously" with that of Westpac and SMBC. Those submissions were served on Mr Papas in accordance with substituted service orders: *Affidavit of Ian Timothy Bolster sworn on 18 October 2022 (Bolster 2)* (*SG Court Book tab D8*) at [7]-[13]. SMBC also referred to the simultaneous hearing at paragraph 1 of its submissions dated 5 December 2022 (*MIN.5000.0019.0020*), which were likewise served on Mr Papas:

Affidavit of Maria Yiasemides sworn on 3 February 2023 at [8]-[9] (WBC/SMBC Court Book tab D.VI).

9. Mr Papas has been served with all of SG's material for the hearing. Service in accordance with the Court's orders for substituted service as made from time to time of SG's:
 - (a) pleadings, evidence and draft court book index is established through Bolster 1 (*SG Court Book tab D7 esp. in the right-hand column of the table summarising service at [5] on CB 1343*).
 - (b) court book is established through Bolster 2 (*SG Court Book tab D8*).

7 February 2022

Sinclair Gray

12th Floor Wentworth/Selbourne Chambers

email: sinclairgray@12thfloor.com.au

9233 4880

Matthew Youssef

12th Floor Wentworth/Selbourne Chambers

email matthew.youssef@12thfloor.com.au

8029 6321

SHORT MINUTES OF ORDER

No. NSD642 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: Commercial and Corporations

Societe Generale (ABN 71 092 516 286)

Applicant

Forum Finance Pty Limited (ACN 153 301 172) (In Liquidation) and others named in the Schedule

Respondents

Judge: JUSTICE CHEESEMAN

Date of order: 7 February 2023

Where made: Sydney

THE COURT ORDERS THAT:

1. Pursuant to rule 30.21(1)(b)(i) of the *Federal Court Rules 2011* (Cth), the hearing of the proceeding is to proceed generally in the absence of the second respondent, Basile Papadimitriou.

Filed on behalf of (name & role of party) Societe Generale (ABN 71 092 516 286), Applicant
Prepared by (name of person/lawyer) Ian Timothy Bolster
Law firm (if applicable) Ashurst Australia
Tel (02) 9258 6697 Fax (02) 9258 6999
Email ian.bolster@ashurst.com
Address for service Ashurst Australia
(include state and postcode) Level 11, 5 Martin Place, Sydney NSW 200

Schedule

No. NSD642 of 2021

Federal Court of Australia

District Registry: New South Wales

Division: Commercial and Corporations

Respondents

Second Respondent:

BASILE PAPADIMITRIOU

Third Respondent:

FORUM GROUP FINANCIAL SERVICES PTY LTD (ACN
623 033 705) (IN LIQUIDATION)