

NOTICE OF FILING

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Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD912/2020
File Title: CLIVE FREDERICK PALMER v MARK MCGOWAN
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Dated: 27/01/2021 3:32:57 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.

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Affidavit

No. NSD 912 of 2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Clive Frederick Palmer

Applicant

Mark McGowan

Respondent

Affidavit of: Domenic Vincent Martino

Address: Level 5, 56 Pitt Street, Sydney NSW 2000

Occupation: Accountant

Date: 21 January 2021

I, Domenic Vincent Martino of Level 5, 56 Pitt Street, Sydney NSW 2000, Accountant, say on oath:

Personal background

1. I graduated with the degree of Bachelor of Business from the Western Australian Institute of Technology (now known as Curtin University of Technology) in 1976.
2. I qualified as a chartered accountant in 1980.
3. I am a Fellow of the Institute of Chartered Accountants in Australia and New Zealand.
4. I was a partner of the accountancy and consultancy firm Deloitte Touche Tohmatsu and its predecessor firms (together, **Deloitte**) from 1986 until 2003.
5. I was the Managing Partner of the Sydney office of, and subsequently Chief Executive Officer of, Deloitte during the period 1998 to 2003.

Filed on behalf of Clive Frederick Palmer, Applicant
Prepared by Michael John Sophocles
Law firm Sophocles Lawyers
Tel 02 9098 4450
Email mjs@sophocles-lawyers.com
Address for service Level 23, 52 Martin Place, Sydney NSW 2000

A blue ink signature of Michael John Sophocles.

A black ink signature of Clive Frederick Palmer.

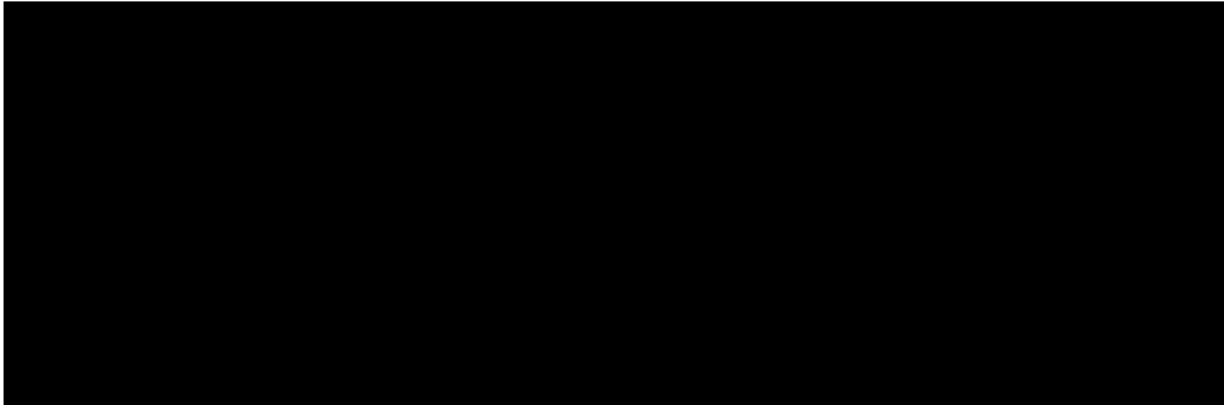
6. I have more than 30 years' experience in corporate finance, mergers and acquisitions, initial public offerings and identifying strategic corporate opportunities.
7. I have been a Chairman or director of numerous public and private companies.
8. Annexed to this affidavit, and marked "DVM1", is a true copy of my *Curriculum Vitae* which provides a more detailed written overview of my career.

Knowledge of the plaintiff

9. I first met the plaintiff (**Mr Palmer**) in or about 2005 or 2006. I first met Mr Palmer in my capacity of Chairman of Australasian Resources Ltd and in connection with the possible acquisition of iron ore resources in Balmoral, Western Australia. I refer further to that project in paragraph 11 below.
10. Since that time I have got to know Mr Palmer very well. On the business side I have been a director of a number of his associated companies including Australasian Resources Ltd (which became associated after the abovementioned transaction concluded), Resourcehouse Ltd, Gladstone Pacific Nickel Ltd, Mineralogy Pty Ltd and others. In addition I have advised him on a number of proposed business transactions. On the personal side I have got to know Mr Palmer and his family very well. Our families have enjoyed numerous social occasions together and my wife and I have travelled extensively in Australia and Europe for many years with the Palmer family. During this time I have become a close personal friend to Mr Palmer.
11. [REDACTED]





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12. I am involved in business and corporate advisory assignments across a number of States, primarily New South Wales, Western Australia, Queensland and Victoria. I have a particularly strong network in the mining and resource community in those States and most importantly in the investment, institutional and stockbroking communities that fund and support mining projects. I also have a network of senior public company directors developed over my years since being CEO of Deloitte. I mix in these circles socially as well. In addition my firm provides pro bono services to some charitable operations and I have an involvement in those circles. Mr Palmer is well known in these circles due to his substantial involvement in the mining and resources industry in Western Australia and Queensland and his propensity for philanthropic commitments.

Mr Palmer's reputation

13. In the circles in which I mix, Mr Palmer has a reputation for being a "larger than life" person, in the sense that he has a lively personality, has big ambitions and is generally more interesting - and therefore attracts more attention - than the average person. This assessment of Mr Palmer is shared by me.
14. Mr Palmer also had a reputation in those circles, at the time of the matters complained of (i.e. July and August 2020), for being a dedicated family man, a substantial philanthropist and someone who goes out of his way to help those in need. He has a reputation as a very successful businessman as well. These assessments of Mr Palmer are shared by me.
15. In the business, social and philanthropy circles, in which I mix, Mr Palmer had a good reputation at the time of the matters complained of. This assessment of Mr Palmer is shared by me.

The matters complained of

16. I have read Mr Palmer's Statement of Claim filed in this proceeding.



17. I have also read the affidavit of Michael John Sophocles dated 2 October 2020 and accessed the following link contained in that affidavit:


<https://1drv.ms/u/s!Ag5-nz86eo4SjdoQo4CpGGKntcq6UA?e=t6smdD>


18. That link includes the actual publications which are referred to as the first to sixth matters complained of in Mr Palmer’s Statement of Claim. I refer to those below as “the matters complained of”.

19. I do not recall precisely where I was or when at the time when I first became aware of each of the matters complained of. However, I recall that I saw television news footage of Mr McGowan saying some of those things and that I read some of them in print and online newspaper publications on about the dates when the Premier of Western Australia was making the relevant statements.

20. I speak to Mr Palmer on a regular basis. Often when I see press about him I will call him or he will call me to discuss it. I have an office in Perth so I keep a keen eye on Western Australian news reports both in television and online newspapers etc. On seeing news reports of the matters complained of, I telephoned Mr Palmer to see how he was doing given the comments which had been made about him by Mr McGowan. Mr Palmer said words to the effect that he was deeply hurt by those comments and referenced the enormous contribution he has made over the years to Western Australia. He said words to the effect that these comments not only dismissed and ignored that contribution but falsely portrayed him in a light of a predator working against Western Australia in an avaricious and self-serving manner.

Sworn by the deponent
at Sydney
in the State of New South Wales
on 21 January 2021
Before me:

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Signature of deponent


Signature of witness
Name of witness: Nina Qiao
Address of witness: Level 9, 53 Martin Place, Sydney NSW 2000
Solicitor of the Supreme Court of New South Wales

Annexure Certificate

No. NSD 912 of 2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Clive Frederick Palmer

Applicant

Mark McGowan

Respondent

Annexure Certificate – “DVM1”

The following 2 pages are the annexure “DVM1” to the affidavit of Domenic Vincent Martino sworn before me on 21 January 2021.



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Name: Nina Qiao

Address: Level 9, 53 Martin Place, Sydney NSW 2000

Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Clive Frederick Palmer, Applicant
Prepared by	Michael John Sophocles
Law firm	Sophocles Lawyers
Tel	02 9098 4450
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DOMENIC VINCENT MARTINO

Date of Birth : 30 January 1956
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SYDNEY NSW 2000
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QUALIFICATIONS & PROFESSIONAL AFFILIATIONS

- Bachelor of Business, Curtin University (1974-1976 - Award No: 7171)
- Fellow, Institute of Chartered Accountants in Australia (FCA)

Mr Martino commenced his career initially in Chartered accountancy and corporate finance in Western Australia. There he established and built a Chartered Accountancy firm specialising in the mining industry and corporate transactions. With offices in Perth and Kalgoorlie Mr Martino as managing partner of the firm was instrumental in building the firm into one of Perth's 6 largest accountancy firms. In 1994 the firm was sold and merged into Deloitte Touch Tohmatsu (Deloitte) one of the big 4 accounting and consulting firms and Mr Martino and his partners became partners of Deloitte. Mr Martino was appointed the Western Australian Managing Partner of the Western Australian Deloitte practise at the time of the merger.

In 1998 Mr Martino transferred with Deloitte to Sydney where he was promoted to the Managing Partner of the New South Wales practice and ultimately the Chief Executive Officer of Deloitte in Australia from 1998 to 2003. During that time he was also a member of the Global Executive Committee of Deloitte Touche Tohmatsu International. He was a Partner of Deloitte and its predecessor firms from 1981 to 2003 during which time, in addition to a number of management operational roles, he specialized in the corporate finance area, including mergers and acquisitions, initial public offerings and strategic opportunities.

Since leaving Deloitte Mr Martino established Indian Ocean Corporate Pty Ltd a boutique corporate advisory and investment banking firm with offices in Sydney, Perth and Guangzhou China. It specialised in mining and resources projects, food and technology projects and Cross boarder Australia/China deals. Mr Martino has also during this time been instrumental in a number of corporate and business deals..

In the early 2000's he established the ASX listed Sydney Gas Ltd of which he was Chairman and founding shareholder. Sydney Gas Ltd developed the first coal bed methane project in NSW in the Camden area supply gas to Sydneys network. This field still operates today providing gas to AGL's network. Sydney Gas Ltd was ultimately taken over by AGL Ltd

In 2006 Mr Martino was instrumental in establishing Australiasian Resources Ltd listed on the ASX which acquired a billion tonne iron ore project at Balmoral Western Australia. Mr Martino raised circa \$60million from strategic Chinese and Hong Kong investors to complete a comprehensive bankable feasibility study for the project .

In 2010 Mr Martino established with mining engineer Peter Lynch ASX listed Cokal Ltd focussed on building a global metallurgical coal business in Indonesia's Central Kalimantan region. Initially as a director and subsequently as Chairman after the untimely death of Peter Lynch Mr Martino has raised circa \$100million over the last 10 years for Cokal Ltd also introducing a major industry strategic investor to the company . Cokal used these funds to explore and then establish a substantial resource and ultimately develop a world class metallurgical coal project which is commencing production in 2021.

Mr Martino initially funded Lang Technologies Pty Ltd (Lang) a company that developed the innovative CCE technology for the extraction of juice from fruit more efficiently while retaining greater nutritional value than conventional processes. After raising further capital for Lang to develop its technology and business Mr Martino arranged the ASX listing of Lang through a reverse takeover establishing the ASX listed The Food Revolution Group

Ltd (FOD). Simultaneously with listing FOD acquired the juice factories in Mill park Victoria and ultimately the juice brands "The Original Juice Co" and "Black Label" from Heinz. Fod's clients include Australian supermarkets Coles, Woolworths and Aldi as well as a number of export clients in China and Japan. It is the holder of a number of innovative, health and food related patents.

Subsequent to listing FOD Mr Martino arranged and closed the deal for Norman Li's Careline group to invest circa \$15million in FOD and in conjunction bringing the Careline Groups extensive Chinese distribution networks to FOD. FOD a successful drinks manufacturer in Australia with clients like Coles, Heinz, Woolworths and Aldi is now connected to the Chinese market through Carelines Cmart online sales network and Careline's offline Chinese distribution capability through its substantial Shanghai operation. Mr Martino's relationships and foresight in joining these two groups has helped create one of Australia's next substantial food and beverage companies operating in the Australian market and exporting to China.

Mr Martino has also been a Director/Chairman and founding shareholder of a number of other listed public companies including as a founding Director and former Chairman of Oil and Gas companies Blue Energy Limited (formerly Energy Investments Limited) and South Pacific Resources Ltd . Also truck manufacturing company ORH Ltd, Nickel resource developer Gladstone Nickel Ltd and Coal company Pan Asia Corporation Ltd.

Mr Martino was a recipient of the Centenary Medal 2003 for his service to Australian Society through Business and the Arts.

Mr Martino has served on numerous other Boards including: -

- Former member of the Board of Govenors of the University of Notre Dame
- Former Director and Member of the Board - Australia Business Arts Foundation Limited
- Former Chairman of the Tax Task Force – Business Council of Australia
- Former Member of the Finance & Budget Committee for the Economic Development of Australia (CEDA)
- Former Chairman of the Joint Legislative Review Committee of ICA and the Australian Society of Certified Practising Accountants (1986-1989) - Western Australia
- Former Chairman of the Membership Service Committee (1983 – 1986) for the institute of Chartered accountants - Western Australia
- Former National Councillor for the Institute of Chartered Accountants in Australia
- Former Chairman of the West Australian State Council of Institute of Chartered Accountants

Mr Martino and his wife Sandra are based in Sydney and have three sons.
