

Form 59
Rule 29.02(1)

Affidavit

No. NSD719 of 2020

Federal Court of Australia
District Registry: NSW
Division: General

Etienne Alexiou

Applicant

Australia and New Zealand Banking Group Limited (ACN 005 357 522)

Respondent

Affidavit of: **Anouk De Blieck**
Address: [REDACTED]
Occupation: Non-Executive Director
Date: 15 November 2023

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I, Anouk De Blieck, of [REDACTED], Non-Executive Director, affirm:

- I was employed by the Respondent, Australia and New Zealand Banking Group Limited (ANZ), from 2010 to January 2018.
- I make this affidavit from my own knowledge, save where otherwise indicated. Where I depose to matters on the basis of information provided to me by other persons, I believe that information to be true.



3. By making this affidavit, I do not intend to and have no instructions to waive privilege in any communication, or record of communication, that is the subject of privilege. Nothing in this affidavit ought to be construed as involving a waiver of privilege. To the extent that anything may be construed as a waiver of privilege, I withdraw and do not rely on that part of the affidavit.

Employment history with ANZ

4. In 2010, I commenced employment with ANZ in the role of General Manager, Human Resources, based in Hong Kong. In that role, I was responsible for ANZ's Asia Pacific, Europe and Americas operations.
5. From June 2015, I held the role of General Manager, Human Resources, International and Institutional Banking. In this role, I was the most senior human resources specialist in the International and Institutional Banking division of ANZ with responsibility for ANZ's Asia Pacific, Europe and Americas operations, as well as the Global Institutional business. In this role, I provided human resources support to approximately 15,000 ANZ employees in 34 countries.
6. In March 2016, my job title changed to General Manager, Human Resources, Institutional, but my responsibilities did not change.
7. In July 2016, I was appointed to the role of General Manager, Human Resources Australia. In September 2017, my job title changed to General Manager, Talent & Culture Australia, but my responsibilities did not change.
8. From October 2017 until the end of my employment with ANZ, I held the role of Tribe Lead, Talent & Culture NWOW Transformation.

Proposals considered by the Clawback Review Group

9. The Clawback Review Group (the **CRG**) of ANZ was responsible for approving the release or clawback of deferred vested equity/cash granted to ANZ employees subject to confirmation by the Board or the Chair of the Human Resources Committee that any such decision was appropriate.
10. I was not a member of the CRG during the period I held the role of General Manager, Human Resources, International and Institutional Banking, but if a recommendation was made to the CRG to clawback the deferred vested equity/cash of an employee in the International and Institutional Banking division, it required my support, along with the support of the Chief Executive Officer and the Chief Risk Officer of the International and Institutional Banking division. Now produced, shown to me and marked **ADB-1** is a copy of the Clawback Review Guide last updated in July 2015.

CB 3787
ZNA.001.001.1816

11. My role, alongside the head of the business and the divisional chief officer of the risk function, was to provide oversight of, and approve the recommendations that the International and Institutional Banking division intended to make to the CRG if I considered it appropriate. The typical process was for a manager or other decision-maker to inform the head of the business, the divisional chief officer of the risk function, and me of the recommendation they were seeking to make to the CRG. My role was limited to considering the materials and information provided to me by the manager or other decision-maker and deciding whether to give my support for the manager or other decision-maker to present the recommendation to the CRG.

Involvement in the decision to clawback Etienne's deferred unvested equity

12. On 27 August 2015, I received an email from Mark Evans, Chief Compliance Officer, which sought my support for a recommendation to the CRG that 100% of the Applicant's (**Etienne**) deferred unvested equity be clawed back (the **Clawback Recommendation**). This email was also sent to Andrew Geczy as the Chief Executive Officer, International and Institutional Banking and Douglas Stolberg as the Chief Risk Officer, International and Institutional Banking. Mark Evans' email attached:

- (a) a paper by Mark Evans that described a disciplinary process that he had conducted in relation to Etienne and the findings of that process, and confirmed the decision to terminate his employment. The paper also summarised the tranches of deferred unvested equity that were the subject of the Clawback Recommendation; and
- (b) examples of the communications sent by Etienne which had been the subject of the disciplinary process and found to be in breach of the ANZ Code of Conduct and Ethics (the **Code of Conduct**), the ANZ Values and the ANZ Use of Systems, Equipment and Information Policy.

13. Now produced, shown to me and marked '**ADB-2**' is a copy of the email from Mark Evans to me dated 27 August 2015 and its attachments.

CB 4051
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14. To the best of my recollection, before I received this email, I participated in a conference call with Mark Evans and Douglas Stolberg. At the time, Douglas Stolberg and I sat near to each other in ANZ's Hong Kong office. I do not recall whether Andrew Geczy participated in this call, although it is possible that he did. While I recall that we discussed the Clawback Recommendation during the conference call and Mark Evans provided an explanation of the matter, I do not remember exactly what was discussed.

15. As stated in paragraph 11 above, my role was to consider the materials and information provided to me and form a view on whether to support the Clawback Recommendation being presented to the CRG for decision. It was not my role, or the role of the Chief Executive Officer and the Chief Risk Officer of the International and Institutional Banking

division, to re-open the disciplinary process into Etienne's conduct or decide the disciplinary outcome. However, the clawback of deferred equity was a serious matter that had potentially significant implications for an employee, so it was important for ANZ to take a rigorous approach to considering whether a clawback recommendation was appropriate. These were difficult decisions to make, as was the case for the Clawback Recommendation. [REDACTED]

16. Based on the paper and examples of communications which Mark Evans had emailed me on 27 August 2015, I decided that it was appropriate for the Clawback Recommendation to be presented to the CRG. I made this decision because:

(a) Etienne was a senior leader in the Global Markets business and, moreover, had been selected by ANZ for a special fast track internal leadership program (the International and Institutional Banking G40 leadership program). The business had selected Etienne on the basis that he had demonstrated the attributes of leadership. However, I considered the behaviour documented in Mark Evans' paper significantly departed from this standard;

(b) in my experience, throughout Etienne's employment, ANZ had been clear about the importance of leaders demonstrating the ANZ Values and setting the tone both inside and outside the organisation. This expectation of employees in leadership roles within ANZ was taken into account in their performance and remuneration reviews. Behaviour that was not consistent with ANZ's expectation or which was otherwise in breach of ANZ's policies was not acceptable at ANZ, particularly if an employee was in a leadership role and being remunerated on the basis that they would model appropriate conduct and behaviour within the organisation. A leader's remuneration not only took into account their performance, but equally how they lived ANZ's Values;

(c) I considered that employees acted as representatives of ANZ when communicating in connection with their work, particularly if the employee was in a leadership role. Given Etienne's role at ANZ, there was a significant reputational risk associated with his conduct;

(d) the materials provided to me showed repeated and material breaches of the Code of Conduct. This demonstrated poor judgement on Etienne's behalf which had the potential not only to have an adverse impact on ANZ's reputation externally but also a negative influence on the culture of the organisation. I was also aware that [REDACTED]

[16(b)] underlined words: Admitted subject to s 136 limitation that the evidence is received as evidence only of Ms De Blicq's belief or understanding, rather than as evidence of the truth about which that belief or understanding is expressed

Etienne had previously been subject to separate disciplinary action for engaging in inappropriate behaviour with a junior staff member at a client function, which reinforced my view that Etienne's behaviour was inappropriate and showed a repeated lack of judgement. As stated in paragraph 15 above, the decision to clawback an employee's deferred unvested equity is a difficult decision and I wanted to rely on as many data points as possible in deciding whether to support the Clawback Recommendation; and

- (e) I considered it was important for ANZ as an organisation to uphold the highest standards of conduct and not tolerate conduct which departed from these standards.
17. On 28 August 2015, I replied to Mark Evans to confirm that I approved the Clawback Recommendation. Now produced, shown to me and marked 'ADB-3' is a copy of my email to Mark Evans dated 28 August 2015.

CB 4097
ZNA.001.001.2013

Knowledge of alleged complaints and disclosures and involvement in decisions relating to Etienne's employment

18. I supported the Clawback Recommendation solely for the reasons in paragraph 16 above. There were no other reasons that factored into my decision to support the Clawback Recommendation. Specifically, I deny that I decided to support the Clawback Recommendation because of complaints and disclosures allegedly made by Etienne during his employment, including:
- (a) the October 2011 Complaint;
 - (b) the February 2013 Complaint;
 - (c) the 17 July 2014 Complaint;
 - (d) the 18 July 2014 Complaint;
 - (e) the October 2014 Complaint;
 - (f) the February 2015 Complaint;
 - (g) the First ASIC Disclosure;
 - (h) the Second ASIC Disclosure; and
 - (i) a complaint or disclosure made by Etienne in December 2014,
- as those terms are defined in the Second Further Amended Statement of Claim.
19. Etienne did not make any of the alleged complaints or disclosures referred to in paragraph 18 above to me. At the time that I decided to support the Clawback Recommendation, I had not been informed of these matters by others within ANZ.

