

Form 59

Rule 29.02(1)

**Affidavit**

No.

of 2020

Federal Court of Australia

District Registry: NSW

Division: Commercial and Corporations

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)****AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE [REDACTED] CADDICK and others named in the Schedule**

Defendants

Affidavit of: Isabella Lucy Allen

Address: Level 5, 100 Market Street, Sydney, New South Wales

Occupation: Investigator

Date: 9 November 2020

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission (Plaintiff)
Prepared by (name of person/lawyer)	Nicolette Bearup
Law firm (if applicable)	
Tel (02) 9911 5745	Fax (02) 9911 2414
Email Nicolette.Bearup@asic.gov.au	
<b>Address for service</b> (include state and postcode)	Email addresses above and Level 5, 100 Market Street Sydney NSW 2000




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I, Isabella Lucy Allen, Investigator, of Level 5, 100 Market Street Sydney New South Wales 2000 affirm:

1. I am employed by the Australian Securities and Investments Commission (**ASIC**) as an investigator in ASIC's Financial Services Enforcement team as part of the Office of Enforcement.
2. I provide this second affidavit in support of ASIC's application for suppression orders as set out in the Originating Process in these proceedings.
3. The affidavit affirmed by me on 9 November 2020 in support of ASIC's claim for relief under s1323 of the *Corporations Act 2001* (Cth) (**Main Affidavit**) sets out findings from:
  - (a) conversations by ASIC staff with one couple, Mr and Mrs [REDACTED] who were seeking to invest their money with the Second Defendant but did not proceed;
  - (b) conversations with two people who did invest their money with the Second Defendant, being [REDACTED] and [REDACTED] (through the [REDACTED]), and an analysis of their financial dealings with the Second Defendant, from an examination of the First and Second Defendants' bank statements.
4. I analysed the bank statements of the Second Defendant to identify deposits of money made by people named by the persons identified in paragraph 3 as people who they understood had invested money with the Second Defendant, and included in my Main Affidavit information regarding those persons' financial dealings with the Second Defendant.

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*[Handwritten signature]*

5. I have analysed the bank statements of the Second Defendant to identify other people who may have invested money with the Second Defendant and named those persons in my Main Affidavit and set out what I understand to be their financial dealings with the Second Defendant.
6. The exhibits to my Main Affidavit contain the following personal information of the people referred to above:
  - (a) dates of birth of a number of the investors or possible investors;
  - (b) addresses, email addresses and phone numbers;
  - (c) details of the bank accounts from which they paid money to, or received money from, the Second Defendant and the amounts paid.
7. This information, particularly the information identified in 6 (c) is necessary for my analysis of the payments made by and to investors. It would not be practical to redact this information in the exhibits.
8. I am concerned that unless a suppression order is made in the terms sought by ASIC to prohibit the publication and disclosure of the names of the investors or potential investors, set out in confidential Annexure "IA-4" to this affidavit, they will have their personal financial dealings with the Defendants and the personal information contained in the exhibits to my Main Affidavit made public at this early stage of ASIC's investigation when many of them have not been spoken with. This may cause them undue embarrassment and distress and would thus prejudice the interests of justice.
9. On 9 November 2020, Alec Cassidy a Senior Manager at ASIC, successfully applied for search warrants pursuant to section 39D of the ASIC Act (which applies s3E of the Crimes Act 1914 (Cth)) for the following premises and person:
  - (a) [REDACTED] being the residential premises of Ms Caddick and the principal place of business of Maliver;
  - (b) a Safety Deposit box [REDACTED];
  - (c) Melissa Caddick, born [REDACTED].
10. ASIC, with the assistance of the Australian Federal Police, is proposing to execute the search warrants on the morning of Wednesday 11 November 2020.
11. The offences which form the basis of the search warrants (as referred to in the third condition) are contraventions of sections 911A and 1041G of the *Corporations Act 2001* (Cth) and section 400.3 of the Schedule to the *Criminal Code Act 1995* (Cth).

12. I am concerned that if the Defendants were to find about the search warrants, or any orders obtained by ASIC under s1323 of the *Corporations Act 2001* (Cth), prior to the execution of the search warrants that evidence might be destroyed or assets might be dissipated.

Affirmed by the deponent

)

at Sydney

)

in New South Wales

)

on 9 November 2020

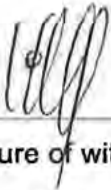
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Before me:

)



Signature of deponent



Signature of witness

Marina Kofman

An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (NSW)

Federal Court of Australia  
District Registry: NSW  
Division: Commercial and Corporations

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**


Plaintiff

**MELISSA LOUISE GRIMLEY CADDICK and others named in the Schedule**

Defendants

This is the confidential annexure marked "**IA-4**" referred to in the second affidavit of Isabella Lucy Allen affirmed on 9 November 2020.

Before me:

  
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Marina Kolman

An Australian Legal Practitioner within the Meaning of the Legal Profession  
Uniform Law (NSW)



**CONFIDENTIAL ANNEXURE IA-4**

**INVESTOR OR POTENTIAL INVESTOR NAMES**

No.	Investor Name
1	[REDACTED]
2	[REDACTED]
3	[REDACTED]
4	[REDACTED]
5	[REDACTED]
6	[REDACTED]
7	[REDACTED]
8	[REDACTED]
9	[REDACTED]
10	[REDACTED]
11	[REDACTED]
12	[REDACTED]
13	[REDACTED]
14	[REDACTED]
15	[REDACTED]
16	[REDACTED]
17	[REDACTED]
18	[REDACTED]
19	[REDACTED]
20	[REDACTED]
21	[REDACTED]
22	[REDACTED]
23	[REDACTED]
24	[REDACTED]
25	[REDACTED]
26	[REDACTED]
27	[REDACTED]
28	[REDACTED]
29	[REDACTED]
30	[REDACTED]
31	[REDACTED]
32	[REDACTED]
33	[REDACTED]
34	[REDACTED]
35	[REDACTED]
36	[REDACTED]
37	[REDACTED]



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