

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 29/04/2022 11:43:25 AM AEST 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: Defence - Form 33 - Rule 16.32
File Number: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v FORUM FINANCE PTY LIMITED (IN LIQUIDATION) ACN 153 301 172 & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Dated: 29/04/2022 11:51:39 AM AEST

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 33
Rule 16.32

Defence of the Twenty-Fifth Respondent

No. NSD616 of 2021

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

WESTPAC BANKING CORPORATION ABN 33 007 457 141 and Anor

Applicants

286 CARLISLE STREET PTY LTD (ACN 610 042 343)

Twenty-Fifth Respondent

In response to the Applicants' Second Further Amended Statement of Claim dated 5 November 2021, the Twenty-Fifth Respondent (**286 Carlisle St**) says:

NB: Unless otherwise stated:

- A. *terms defined in the Second Further Amended Statement of Claim have the same meaning when used in this Defence;*
- B. *headings and definitions are adopted from the Second Further Amended Statement of Claim for ease of reference and are not treated as part of the pleadings;*
- C. *for the avoidance of doubt, 286 Carlisle St does not plead to the headings or definitions employed by the Applicants and in particular does not plead to (and does not admit) headings or definitions which incorporate characterisations of conduct.*

Filed on behalf of (name & role of party)	Filed on behalf of the Twenty-Fifth Respondent
Prepared by (name of person/lawyer)	Prepared by Alexandra Lawrence
Law firm (if applicable)	Madgwicks Lawyers
Tel 03 9242 4744	Fax 03 9424 4777
Email	Alexandra.Lawrence@madgwicks.com.au
Address for service (include state and postcode)	Level 6, 140 William Street, MELBOURNE VIC 3000

A. PARTIES

1-34R It admits paragraphs 1 to 34R.

B. THE EQWE / FORUM PROGRAMME

35-54 It does not know and therefore does not admit paragraphs 35 to 54.

C. THE SCHEME

55-58 It does not know and therefore does not admit paragraphs 55 to 58.

D. THE FRAUDULENT TRANSACTIONS

59 - 1830 It does not know and therefore does not admit paragraphs 59 to 1830.

E. THE DISCOVERY OF THE SCHEME

1831- 1833 It does not know and therefore does not admit paragraphs 1831 to 1833.

F-CC. THE CLAIMS AGAINST THE 1ST TO 24TH RESPONDENTS

1834- 2293 It does not know and therefore does not admit paragraphs 1834 to 2293.

DD. THE CLAIM AGAINST 286 CARLISLE STREET**(1) Funds held on trust**

2294. It does not know and therefore does not admit paragraph 2294.

2295. It does not know and therefore does not admit paragraph 2295.

2296. As to paragraph 2296, it:

(a) admits that amounts were paid by FGFS into a bank account in its name in the period 26 February 2021 to 24 June 2021, but:

(i) does not know and therefore does not admit that that amount was money (or the traceable proceeds of money) stolen from Westpac and WNZL;

(ii) says further that it did not open that bank account, and did not request or authorise any money to be paid into it by FGFS, or out of it on behalf of 286

Carlisle St, and was not aware of any such payments at or around the time they were made;

(iii) says further that at no material time was Mr Papas its director or authorised to act on its behalf;

(b) otherwise denies each and every allegation therein.

2297. It denies paragraph 2297.

Particulars

It refers to and repeats the matters pleaded and particularised in paragraph 2296 above.

(2) Tort of unlawful means conspiracy

2298. It does not know and therefore does not admit paragraph 2298.

2299. As to paragraph 2299, it:

(a) does not know and therefore does not admit each and every allegation therein;

(b) refers to and repeats the matters pleaded and particularised in paragraph 2301 below.

2300. It does not know and therefore does not admit paragraph 2300.

2301. As to paragraph 2301, it:

(a) refers to and repeats the matters pleaded and particularised in paragraph 2296(a) above;

(b) otherwise denies each and every allegation therein.

2302. It does not know and therefore does not admit paragraph 2302.

(3) Knowing receipt

2303. As to paragraph 2303, it:

(a) refers to and repeats the matters pleaded and particularised in paragraph 2296(a) above;

- (b) otherwise does not know and therefore does not admit each and every allegation therein.

2304. As to paragraph 2304, it:

- (a) denies that it knew, ought reasonably to have known, or knew circumstances which would have disclosed to an honest and reasonable person in its position the matters set out in sub-paragraphs (a) and (b);
- (b) denies that it was aware of any of the facts, matters and circumstances set out in sub-paragraphs (c) to (f);
- (c) otherwise does not know and therefore does not admit each and every allegation therein.

2305. It denies paragraph 2305.

Particulars

It refers to and repeats the matters pleaded and particularised in paragraphs 2303 and 2304 above.

(4) *Knowing assistance*

2306. it does not know and therefore does not admit paragraph 2306.

2307. As to paragraph 2307, it:

- (a) refers to and repeats the matters pleaded and particularised in paragraph 2304 above;
- (b) otherwise does not know and therefore does not admit each and every allegation therein.

2308. It denies paragraph 2308.

Particulars

It refers to and repeats the matters pleaded and particularised in paragraphs 2306 and 2307 above.

2309. It denies paragraph 2309.

Particulars

It refers to and repeats the matters pleaded and particularised in paragraph 2308 above.

2310. It denies paragraph 2310.

(5) *Misleading or deceptive or false or misleading conduct*

2311. As to paragraph 2311, it:

- (a) does not know and therefore does not admit that Forum Finance or Mr Papas engaged in any false and misleading conduct;
- (b) denies that it aided, abetted, procured, was knowingly concerned in or a party to, or conspired with others to give effect to any such contraventions;
- (c) otherwise denies each and every allegation therein.

Particulars

It refers to and repeats the matters pleaded and particularised in paragraphs 2296, 2297, 2299, 2302 and 2304 to 2306 above.

EE-BBB. THE CLAIMS AGAINST THE 26TH TO 49TH RESPONDENTS

2312- 2711 It does not know and therefore does not admit paragraphs 2312 to 2711.

Date: 20 April 2022



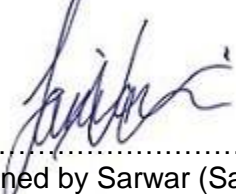
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Signed by Sarwar (Sazz) Nasimi
Lawyer for the Twenty-Fifth Respondent

This pleading was prepared by Paul Hayes QC and Michael O'Haire.

Certificate of lawyer

I, Sarwar (Sazz) Nasimi, certify to the Court that, in relation to the defence filed on behalf of the Twenty-Fifth Respondent, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 20 April 2022



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Signed by Sarwar (Sazz) Nasimi
Lawyer for the Twenty-Fifth Respondent