

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 27/06/2022 8:26:56 PM 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: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD1220/2020
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v
MELISSA LOUISE CADDICK & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



Sia Lagos

Dated: 27/06/2022 8:36:33 PM 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 59
Rule 29.02(1)

Affidavit

No. NSD 1220 of 2020

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

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and ANOR

Defendants

Affidavit of: **Bruce Gleeson**
Address: Level 13, 189 Kent Street, Sydney NSW 2000
Occupation: Registered Liquidator
Date: 27 June 2022

Contents: Affidavit marketing of Dover Heights Property

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1	Affidavit of Bruce Gleeson		

I, **Bruce Gleeson**, Registered Liquidator, of Level 13, 189 Kent Street, Sydney New South Wales 2000, say on oath:

1. I am one of the two receivers (**Receivers**), with Daniel Robert Soire (**Mr Soire**), appointed as joint and several receivers of the property of Melissa Caddick (**Ms Caddick**) by order of this Court on 22 November 2021 (**Receivership Orders**).
2. I swear this Affidavit to outline the process taken and proposed recommendation to market, sell and distribute the proceeds of the sale of the Dover Heights Property. Where necessary, I have omitted documentation and commercially sensitive details to maintain the integrity of the sale of the Dover Heights Property.

3. I have prepared a larger Affidavit sworn on 27 June 2022 (**Confidential Affidavit**) and filed with this Court identifying all particulars, names of individuals and amounts of estimates and actual costs.

Managing Agent

4. During the course of undertaking my role as a Registered Liquidator, Registered Bankruptcy Trustee and/or Receiver, I have regularly managed and assisted with the sale of various real estate properties forming part of receivership property or assets of a liquidation, bankrupt estate or via appointments pursuant to section 66G of the *Conveyancing Act 1919*. Sometimes properties I am required to sell have issues such as the need for repairs, maintenance, unique sale requirements or disputes regarding vacant possession. In those circumstances I have regularly engaged the services of a particular third-party real estate agent with substantial expertise in managing these issues and advising on processes to follow to maximise the sale price of such properties to assist me (**Managing Agent**). The Managing Agent conducts a business that specifically caters to the management of selling and maintaining properties associated with insolvent entities or individuals, including preparing such properties for sale, advising on the best sales method and advising which real estate agents have particular expertise in certain localities so as to maximise the sale prices of the properties.
5. In my experience, the engagement of the Managing Agent with expertise in insolvency administration reduces overall costs and negates the need for myself or a member of my team to incur costs in dealing with issues that the Managing Agent can attend to for less overall cost to the administration.
6. The Managing Agent has signed a Confidentially Agreement with the Receivers.

Engaging with Real Estate Agents

7. On 25 March 2022, I sent correspondence to the Managing Agent requesting the Managing Agent to obtain some preliminary information from five (5) real estate agents who were seen to have expertise regarding property sales in the general locality of the Dover Heights Property and/or with prestige properties.
8. On 26 March 2022, I am aware that the Managing Agent under my instruction, sent a Request for Proposal to the five (5) real estate agents.
9. Between 24 April 2022 and 11 May 2022, I instructed the Managing Agent to request a further four (4) real estate agents to provide proposals and requested the initial five (5) real estate agents update their proposals due to the time that had elapsed since the initial proposals were received.



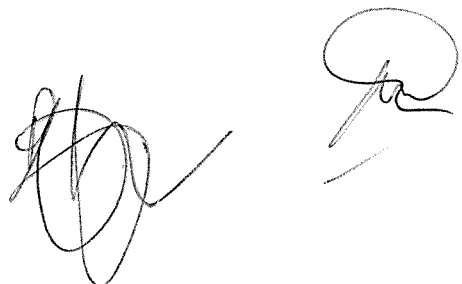
10. I ultimately received proposals from nine (9) real estate agents which provided details such as:
- (a) The proposed method of sale and their reasons why;
 - (b) Indicative marketing timetable and budget;
 - (c) Indicative commission;
 - (d) A sample weekly report;
 - (e) Confirmation that they would be willing to sign a Confidentiality Deed;
 - (f) Any specific conditions to be placed on prospective buyers to ensure they are genuine buyers;
 - (g) Confirmation that they would be prepare to not allow prospective purchases to take mobile phones to inspections;
 - (h) Whether there are any factors that may affect (adversely or otherwise) the potential sale of the Dover Heights Property, including vacant possession, removal of personal items of occupants, exclusive access, professional cleaning of the property and the staging of stylised furniture with an indicative budget;
 - (i) Their business profile and achievements in the last twelve (12) months in the area of the Dover Heights Property; and
 - (j) Any other factors they consider relevant.

Valuation of the Dover Heights Property

11. In June 2022, I obtained two valuations of the Dover Heights Property. There is a \$1,000,000.00 difference between the two valuations.
12. Copies of the valuations appear in my Confidential Affidavit.

Selection of Real Estate Agent

13. On or about 26 May 2022, after conducting in person interviews with the nine (9) real estate agents, considering their proposals and consulting with the Managing Agent, Mr Soire and I narrowed the pool of real estate agents from nine (9) to five (5) potential candidates.
14. From 26 May 2022, Daniel Soire and I corresponded with the Managing Agent to organise for the five (5) agents to attend the Dover Heights Property for on-site inspections and discussions on 2 June 2022.



15. Following the attendance at the Dover Heights Property on 2 June 2022, each of the five (5) agents prepared an updated proposal for the sale and marketing of the Dover Heights Property. A copy of each of the updated proposals has been provided to the Court in my Confidential Affidavit, however the table below summaries:

- (a) the proposed commission to be charged;
- (b) estimated marketing costs; and
- (c) recommended sale method;

proposed by each of the five (5) agents.

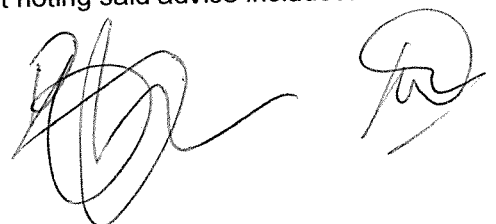
Agency	Commission (inc GST)	Marketing	Sale method
Agent 1	1.7%	\$13,696	Private in rooms auction
Agent 2	1.65%	\$17,698	EOI then Private in rooms auction
Agent 3	1.1%	\$21,813	Private in rooms auction
Agent 4	1.65%	\$13,995	Private auction
Agent 5	1.1%	\$10,437.50 + print options	Private in rooms auction

16. Following receipt of the updated five (5) proposals, between 7 and 15 June 2022, Mr Soire and I considered same and further reduced the more preferred agencies to three (3). On 20 and 21 June 2022, Mr Soire, the Managing Agent and I conducted further interviews with each of the three (3) real estate agents via Microsoft Teams.

17. In obtaining proposals for the sale of the Dover Heights Property, reviewing recommendations of various agents, interviewing various agents and taking the advice of the Managing Agent, with a view to seeking to maximise the sale price for the sale of the Dover Heights Property, Mr Soire and myself as Receivers have recently made a final decision regarding the Selling Agent for the Dover Heights Property.

18. We have received a draft agency agreement with the Selling Agent and expect to execute same in the next few days.

19. When considering how best to market the Dover Heights Property and any subsequent offers and proposals to purchase the Dover Heights Property, myself and Mr Soire will take into account the valuations of the Dover Heights Property and advice we have received from the Managing Agent and the Selling Agent noting said advice included:



- (a) that we should carry out repairs to the Dover Heights Property;
- (b) that we should stylise the Dover Heights Property; and
- (c) that we should offer the Dover Heights Property for sale initially by Expressions of Interest and then a private auction with any interested parties (if applicable).

Repairs required at the Dover Heights Property

- 20. From my attendances at the Dover Heights Property and photographs taken, I noticed various issues that looked to require repairs and / or maintenance.
- 21. Following consultation with the Managing Agent, and with a view to maximising the sale value of the Dover Heights Property by ensuring its condition was sound, I obtained two (2) quotes for a Building and Pest Report and proceeded with one of those quotes to obtain a Building and Pest Report and a Technical Report.
- 22. The Building and Pest Report and Technical Report received on 8 June 2022 stated that the Dover Heights Property had a number of building and maintenance issues. To maximise the prospects and price of a sale of the Dover Heights Property, I determined to attend to those issues. I have taken steps to obtain quotes to undertake those repairs as soon as possible.

Storage and other maintenance of the Dover Heights Property

- 23. After obtaining vacant possession of the Dover Heights Property, a number of items remained at the Dover Heights Property which we will need to remove in order to market the Dover Heights Property for sale.
- 24. Accordingly, we deemed it necessary for a registered valuer to attend the Dover Heights Property to take a detailed inventory of the remaining chattels and advise us as to what items were of commercial value to store and sell and what items were of uncommercial value to store and sell.
- 25. On 27 May 2022, I obtained a quote for the storage of the items left at the Dover Heights Property and the cleaning of the Dover Heights Property. The Receivers have not yet approved the quote for cleaning as the remaining chattels need to be removed first.
- 26. On 21 June 2022, the registered valuer attended the Dover Heights Property with a contractor to pack and store chattels that the Receivers intend to sell in the near future as part of the Receivership Property.
- 27. The remaining chattels (being the items of uncommercial value) are currently at the Dover Heights Property and we intend to provide family members of Ms Caddick the opportunity to inspect same and advise as to whether they would like to take possession



of same. We intend to dispose of any chattels that are unclaimed and have no commercial value.

Pool Compliance


28. The Dover Heights Property has a pool. I arranged, through the Managing Agent, for a pool certifier to inspect and certify the pool in readiness for sale.
29. I have been informed that the pool is not compliant and that further steps are required to be undertaken to secure compliance in readiness for sale of the Dover Heights Property. I am taking steps to ensure the necessary actions are taken to ensure compliance in accordance with the certifier's recommendation and requirements.

Other Steps

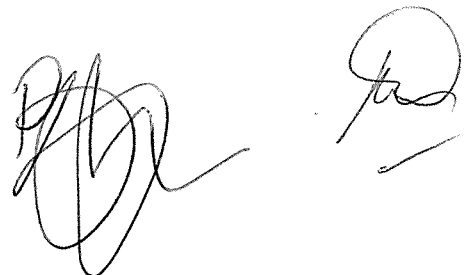
30. Further steps taken by the Receivers in relation to realising the Dover Heights Property and preparing it for sale include:
- (a) Preparing for possession of the Dover Heights Property, including but not limited to changing locks, changing alarm codes, and organising perimeter checks;
 - (b) Organising electricity and other utilises at the Dover Heights Property; and
 - (c) Reviewing the condition of the Dover Heights Property.
31. Mr Adam Grimley, Ms Caddick's brother (**Mr Grimley**), is recorded on the title of the Dover Heights Property as being a 1% registered owner. My solicitors have been liaising with Mr Grimley regarding the documentation required to effectuate the sale of the Dover Heights Property as a registered owner. Mr Grimley has confirmed he will sign such documentation as necessary.

Proposed Sale Distributions

32. The Receivers propose to apply the proceeds of sale of the Dover Heights Property in satisfaction of ordinary expenses and adjustments, including:
- (a) marketing and sales costs, including costs of the Managing Agent, the Selling Agent and conveyancing costs;
 - (b) outgoings, such as water and council rates;
 - (c) any applicable taxes, such as Capital Gains Tax, Land Tax and Goods and Services Tax (GST);
 - (d) the mortgage debts secured over the Dover Heights Property and the Edgecliff Property pursuant to the registered mortgages to the National Australia Bank (**NAB**); and



- (e) any costs incurred of attending to remove, securing, dealing with and storing any Receivership Property located at the Dover Heights Property.
33. The Dover Heights Property is subject to a registered mortgage in favour of the NAB. NAB also has a registered mortgage over the Edgecliff Property, which also forms part of the Receivership Property.
34. The Receivers propose to apply proceeds of sale of the Dover Heights Property to the discharge, in full, of NAB's mortgages over both the Dover Heights Property and the Edgecliff Property. Our reasons in support of the proposal to discharge the mortgage over the Edgecliff Property include the following:
- (a) The mortgage is currently not being serviced and default interest rates are being charged on the offset account secured over the Edgecliff Property.
- (b) There has been a recent increase in interest rates charged by banks in Australia including NAB, and there is likely to be a further increase in interest rates, based on my review of commentary by various prominent economists in Australia and my own review of the current economic climate. Such increases in rates also increases the interest debt secured by the mortgage over the Edgecliff Property.
- (c) As NAB is a secured creditor, it would be entitled to be paid in priority to any other creditor from a sale of the Edgecliff Property.
- (d) Ms Caddick's parents assert a claim over and interest in the Edgecliff Property. That claim has not yet been determined or resolved. In the absence of such determination or resolution, the Receivers are not presently intending to make an application for the sale of the Edgecliff Property. This means that interest and mortgage costs continue to accrue with no imminent prospect of a sale of the Edgecliff Property to discharge those accruing liabilities.
- (e) The minimisation of liability in respect of the Edgecliff Property mortgage is in the best interest of creditors of the Receivership. Discharging the mortgage over the Edgecliff Property stops the accrual of liabilities to NAB arising from that mortgage and minimises legal and professional costs incurred in liaising with stakeholders, including NAB, regarding the mortgage.
35. The proposed discharge of the mortgage over the Edgecliff Property does not, in my view, and is not intended to preclude the Receivers from seeking to realise or otherwise deal with the Receivers' interest in the Edgecliff Property.



Sworn by the deponent
At Baulkham Hills

on 27 June 2022,
before me:



Signature of witness

Martin Duc Vu

Name of witness

Level 13, 189 Kent Street, Sydney NSW

Address of witness

Justice of the Peace in NSW (203335)

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Signature of deponent