

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 27/11/2020 9:05:38 AM AEDT 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 & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



Sia Lagos

Dated: 27/11/2020 11:30:31 AM 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.

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.



AFFIDAVIT

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

No: NSD1220/2020

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

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and others named in the Schedule


Defendant

Affidavit of: Jennifer Williamson
Address: 4 Rakeevan Road, Graceville, Brisbane Q 4075
Occupation: Solicitor
Date: 26 November 2020

I, Jennifer Williamson, of 4 Rakeevan Road, Graceville, Brisbane Q 4075 state:

Preliminary

1. I am the principal of Williamson & Associates, a Brisbane law firm. I act for the first defendant have affirmed a previous affidavit in these proceedings.
2. I wish to correct an error at paragraph 21 and pages 27-8 of the affidavit. I inadvertently included an earlier version of my letter to ASIC dated 25 November. The version that was actually sent, along with the cover email is at **Annexure A** to this affidavit.

Signed: 

Page 1

Taken by: 

AFFIDAVIT
Filed on behalf of Melissa Caddick

WILLIAMSON & ASSOCIATES
4 Rakeevan Road
Graceville QLD 4075
Tel: 07 3278 2109
Fax: 07 3278 5957
Email: williamson@jlw.com.au
Ref: JLW:SM:20-13302

AFFIRMED by Jennifer Williamson on:
at Brisbane

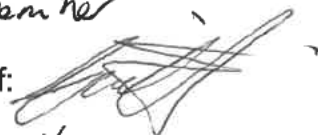


Deponent

*Delete whichever is inapplicable

27th November

in the presence of:



JAMIE LEE HOLSTEIN

~~Barrister/Solicitor/Justice of the Peace/
Commissioner for Declarations~~



Williamson
& Associates
ABN 38 009 892 040



Your Ref:
Our Ref: JLW:20-13302

25 November 2020

Ms N Bearup,
Litigation Counsel,
Chief Legal Officer,
ASIC,
Level 5, 100 Market Street,
SYDNEY

nicolette.bearup@asic.gov.au

Dear Madam,

RE: MELISSA CADDICK AND MALIVER PTY LTD ATS ASIC: listing for 27 November 2020

1. We refer to previous correspondence herein.
2. We confirm that (at least while Ms Caddick, its sole director, is missing), we are not acting for Maliver Pty Ltd. We will inform the Court of this matter on Friday, and attend to correcting the record in this respect.
3. We note that Mr Koletti, Mr Grimley and Ms Caddick's son [REDACTED] each have an interest in the subject matter of the orders made on 10 November 2020, as they each hold bank accounts that were frozen by ASIC, or derive financial support via accounts held in Ms Caddick's name.
4. Please find **enclosed** the Power of Attorney from Melissa Louise Caddick to Adam Edward Grimley dated 15th September 2016.

Request for an adjournment of Friday's listing

5. We would be grateful if you would let us know whether you would consent to an adjournment of this matter for two weeks ie until Friday 11 December 2020, and to an extension to the times specified for the provision of information in the Court's orders made 9 November 2020.



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6. We consider an adjournment to be necessary and desirable in this situation as:
 - (a) to comply with the disclosure obligations in paragraph 8 of the 10 November orders, our client's representatives will need copies of the documents ASIC has seized. We are instructed that Mr Grimley does not have the necessary documents to prepare the affidavit on Ms Caddick's behalf. We would like to discuss with you how best to obtain the material, and how soon ASIC can provide it;
 - (b) Ms Caddick is still a missing person under Police Case number E76364514. We understand from Mr Grimley that Ms Caddick's case is now being treated as a homicide. As he is needing to assist with family matters, and the police with their homicide investigation at the moment, Mr Grimley cannot give the affidavit the attention it requires;
 - (c) after the information for the affidavit has been collated, we will need time to review the primary records, and advise on any available claims for privilege against self incrimination or penalty;
 - (d) as to Ms Caddick's passport, and Orders 12 and 14, the passport is currently with the Bondi Police Station;
 - (e) if the outcome of the homicide investigation is that it is established that Ms Caddick is dead, then a different set of considerations will arise, and this matter will concern her estate;
 - (f) we are currently collating a list of recurring expenses for the defendant, and an estimate of the amounts required for Ms Caddick, Mr Koletti and Mr Grimley for living and legal expenses. We anticipate that particularly given Ms Caddick is missing, and her family are needing to deal with that tragic situation, we expect that this exercise will take a further one to two weeks.
7. Mr Grimley is our only source of information in regard to the ASIC investigation. As you will appreciate, he is currently under an unbearable load with the Police Investigation of his sisters' disappearance, and prospect that she may not be found alive.

Ability to comply with Order 8 made against Maliver Pty Ltd

8. Mr Grimley instructs us that there is no individual, so far as he is aware, who has authority to provide an affidavit on behalf of Maliver Pty Ltd. As you know, Ms Caddick is its sole director and shareholder. Accordingly, we are unable to assist ASIC with that aspect of the orders.

Request for detailed and complete records of property taken from Ms Caddick's home

9. I enclose the copy received of the Property Seizure Record. You will see that it is almost blank and unreadable. Could you please provide us with:
- (a) a legible copy of the Property Seizure Record;
 - (b) an itemised and photographed list of all items that were taken by ASIC or the AFP from the premises. For example, every item of jewellery should be separately described, and identified by serial number and make if it bears those details;
 - (c) a list of the files from the body cameras worn by the AFP and ASIC officers who attended the raid, as well as the footage itself. We were advised AFP officers all wore video cameras. We understand there were about 20 AFP officers at the raid and about 20 ASIC staff at the raid;
 - (d) a description of how the various types of assets seized are being stored by ASIC/the AFP. Particular if Ms Caddick is not found alive, those assets will represent financial support for her family, and we wish to ensure their value is not diminished.
10. Ideally, we would like the list to be provided within the next seven days.

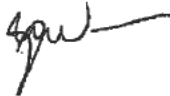
Friday's hearing

11. Please let us know as soon as possible what ASIC's attitude is to adjourning Friday's listing for two weeks. We can assure you that we have no wish to delay or obstruct the investigations. This is an extremely unusual and unfortunate situation, and Ms Caddick's disappearance coupled with the lack of documents

and the murder investigation, means it is simply not feasible to comply with the time frames sought.

12. We would be grateful if you could let us know at some stage tomorrow morning whether you are prepared to agree to an adjournment, so that we will have time to give you an affidavit deposing to the above matters before the hearing if there is to be a contested adjournment application.
13. We apologise that we have not responded to the matters you raise in the final two paragraphs of your 20 November email (11.35 am). However in the interests of time, we wanted you to have our views on the other matters arising from the 10 November orders, and in particular, our request for your consent to an adjournment.

Yours faithfully

A handwritten signature in black ink, appearing to read 'JW', with a long horizontal stroke extending to the right.

Jennifer Williamson
Principal Solicitor