

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 18/07/2022 6:34:40 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: 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: 18/07/2022 6:44:46 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. 616 of 2021

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

Westpac Banking Corporation ABN 33 007 457 141 and another named in the Schedule

Applicants

Forum Finance Pty Ltd ACN 153 301 172 (In Liquidation) and others named in the Schedule

Respondents

Fifth Affidavit of: **Vincenzo Frank Tesoriero**
Address: 64-66 Berkley St, Hawthorn VIC 3122
Occupation: Director
Date: 18 July 2022

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Filed on behalf of (name & role of party) Vincenzo Frank Tesoriero, Third Respondent
Prepared by (name of person/lawyer) Sazz Nasimi
Law firm (if applicable) Madgwicks Lawyers
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(include state and postcode)

[Version 3 form approved 02/05/2019]

I, Vincenzo Frank Tesoriero, director, of 64-66 Berkeley St, Hawthorn VIC 3122 hereby make oath and say:

1. I am the Third Respondent in the proceedings.
2. I make this affidavit from my own knowledge save where otherwise indicated. Where I depose to matters that I have been informed of by others, I believe those matters to be true and correct.

Assets and income

3. I refer to my affidavit of 12 July 2022 (**12 July 2022 affidavit**) and confirm that, to the best of my knowledge, all of my assets and income was disclosed in the 12 July 2022 affidavit.
4. For further clarity I say that:
 - (a) all "income" derived by me is received by those corporate entities which received income to which I have already referred in previous affidavits. I have not directly received any income in my personal capacity whatsoever;
 - (b) The only income received by corporate entities associated with me is:
 - i. the rental income outlined in Annexure B of my July 2022 affidavit; and
 - ii. the income earned by the café operated by 65 Nelson Street Enterprises Trust outlined at paragraphs 62-65 of my July 2022 affidavit. The café business is not presently generating enough income to pay me a salary for running this business.
5. In my affidavit sworn 17 June 2022 I deposed that the rental earned by my associated entities was insufficient to cover the mortgage obligations of my associated entities. Following the rental increases as outlined at paragraph 23 Table 3 of my 12 July 2022 affidavit, and the fact there were no significant property expenses due in June 2022 as outlined at paragraph 14 Table 1 of my June 2022 affidavit, there was \$1,190.50 left over from the June 2022 rental income received by entities associated with me after payment of property expenses and mortgage expenses. I cannot draw on this amount as it will be required to cover property expenses in months where the expenses are greater (eg water rates, insurance is due). A high level summary of the rental income/ mortgage payments is below. The full breakdown was already provided in my 12 July 2022 affidavit.

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Income and Mortgage Payments				
Month	Rental income (full breakdown of income at Annexure B of July 2022 affidavit)	Rental income after property expenses (full details of expenses at para 14 of July 2022 affidavit)	Mortgage payments (full breakdown of mortgage payments at Annexure B of July 2022 affidavit)	Net position
April	\$187,980.001	\$110,476.70	\$117,947.07	-\$7,470.37
May	\$49,599.122	\$104,193.30	\$115,227.79	-\$11,034.49
June	\$125,560.00	\$118,729.30	\$117,538.80	\$1,190.50

Liabilities and expenses

6. My associated entities have a number of expenses, the main ones being the property and mortgage expenses outlined at Annexure B of my 12 July 2022 affidavit.
7. Regarding me personally, my main liabilities are my legal expenses (both already incurred and future) as outlined at paragraphs 34-36 of my affidavit sworn 17 June 2022 and my personal liabilities and expenses, referred to below.
8. Apart from my legal expenses, since July 2021 my personal liabilities and expenses have been funded by my family as I am unable to access any funds to cover these myself despite the freezing orders permitting me to spend \$5,000 per week on living expenses.
9. A high level summary of the expenses my family has been covering for me is outlined below. I note these amounts are approximate only and may vary on a month to month basis.

Table 5: High Level Summary of Personal Expenses Covered by my Family	
Item	Expenses (monthly)
Groceries	\$3,500
Restaurants/ entertainment	\$2,500

¹ Rental paid at the same time for April and May 2022 for a number of properties as detailed at Annexure B of my July 2022 affidavit.

² Rental paid at the same time for April and May 2022 for a number of properties as detailed at Annexure B of my July 2022 affidavit.

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Transport	\$1,500
Phone bill	\$200
Clothing/ personal belongings	Nil- I do not expect my family to cover these expenses so have not purchased many new clothes/ items since July 2021.
House upkeep	\$1,000
Electricity, gas, water etc	\$1,000
TV, Netflix, Stan, News Corp subscriptions	\$200
Property insurance	\$600 for 64-66 Berkely Street Hawthorn
Vehicle insurance and registration (for vehicles outlined in annexure A of the July 2022 affidavit)	\$6,000
Health insurance	\$300
Repayments on Mini 2020 Cooper S	\$1,300
Personal expenses (eg gym membership, doctors's appointments)	\$1,500
Total	\$19,750

10. As deposed in my 12 July 2022 affidavit, the interest and principal payments for my personal residence, 64-66 Berkeley Street Hawthorn, which is owed by 64 Berkeley Street Hawthorn Pty Ltd, are \$58,600 per month. This is included in the mortgage payments outlined at Anenxure B of my 12 July 2022 affidavit.

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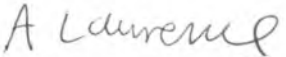
J.D.

11. For the avoidance of doubt, I do not have access to \$40,000 surplus per month as suggested by counsel for the applicants in the hearing of 1 July 2022.

The contents of this my affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

Sworn / Affirmed by the deponent
at Melbourne
in the state of Victoria
on 18 July 2022
Before me:

)
)
) 
)
)
) Signature of deponent



Alexander Lawrence
6th Floor, 140 William St, Melbourne, Vic, 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria).

As a witness, I certify the following matters concerning the person who made this affidavit (deponent):

1. This affidavit is witnessed over audio visual link in accordance with Part 2B of the Electronic Transactions Act 2000 (NSW).
2. I saw the face of the deponent.
3. I observed the deponent signing a copy of this affidavit in real time.
4. I attest or otherwise confirm witnessing the deponent's signature by signing this affidavit.
5. I am reasonably satisfied this affidavit signed by me is a copy of the affidavit signed by the deponent.
6. I has confirmed the person's identity based on the following identification document presented to me: Drivers Licence