

Our Ref: DSC:LTJ:200468

14 December 2020

Australian Investments & Securities Commission  
Level 5, 100 Market Street  
SYDNEY 2000

**Attention:** Nicolette Bearup; Brendan Hough

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Dear Colleagues

**Australian Securities & Investments Commission v Melissa Louise Caddick & Anor  
Federal Court of Australia Proceedings No. NSD1220/2020 ('the Proceedings')**

We act on behalf of 13 former clients of Ms Caddick/Maliver Pty Ltd (**Maliver**) who represent a total investment of approximately \$5.3 million.

We refer to:

- (a) ASIC's application to appoint receivers and managers to the assets of the First Defendant and a provisional liquidator to the Second Defendant (**the ASIC Appointment Interlocutory Application**); and
- (b) Mr Grimley's application to vary the orders made by Jagot J on 10 November 2020, as referred to in order 2 of the orders made by Farrell J in the Proceedings on 8 December 2020 (**the Asset Preservation Order Variation Application**).

We do not have access to the Asset Preservation Order Variation Application.

We are instructed to relay the following:

- (a) in relation to the ASIC Appointment Interlocutory Application, our clients strongly support the prompt appointment of receivers & managers to the assets of the First Defendant and a provisional liquidator to the Second Defendant; and
- (b) in relation to the Asset Preservation Order Variation Application, our clients strongly oppose any variation to the current asset preservation orders.

The reasoning behind the position taken by our clients as set out above includes the following:

- (a) the issue as to whether there is a valid Power of Attorney to act on behalf of the First Defendant in her personal capacity, to the best of our knowledge, remains unresolved. Further, to the best of our knowledge, there is no valid Power of Attorney or any other form of representation on behalf of the Second Defendant;
- (b) the asset preservation orders made on 10 November 2020, and in particular order 11(a), allow for the Defendants to pay or otherwise incur a liability for costs reasonably incurred in the Proceedings;



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- (c) both our clients and our office consider that it is inevitable that independent persons will need to be appointed to the affairs of both Defendants. Accordingly, our clients are extremely concerned at the prospect of any unnecessary delays and the use of any assets of the Defendants for the purpose of the payment of unnecessary legal fees, particularly to the extent they are being incurred in opposition to what our clients and our office consider is an inevitable outcome;
- (d) the assets of the Defendants that are the subject of the asset preservation orders may well in whole or in part have the nature of being proceeds of crime and/or have a trust character in favour of investors, including our clients; and
- (e) we are not aware of there being any material defence to the underlying allegations in relation to the conduct of the Defendants.

Our clients have instructed us to advise you that they are each hard-working Australians who invested their life and retirement savings with Maliver and are deeply distressed by the revelation that Ms Caddick has gone missing and their significant, hard earned savings cannot presently be accounted for. Some of our clients are at, or very near, retirement. If their lifetime savings cannot be accounted for and recovered, the impact on their lives will be immediate, substantial and life-changing.

We are instructed to consent to you providing a copy of this letter to the Court in support of your application.

Yours faithfully



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Partner

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