

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/07/2022 12:06:51 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: 1/07/2022 12:16:35 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.



## Affidavit

No. NSD 616 of 2021

Federal Court of Australia  
District Registry: NSW  
Division: General

**Westpac Banking Corporation ABN 33 007 457 141 and another**  
Applicants

**Forum Finance Pty Ltd ACN 153 301 172 (In Liquidation) and others**  
Respondents

Affidavit of: **Christopher Michael Prestwich**  
Address: 126 Phillip Street, Sydney NSW 2000  
Occupation: Lawyer  
Date: 1 July 2022

I, Christopher Michael Prestwich, of 126 Phillip Street, Sydney NSW 2000, Lawyer, swear:

1. I am a Partner of Allens and the solicitor for record Jason Ireland and Jason Preston in their capacity as liquidators of the First, Fourth to Seventh, Ninth to Twelfth, Twenty-Eighth, Thirtieth, Thirty-First, Thirty-Sixth and Thirty-Seventh Respondents.
2. I believe that the information contained in this affidavit is true.
3. This affidavit is made in connection with Mr Vincenzo Tesoriero's (**Mr Tesoriero**) Interlocutory Application dated 17 June 2022.
4. I have read the affidavit of Sarwar (Sazz) Nasimi sworn 28 June 2022 (**Nasimi Affidavit**).

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Filed on behalf of (name & role of party)	Jason Preston and Jason Ireland in their capacity as liquidators of the First, Fourth to Seventh, Ninth to Twelfth, Twenty-Eighth, Thirtieth, Thirty-First, Thirty-Sixth and Thirty-Seventh Respondents.		
Prepared by (name of person/lawyer)	Chris Prestwich		
Law firm (if applicable)	Allens		
Tel	02 9230 4000	Fax	(02) 9230 5333
Email	Chris.Prestwich@allens.com.au		
<b>Address for service</b> (include state and postcode)	Deutsche Bank Place, 126 Phillip Street, Sydney NSW 2000 Email: Chris.Prestwich@allens.com.au and Kirsty.Prinsloo@allens.com.au DX: 105 Sydney		

**Nasimi Affidavit**

5. I refer to paragraph 33 of the Nasimi Affidavit.
6. Annexed to this affidavit and marked "A" is a copy of an email and its attachment which I caused to be sent to Mr Tesoriero's lawyers, Madgwicks, dated 29 June 2022 (**Allens Letter**).
7. As at the time of swearing this affidavit, I have not received a response to the Allens Letter.

Sworn by the abovenamed deponent  
at Sydney, New South Wales on  
1 July 2022

Before me: *Caitlin McTaggart*

Signature of witness



Signature of deponent

## Annexure certificate


No. NSD 616 of 2021

Federal Court of Australia  
District Registry: NSW  
Division: General

**Westpac Banking Corporation ABN 33 007 457 141 and another**  
Applicants

**Forum Finance Pty Ltd ACN 153 301 172 (In Liquidation) and others**  
Respondents

This is the annexure marked "A" produced and shown to Christopher Michael Prestwich at the time of swearing his affidavit this 1 July 2022.

*Before me Cathie McTaggart*  


Filed on behalf of: Jason Preston and Jason Ireland in their capacity as liquidators of the First, Fourth to Seventh, Ninth to Twelfth, Twenty-Eighth, Thirtieth, Thirty-First, Thirty-Sixth and Thirty-Seventh Respondents.

Prepared by: Chris Prestwich  
Law firm: Allens  
Tel: 02 9230 4000 Fax: (02) 9230 5333  
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**Allens < Linklaters**

29 June 2022

Madgwicks Lawyers  
Level 6, 140 William Street  
Melbourne VIC 3000  
Attention: Sazz Nasimi

**By email**

Dear Colleagues

**Sale of properties owned by 14 James Street Pty Ltd (In Liquidation) (Properties)**

We refer to paragraph 33 of the affidavit of Sazz Nasimi sworn on 28 June 2022 (*Affidavit*).

The Receivers/ Liquidators reject any assertion that they have refused to provide Mr Tesoriero with any documents or information relating to the sale of the Properties. In this regard we refer you to the Schedule to our letter dated 23 May 2022 which sets out the 35 pieces of correspondence exchanged (as at that date) in respect of the sale of the Properties and ancillary issues. In particular, we refer you to, without limitation:

- 1 Our letter to you dated 15 October 2021 notifying Mr Tesoriero of the Receivers' intentions to commence the sale process for the Properties;
- 2 Our letter to you dated 17 February 2022 which provided an update on the sale process for the Properties including details of the selling agents and the proposed marketing campaign;
- 3 Our letter to you dated 16 March 2022 which provided a further update as to the status of the sale of the Properties and timeline by which they would likely be sold;
- 4 Our email to you dated 5 April 2022 attaching copies of the Valuation Reports prepared by Sutherland Farrelly for the Properties;
- 5 Our email to you dated 6 April 2022 attaching copies of the NAB Facility Agreements and rates notices for the Properties;
- 6 Our letter to you dated 28 April 2022 which provided a further update as to the status of the sale of the Properties, including the number of enquiries made and inspections undertaken by prospective purchasers and the date by which the Receivers anticipated entering into a contract of sale for the Properties; and
- 7 Our letter to you dated 16 May 2022 confirming that the Receivers exchanged on a contract of sale for all nine Properties (including 14A James Street), the purchase price and settlement period.

As to the contract of sale for the Properties, we refer you to our email dated 2 June 2022 which outlined that the Receivers are prevented from providing a copy of the contract of sale to Mr Tesoriero due to the confidentiality provisions contained in the contract.

Having regard to the information provided to Mr Tesoriero regarding the sale of the Properties and the Receivers' confidentiality obligations restricting their ability to provide with Mr Tesoriero with a copy of the

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contract, it is clear that paragraph 33 of the Affidavit has no factual basis . It should not be read at the hearing. Should the paragraph sought to be read into evidence, we are instructed to raise objection and provide the Court with a copy of this letter.

Yours faithfully



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