

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 27/05/2021 5:05:21 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 & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



Sia Lagos

Dated: 27/05/2021 5:05:47 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. 1220 of 2020

Federal Court of Australia
District Registry: NSW
Division: Commercial and Corporations

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
Defendants

Affidavit of: **Bruce Gleeson**
Address: Level 13, 139 Kent Street, Sydney, New South Wales
Occupation: Registered Liquidator
Date: 27 May 2021

I, Bruce Gleeson, Registered Liquidator of Level 13, 139 Kent Street, Sydney, New South Wales, 2000 say on oath:

1. The purpose of this affidavit is to correct an error in the affidavit that I swore in these proceedings on 12 May 2021 (**Earlier Affidavit**).
2. At paragraph 268 of my Earlier Affidavit, I referred to Jones Partners' schedule of rates, which I described as "MAL.1081.0003.0004" and which was exhibited behind Tab 390 of Exhibit BG-1. This was an error. The document "MAL.1081.0003.0004" behind Tab 390 is a summary of jewellery purchases. Instead, the document I intended to exhibit is **MAL.1081.0023.0004**, a copy of this is annexed to this affidavit.

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission (Plaintiff)	
Prepared by (name of person/lawyer)	Nicolette Bearup	
Law firm (if applicable)		
Tel	(02) 9911 2000	Tel (02) 9911 2000
Email	Nicolette.bearup@asic.gov.au	
Address for service (include state and postcode)	Email addresses above and Level 5,100 Market Street Sydney NSW 2000	

Sworn by the deponent
at Sydney
in New South Wales
on 27 May 2021
Before me:

)
)
)
)
)



Signature of deponent



Signature of witness
Eleanor Tjondro

An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (NSW)

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

No. NSD 1220 of 2020

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

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MELISSA LOUISE CADDICK and another

Defendants

Annexure BG-2

This is the annexure marked "**BG-2**" referred to in the affidavit of Bruce Gleeson affirmed on 27 May 2021.

Before me: 

Eleanor Tjondro
Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff
Prepared by	Nicolette Bearup
Tel (02) 9911 5745	Fax (02) 9911 2414
Email Nicolette.Bearup@asic.gov.au	
Address for service	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup

INFORMATION SHEET ON REMUNERATION

This document is intended to provide a summary of the manner in which Jones Partners seeks to charge and recover its professional time and disbursements. The document outlines the aspects that are specified in the ARITA Code of Professional Practice regarding remuneration and out-of-pocket expenses.

REMUNERATION METHODS

There are four (4) basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

1. **Time based / hourly rates:** This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.
2. **Fixed Fee:** The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.
3. **Percentage:** The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.
4. **Contingency:** The practitioner's fee is structured to be contingent on a particular outcome being achieved.

PROPOSED METHOD OF REMUNERATION

Given the nature of this administration I propose that my remuneration be calculated on Time Based/Hourly Rates for the following reasons:

This method reflects the Jones Partners' ("the Firm") practice of assigning staff at the appropriate level to conduct the necessary work. The Firm operates on a computerised time costing system which takes account of all time charged to matters and disbursements incurred on behalf of those matters. All staff complete a daily timesheet which details the matters worked on, the tasks performed, matter code, and the time spent on each task. The timesheet details time spent on each matter in minimum units of 1/10th of an hour, i.e. six (6) minute units. This method ensures that the administration is charged when performed and provides complete transparency.

Fixed Fee and Percentage method are inappropriate as I am unable to estimate with certainty the total amount of fees necessary to complete all tasks required in this administration. In addition, I am required to perform a number of tasks which do not relate to the realisation of assets, e.g., statutory obligations and responding to creditor queries.

EXPLANATION OF HOURLY RATES

The Firm operates on a computerised time costing system which takes account of all time charged to matters and disbursements incurred on behalf of those matters. All staff complete a daily timesheet which details the matters worked on, the tasks performed, matter code, and the time spent on each task. The timesheet details time spent on each matter in minimum units of 1/10th of an hour, ie six (6) minute units.

The Firm has determined the "Jones Partners Billing Procedure" for the purpose of calculating the appropriate charge to the matter. Such rates have been determined with reference to the grade and classification of the staff member working on the matter and other relevant factors. As at the date of this Annexure, the rates are:

Title	Description	Hourly Rate (excl GST)
Principal 1	Registered Liquidator/Trustee. Principal bringing his or her specialist skills to the administration or insolvency task.	\$595
Principal 2	Minimum of twelve years insolvency experience, at least five years at manager level, qualified accountant and capable of controlling all aspects of an administration. Appropriately qualified to take appointments in his/her own right.	\$580
Senior Consultant	Minimum of twelve years insolvency experience, at least five years at manager level, qualified accountant and capable of controlling all aspects of an administration. Appropriately qualified to take appointments in his/her own right.	\$580
Associate Principal	Minimum of ten years insolvency experience, at least three years at manager level, qualified accountant and capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.	\$540
Manager 1	More than 7 years' insolvency experience, more than 3 years as a manager, qualified accountant. Answerable to the appointee but otherwise responsible for all aspects of administration. Experienced at all levels and considered very competent. Control staff and their training.	\$450
Manager 2	6-7 years, qualified accountant, with well-developed technical and commercial skills. Should be constantly alert to opportunities to meet clients' needs and to improve the clients' future operation either by revenue enhancement or by reducing costs and improving efficiency. Controls 2-4 staff.	\$420
Supervisor	4-6 years. Chartered Accountant (CA) program or equivalent complete. Will have had conduct of minor administrations and experience in control of 1-3 staff. Assists planning and control of medium to larger jobs.	\$390
Senior 1	2-4 years. CA (or equivalent) would normally be completed within this period. Assists planning and control of small to medium sized jobs as well as performing some of the more difficult work on larger jobs.	\$310
Senior 2	1-2 years. CA (or equivalent) would normally be commenced during this period. Required to control the fieldwork on small jobs and is responsible for assisting complete fieldwork on medium to large jobs.	\$290
Intermediate 1	0-2 years. Graduate with little or no professional experience. Required to assist in day to day fieldwork under supervision of more senior staff.	\$250
Intermediate 2	0-1 year. Trainee undertaking a degree with an accountancy major. Required to assist in day to day fieldwork under supervision of more senior staff.	\$220
Secretary	Appropriate skills including machine usage.	\$160
Clerical Assistant	Appropriate skills including machine usage.	\$145
Junior/Typist	Appropriate skills including machine usage.	\$95

NOTES:

1. The scale of fees is intended to be a guide as to the qualifications and experience of the staff engaged. In some instances staff may be engaged under an appropriate classification principally due to experience.
2. The term "Qualified" means that the staff member has completed either the Chartered Accountants Australia and New Zealand or CPA Australia's education program and the ARITA's education program.
3. The above rates are effective as at 1 July 2019 and exclude Goods and Services Tax ("GST").
6. The Firm reviews and may increase its hourly rates each financial year. For the purposes of this administration any increase in the hourly rates will not be more than 5% per annum each financial year during the course of the administration without further approval by creditors.
7. The staff and Liquidator working on the administration are employed by EMGEJAY Pty Ltd Trading As: Jones Partners Insolvency & Business Recovery.

GOODS & SERVICES TAX ("GST")

The charge out rates specified above are exclusive of GST. As such, the actual fee charged for services provided will include an additional component for GST, calculated at 10% of the fee. The services of other professionals that receive payment as an out-of-pocket expense (i.e. engagement of solicitors) of the insolvency administration may also attract GST.

FURTHER INFORMATION

Should you require further information or have any enquiries regarding the billing procedure, please do not hesitate to contact Jones Partners.