

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 5/07/2021 11:29:38 AM 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



A handwritten signature in blue ink that reads "Sia Lagos".

Dated: 5/07/2021 11:29:46 AM 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

Federal Court of Australia

No. NSD1220 of 2020

District Registry: New South Wales

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 another

Defendants

Affidavit of: **Adam Edward Grimley**

Address:

REDACTED

Occupation: Management Consultant

Date: 14 May 2021

Document number	Details	Paragraph	Page
1	Affidavit of Adam Edward Grimley sworn on 14 May 2021	1	1
2	Exhibit " AEG-2 "	2	2

Filed on behalf of (name & role of party) Australian Securities and Investments Commission, Plaintiff

Prepared by (name of person/lawyer) 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

(include state and postcode) Attention: Nicolette Bearup

Adz

James

I, Adam Edward Grimley o ^{REDACTED} Management
Consultant, say on oath:

1. I make this affidavit from my own knowledge except where otherwise stated. Where I refer to matters of information, I believe the information to be true.
2. Exhibited to me at the time of swearing this affidavit and marked "Exhibit AEG-2" is a bundle of documents that I refer to throughout this affidavit. Where I refer to a page number in this affidavit it is a page number in a specific tab of Exhibit AEG-2.
3. I swore an Affidavit in these proceedings on 8 December 2020 with Annexure AEG-1.
4. I am 54 years of age and I am the brother of the First Defendant (**Melissa**).

Background to setting-up Citibank Plus Account ending 7231

5. In or about early January 2012, ^{REDACTED}, Melissa's then-husband called me and told me that he was separating from Melissa and that he was sending Melissa and their son, to Australia from England.
6. I travelled to England to help Melissa relocate to Australia. Melissa and her son arrived back in Sydney around the end of January 2012.
7. At the time I recall Melissa was not employed and I offered to loan her money to help with her living expenses.
8. On or about early February 2012 Melissa asked me to set up a bank account in my name that she could operate. Melissa said words to the effect:

"Can you please set up a bank account for me that I can use, so that the finances between me and ^{REDACTED} are separate until we have gone through a formal separation. I need the account to pay for living expenses and legal costs."

9. I understood the reference to ^{REDACTED} to be a reference to ^{REDACTED}.
10. An email from Melissa to me dated 6 February 2012 states:

"Financially – I don't know what to say apart from Thank you ... We will of course arrange repayment.

When you have time, please get a new Citibank account establish in your name. I can then at least transfer the £50k to that and start repaying back to you. In fact

A.E.G.

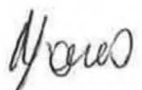
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as soon as you have the new account details, forward to me so that I can clear out my UK account, this transfer will take about 7 working days to complete."

This email [**MAL.2006.0001.0027**] is at Tab 1 of Exhibit AEG-2, on page .0028.

11. On or about 9 July 2012 I set up Citibank Plus Account number [REDACTED] and BSB [REDACTED] in my name (**Citibank Account**). A copy of the Citibank Account opening documents [**MAL.1005.0001.0004**] is at Tab 2 of Exhibit AEG-2, on pages .0007 – .0013.
12. On or about 13 July 2012 Melissa was added as a signatory on the Citibank Account. A copy of the "Additional Signatory Application Form" for the Citibank Account dated 13 July 2012, is included in the documents referred to above at paragraph 11 at Tab 2 of AEG-2 on pages .0012 to .0013.
13. At paragraph [4] of the Additional Signatory Application Form referred to in paragraph 12 on page .0012, under the words "*Do you require*" the box titled "*Visa Debit*" is ticked.
14. At paragraph [9] of the Additional Signatory Application Form, referred to in paragraph 12 on page .0013, states:
- "The following additional person(S) are authorised to operate the account in all respects as if they were an "account holder" [...] Melissa Louise Caddick"*
- Under the words "*Method of Operation*", the box titled "*One signature required*" is ticked.
15. Appearing at Tab 3 of Exhibit AEG-2 [**MAL.2061.0001.0001**] is a letter from Citibank to me dated 17 July 2012 that states:
- "Melissa Louise Caddick has been added as Authority to operate for the above mentioned account as requested."*
16. I understood that Melissa was a signatory on the Citibank Account, held a debit card for the Citibank Account and had full access to and ability to use the Citibank Account as an account holder, without needing my involvement or signature. I understood this because of the facts and matters I refer to above at paragraphs 11 to 14.

I did not make any withdrawals or transfers from the Citibank Account



17. I did not receive or review hard copy bank statements for the Citibank Account, apart from for the purposes of these proceedings.
18. I do not recall if I had online banking or telephone banking access to the Citibank Account, but if I did, I did not access the Citibank Account online or by telephone.
19. I have never held a debit card or cheque book for the Citibank Account.
20. At no time have I withdrawn any funds from the Citibank Account, transferred any funds from the Citibank Account or authorised the same.
21. I did on occasion transfer funds into the Account, for the reasons I refer to above, that is, to assist Melissa with living and legal expenses while she was separating from her then-husband. By way of example, appearing at Tab 4 of Exhibit AEG-2 [**MAL.1081.0010.0003**] is a copy of a bank statement that I do not recall having seen previously but that I reviewed for the purpose of these proceedings and which I recognise as recording deposits from me into the Citibank Account of \$10,000 on 6 August 2012 and \$9,000 on 27 August 2012, on page .0007.

I did not authorise or have knowledge of transactions recorded in the Citibank Account bank statements

22. For the purpose of these proceedings I have been shown and I have reviewed a copy of an email from Mr Bruce Gleeson dated 8 March 2021, that records a conversation that I had with Mr Gleeson on 8 March 2021 at about 5.20pm, that appears at Tab 5 of Exhibit AEG-2 [**MAL.1081.0009.0006**]. I confirm that the email is an accurate record of the conversation and that the statements that I made in the conversation as recorded in the email are true.
23. For the purpose of these proceedings I have been shown and I have reviewed a document titled "*Memo / File Note*" that records a conversation that I had with Mr Bruce Gleeson and Ms Vanessa Duckworth from Jones Partners on 10 March 2021 at approximately 10.06am to 10.35am, that appears at Tab 6 of Exhibit AEG-2 [**MAL.1081.0010.0254**]. I confirm that the Memo / File Note is an accurate record of the conversation and that the statements that I made in the conversation as recorded in the Memo / File Note are true.

The Dover Heights Property

24. I am a 1% owner of the property located at REDACTED referred to in folio identifier REDACTED (**Dover Heights Property**). Appearing at Tab 7



of Exhibit AEG-2 [**MAL.0003.0007.0008**] on page .0009, is a copy of the transfer dated 22 August 2014 showing that the Dover Heights Property is to be held as tenants in common with 99% interest to Melissa and 1% to myself.


25. I became a 1% owner of the Dover Heights Property so that I would have an interest in it if she was ever to die.
26. Appearing at Tab 8 of Exhibit AEG-2 [**MAL.1081.0012.0110**] is a letter dated 14 January 2021, that I caused my former solicitors to send and which states at paragraph 12:

"At this stage, noting all the various issues that are the subject of further investigation and advice, Mr Grimley (no doubt like a number of parties) is not yet in a position to articulate the extent to which he may have any claim against, or interest in, any of Melissa's property and he reserves all his rights in relation to any claims he may have in this regard."

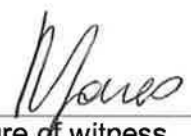
27. I will not make a claim or assert any interest in the Dover Heights Property.

Sworn by the deponent
at Sydney
in the State of New South Wales
on 14 May 2021
Before me:

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)
)
)
)



Signature of deponent



Signature of witness

Nathalie Jones

Lawyer

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

Exhibit AEG-2

This is the exhibit referred to as **Exhibit AEG-2** in the affidavit of Adam Edward Grimley sworn on 14 May 2021.

Before me:.....

Nathalie Jones

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