

## NOTICE OF FILING

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### Details of Filing

Document Lodged:	Outline of Submissions
File Number:	NSD616/2021
File Title:	WESTPAC BANKING CORPORATION ABN 33 007 457 141 v FORUM FINANCE PTY LIMITED & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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

Dated: 8/07/2021 7:07:13 PM AEST

Registrar

### Important Information

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**Westpac Banking Corporation v Forum Finance Pty Ltd and others**

**Federal Court of Australia NSD 616/2021**

**APPLICANT'S OUTLINE OF SUBMISSIONS  
FOR HEARING ON 9 JULY 2021**

**Matters for hearing**

1. In June 2021, Westpac Banking Corporation (**Westpac**), the applicant, uncovered that in excess of \$250 million that it had paid to the first respondent, Forum Finance Pty Ltd (**Forum Finance**), between September 2018 and June 2021 occurred pursuant to fictitious and falsified contracts, or at least *prima facie* so.
2. Throughout this time and now, according to the register kept by ASIC, Forum Finance has had two directors, Mr Basile Papadimitriou (**Mr Papas**), the second respondent, who has been a director since the company was incorporated on 19 September 2011, and Mr Vincenzo Frank Tesoriero (**Mr Tesoriero**), the third respondent, who was appointed on 1 April 2017. Since 2018 Mr Papas and Mr Tesoriero have bought, through companies they jointly own or which are owned by Mr Tesoriero, property with a cost price of in excess of \$55 million. As the Court heard from Mr Papas' solicitor, Mr Panetta, on 7 July 2021, Mr Papas is not currently in Australia, although he has refused to tell his solicitor where he is.
3. The background to these proceedings is set out in Westpac's submissions dated 28 June 2021 (**June Submissions**) which are relied upon, and not repeated, here: see June Submissions [1]-[5]; [9]-[13]. In short, Westpac's case is that Forum Finance has been used as the vehicle through which a dishonest scheme has been given effect to and has defrauded Westpac of circa \$250 million. There remains no indication of what defence, if any, Forum Finance or Mr Papas have to this case, and Mr Papas has not as yet communicated one to his solicitor: see transcript of the hearing on 7 July 2021, p 21, lns 15 to 20.
4. The matters before the Court on 9 July 2021 are the following:
  - a. whether orders for the appointment of provisional liquidators pursuant to s 472(2) of the *Corporations Act 2001* (Cth) (the **Corporations Act**) should be made (prayers 9 to 11 of the interlocutory application dated 28 June 2021);
  - b. whether the freezing orders made against Forum Finance and Mr Papas on 28 June 2021 and Mr Tesoriero on 2 July 2021 (which expire at 5pm on 9 July 2021) should be further extended;

- c. whether orders should be made to obtain a forensic image or copy with respect to the servers hosted by Our Kloud Pty Ltd (**Our Kloud**) held for or on behalf of Forum Finance on Our Kloud's servers; and
- d. timetabling orders to progress the matters, in particular, a date for the filing of Westpac's statement of claim.

### **Material before the Court**

5. Pursuant to order 7 of the orders made on 2 July 2021, Westpac has filed and served an amended originating application which sets out the relief sought against Mr Tesoriero, joined to the proceedings by orders made on 2 July 2021, and expands the relief sought against Forum Finance and Mr Papas.
6. For the purposes of the hearing, Westpac relies upon:
  - a. the evidence that it read on 28 June 2021 and 2 July 2021: namely the affidavits of Mr Anderson (28 June 2021) (the **First Anderson Affidavit**), Mr O'Brien (27 June and 1 July 2021) and Ms Murray (a first affidavit of 28 June 2021, a second affidavit of 28 June 2021, a third affidavit of 2 July 2021 (**Third Murray Affidavit**) and a fourth affidavit of 2 July 2021 (the **Fourth Murray Affidavit**));
  - b. an affidavit of Ms Healy (2 July 2021), one of the independent solicitors;
  - c. a fifth affidavit of Ms Murray (7 July 2021) (the **Fifth Murray Affidavit**);
  - d. the transcript of the hearing on 7 July 2021;
  - e. an affidavit of Joseph Khoury (7 July 2021) (as to service on Mr Tesoriero);
  - f. a second affidavit of Mr Anderson (8 July 2021) (the **Second Anderson Affidavit**);  
and
  - g. a sixth affidavit of Ms Murray (8 July 2021) (the **Sixth Murray Affidavit**).

### **Appointment of provisional liquidator to Forum Finance**

#### **Principles**

7. Section 472(2) of the Corporations Act empowers the court to appoint a provisional liquidator at any time after the filing of a winding up application and prior to the making of a winding up order. The Court has a wide and complete discretion whether to appoint a provisional liquidator which is in no way limited.<sup>1</sup>

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<sup>1</sup> *Re Lockyer Valley Fresh Foods Co-Operative Association Ltd* (1980) 5 ACLR 282 at 288 per Kelly J (with whom Lucas ACJ and Sheahan J concurred).

8. Under s 472(3), a provisional liquidator may exercise such functions and powers as are conferred on him or her by the Corporations Act or the court's rules or as the court specifies in the order of appointment.
9. It is well-established that the appointment of a provisional liquidator is a drastic intrusion into the affairs of the company and will not be done if other measures would be adequate to preserve the status quo.<sup>2</sup> Therefore, an applicant must show some good reason for the appointment before the final hearing of the winding up application, such as that the appointment is needed in the public interest or to preserve the status quo or to protect the company's assets.
10. In determining whether to appoint a provisional liquidator a court should consider:
  - a. whether there is a winding up application before the court and that there is a reasonable prospect that a winding-up order will be made at the final hearing: *Australian Securities Commission v Solomon* (1996) 19 ACSR 73 at 80;
  - b. whether other measures would be adequate to preserve the status quo: *Zempilas v J N Taylor Holdings Ltd (No 2)* (1990) 55 SASR 103 per King CJ (with whom Cox and Olsson JJ agreed);
  - c. whether the court should intervene prior to the final hearing of the winding up application, including for example, because a provisional liquidator is required in the public interest or to preserve the status quo or to protect the company's assets from dissipation: *Allstate Explorations NL v Batepro Australia Pty Ltd* [2004] NSWSC 261 at [30]; ***Re Club Mediterranean Pty Ltd*** (1975) 11 SASR 481 at 484; and
  - d. the degree of urgency, the need established by the applicant and the balance of convenience: *Re Club Mediterranean* at 484.
11. A useful discussion of the principles in relation to the appointment of a provisional liquidator is set out in *Australian Securities and Investments Commission v ActiveSuper Pty Ltd (No 2)* [2013] FCA 234; 93 ACSR 189 at [11]-[18] and in *Australian Securities and Investments Commission, Re; Bennett Street Developments Pty Ltd v Weerappah (No 2)* [2009] FCA 249 at [8]-[10].
12. Relevant factors which may be taken into account when determining whether to appoint a provisional liquidator include whether there is a real risk that the assets of the company will be dissipated prior to the time at which a winding-up order is to be made, and whether the

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<sup>2</sup> *Zempilas v J N Taylor Holdings Ltd (No 2)* (1990) 3 ACSR 518 at 522; *Constantinidis v JGL Trading Pty Ltd* (1995) 17 ACSR 625 at 635.

circumstances show that there ought to be an investigation, independent of the directors, into the company's affairs.<sup>3</sup>

13. The courts have held that it may be appropriate to appoint a provisional liquidator:
  - a. if the Court has no confidence that the affairs of the company are being carried out properly and for the benefit of shareholders: see *Emmacourt Pty Limited v Jewels of Australia Pty Limited* [2007] FCA 1483 at [12];
  - b. where there is a need for an independent examination of the state of accounts of the corporation by someone other than the directors: *Tickle v Crest Insurance Co of Australia Ltd* (1984) 2 ACLC 493; or
  - c. where the Court has no confidence in the current management and stewardship of the company and the company is being used as a vehicle for a dishonest scheme: see *In the matter of Plutus Payroll Australia Pty Limited* [2017] NSWSC 1041 at [10]-[13].

#### **Winding up application before the Court**

14. Westpac, as a creditor of the first respondent, has standing to bring the present application.<sup>4</sup> By originating application dated 28 June 2021, Westpac has applied for the winding up of Forum Finance. This relief is maintained in the amended originating application dated 8 July 2021.
15. A consent to act as provisional liquidator from each of Messrs. Jason Preston and Jason Ireland of McGrathNicol has been filed in the Proceedings. Messrs. Preston and Ireland are each registered liquidators.

#### **Reasonable prospects a winding up order will be made**

16. At the final hearing of the amended originating application, an order for the winding up of Forum Finance will be sought on the basis that it is insolvent: see Corporations Act, s.459P; further or alternatively on the basis that it is just and equitable for Forum Finance to be wound up: see Corporations Act s.461(1)(k).

#### **Forum Finance is insolvent**

17. As set out in the June Submissions, the proceedings arise out of a funding structure created under two agreements: an Agency Agreement between Westpac and Eqwe: First Anderson [17]-[18]; GKA-1 p6 and a Master Sale Agreement between Eqwe Pty Limited (as Westpac's

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<sup>3</sup> *Australian Securities Commission v Solomon* (1996) 19 ACSR 73 at 80 per Tamberlin J; a passage regularly since applied, for example in *ActinSuper* at [16].

<sup>4</sup> See ss 459 and 462 of the Corporations Act and *Allstate Explorations NL v Batepro Australia Pty Ltd* [2004] NSWSC 261 at [26].

agent) (**Eqwe**) and Forum Finance: First Anderson [20]; GKA-1 p114: see June Submissions [9]-[11].

18. Pursuant to clauses 9.1 and 9.2 of the Master Sale Agreement, if a ‘Seller Event’ occurs under the Master Sale Agreement, Eqwe can demand and Forum Finance ***must*** repurchase any Purchased Asset if the Seller Event results in the purchase receivable not being enforceable in full: cl 9.1.V.b Master Sale Agreement; or if any of the representations made in connection with the Customer Agreement (and related documents) are found to be untrue or incorrect: cl 9.2 Master Sale Agreement.
19. A Seller Event is defined in clause 16.1 of the Master Sale Agreement as including the circumstances where a representation or warranty made by Forum Finance under a Transaction Document is or becomes inaccurate. These representations included that there had been no fraud, dishonesty, misrepresentation or negligence on the part of Forum Finance in connection with the selection and offer of the Receivable to Eqwe: see clause 6.2.IVII. It is trite to say that a falsified Customer Contract falls foul of this representation.
20. Pursuant to clause 2.5 of the Agency Agreement, Eqwe holds on behalf of Westpac all rights in relation to a Relevant Agreement (as defined) and including in relation to any receivable under or in connection with any of the Relevant Agreements.
21. Under the terms of the Agency Agreement if there is a default by the Seller (Forum Finance), Eqwe is to exercise and seek to enforce against Forum Finance (see cl 13.2) and must lend its name to any document done by Westpac for the purposes of exercising its rights or remedies in respect of any Payable: cl 13.3:
22. On 15 June 2021, Westpac required Eqwe to issue a repurchase demand to Forum Finance in relation to the contracts said to be with WesTrac: Anderson [45]; GKA-1 p255. This demand was issued by Eqwe (the **First Demand**): GKA-1 p255. Pursuant to this demand Forum Finance paid to Westpac funds totaling \$4,455,328.25: Anderson [43] GKA-1 p523 but has failed to pay the remaining amount of \$5,199,433.22 due and payable by reason of the First Demand.
23. On 1 July 2021, following discovery of the extent of the fraudulent scheme, Westpac caused, in reliance on clauses 7.1 and 13.3 of the Agency Agreement, a demand to be issued to Forum Finance under the Master Sale Agreement for Forum Finance to repurchase the Receivables (as defined) in relation to the Customer Agreements. The demand required that Forum Finance repurchase receivables in the total amount of \$254,219,440.23 from Westpac (**Further Demand**): CMM-2 p119-127. The Further Demand required this amount to be repaid by 9am on 2 July 2021.

24. Forum Finance has not paid the amounts set out in the Further Demand to Westpac: Second Anderson Affidavit [11], although amounts owing to Westpac, and payable by Forum Finance pursuant to the Further Demand have reduced by the automatic application of direct debits to the account to which repayments were made: Second Anderson Affidavit [8]-[9]. The amount currently outstanding to Westpac is \$253,766,555.76. (This amount includes the remaining amount owing pursuant to the First Demand.)
25. There is no evidence before the Court as to Forum Finance's financial position, however, searches of the real property registers show that it does not hold any real property in its name: Sixth Murray Affidavit, [18]-[19]. An affidavit as to Forum Finance's assets as required by the terms of the freezing order (Annexure A to the orders made on 28 June 2021) has not been provided by it.
26. Having regard to the significant quantum of the amount owing to Westpac and the absence of any evidence as to sufficient assets to meet this debt, which is presently due and payable, the Court can be satisfied that there is a reasonable prospect that a winding-up order will be made at the final hearing on the basis of Forum Finance's insolvency. Although probably unnecessary to go further, the state of satisfaction to be reached on the evidence is substantially more certain than a "reasonable prospect". The evidence allows a high state of satisfaction that the company is insolvent. It is contrary to commercial morality to allow an insolvent corporation to continue acting in a manner which may further deplete what assets it has to meet its creditors. Viewed through the prism of the corporation's interests, it is more than difficult to see why it is resisting this application.

#### Just and equitable winding up

27. Westpac also seeks the winding up of Forum Finance on the basis that it is just and equitable to do so on the basis:
  - a. of the irresponsible and unethical way in which the business has been conducted. A Court may wind up a company on the basis that it is just and equitable where the company is being used as a vehicle to carry on unlawful conduct: see *Hipages Group Pty Ltd v Reach Aussie Pty Ltd* [2017] FCA 112 at [47] and the authorities cited therein;
  - b. that the conduct of Forum Finance and its directors is sufficient to demonstrate a justifiable lack of confidence in the conduct and management of Forum Finance's affairs such that there is a risk to the public interest that warrants protection: *ActiveSuper* at [20]-[24]; *Australian Securities and Investments Commission v ABC Fund Managers* [2001] VSC 383; (2001) 39 ACSR 443; at [119].

28. The evidence of dishonest and unlawful conduct is compelling: see summary in June Submissions at [12]-[13]; and the conduct appears not to be limited to Westpac (as demonstrated by the SocGen proceedings). In summary the evidence, showing that the documents held by Westpac and on which it paid large sums to Forum Finance are said by the reputable customers to be forgeries, and the customers have not been making payments nor have the equipment. The evidence of falsification of documents is summarised in Schedule A. In particular:
- a. the existing transactions with WesTrac Pty Limited are all fraudulent fictions: O'Brien 1 at [12]-[13], [28] and [30] together with WesTrac's letter at NOB-1 pages 172-3. The effect of that evidence is that there had been a genuine transaction, but that has been repaid and the subsequent documents are all fraudulent;
  - b. as to Veolia Environmental Services (Australia) Pty Ltd, while again there had initially been a number of genuine transaction (possibly up to \$12 million in equipment leases), all or near all of the existing transactions under which \$210 million had been paid to Forum Finance are dishonest fictions involving forgery: O'Brien 1 at [43]; Anderson 1 at [56], [63], [77] and [80]; GKA-1 at 273, 298;
  - c. the transactions with Coles Supermarkets Australia Pty Limited are fraudulent fictions: O'Brien 1 at [37]-[38]; Anderson 1 at [70], [76]-[77] and GKA-1 page 296;
  - d. the transactions with ALH Group Pty Limited (then a subsidiary of Woolworths Limited) are fraudulent fictions: O'Brien 1 at [40], [42] and NOB-1 at 186-224; Anderson [65]-[67];
  - e. the transactions with Scentre Shopping Centre Management Pty Ltd appear to be fraudulent fictions, as Scentre has been unable to locate a copy of the contracts in its records and has no regular payment set up in Scentre's accounts payable system;
  - f. the transactions with Catholic Healthcare Limited, while still being investigated by it, appear to be fraudulent fictions as it is not aware of any relationship with Forum Finance and a review of its accounting systems and accounts has not located any payments to or details of Forum Finance; and
  - g. the transactions with HWL Ebsworth Lawyers are fraudulent as their initial investigations indicate that they have never seen, received or executed the documents.
29. Also demonstrating the fraud, the timing of the drawdowns is co-incident with otherwise unexplained source of funds for companies controlled by Messrs. Papas and Tesoriero to buy a large number of expensive properties. The timing of the acquisition of properties with a total



purchase price of in excess of \$55 million (accepting that there appears to be mortgage finance in part, the probabilities are that the finance was partial and in any event the finance must be serviced) is identified in Schedule B to these submissions and further addressed below in relation to the freezing order in relation to Mr Tesoriero.

30. The misconduct is vast in scope and monetary impact. No defence to or explanation of the conduct has been offered or provided by Mr Papas, indeed, in the four to five conferences that Mr Papas' solicitor has had with him while he is overseas, Mr Papas has not identified a defence to the allegations.<sup>5</sup> The Court can be satisfied that there is a real prospect that a winding-up order will be made at the final hearing on the basis that Forum Finance has been used as a vehicle to carry on unlawful conduct, such that it is just and equitable to wind it up.
31. The size and magnitude of the dishonest and unlawful conduct, also goes to the balance of convenience and urgency of the appointment, which are addressed further below.

**Urgency and balance of convenience**

32. There are good reasons why the Court would accept that the intervention through the appointment of a provisional liquidator is justified prior to the hearing of the winding up application.
33. *First*, Forum Finance, as set out above and in the June Submissions, at least *prima facie*, has been used to carry out a fraudulent scheme. Significant funds, in excess of \$250 million, have been paid to Forum Finance including funds paid to Forum Finance as recently as June 2021: CMM-2 p116-117. There is an urgent need for professionals (*a fortiori*, officers of the Court) who are external to the company and its directors to undertake a close examination of the state of the accounts of Forum Finance, in particular to determine whether any funds paid away can be recovered, and the extent to which funds have been transferred to Mr Papas, Mr Tesoriero or other related entities or persons. While there are freezing orders in place in relation to Mr Papas and Mr Tesoriero, there is a sufficiently real likelihood that there are other entities and persons who have received funds as a result of the misconduct. This needs to be properly investigated, and steps taken to seek preserve and then recover those funds. A provisional liquidator will have the power to cause that examination to occur.
34. *Second*, despite search orders being made, there have been difficulties for the independent computer experts in searching, in execution of those orders, the books and records of Forum Finance to the extent the electronic records are on a server hosted by Our Kloud: Fifth Murray

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<sup>5</sup> Transcript, 7 July 2021, p 21, lns 15-20.

Affidavit; CMM-4 pp12-14. Our Kloud, on further enquiries appears to be owned and operated by an individual related to Mr Papas: Fifth Murray Affidavit; CMM-4 p12.

35. *Third*, the evidence demonstrates that the Court could not have confidence in the current management and stewardship of Forum Finance. Mr Papas is presently overseas. Mr Tesoriero has adopted the position, through his solicitors, that he has no involvement in the management of Forum Finance, and while Westpac does not accept, for reasons developed further below, that Mr Tesoriero was not involved in the fraud, it is plain that he is taking the position now that he will not be involved in actively managing Forum Finance as a director. Various solicitors have been retained for Forum Finance since 15 June 2021: Vobis Equity Attorneys (GKA-1 p275; Third Murray Affidavit [8]); Fortis Law (Third Murray Affidavit [13]) and Hunts Law: Fifth Murray Affidavit CMM-4, p 8).
36. In that time the company has not done that which an honestly run company would do: take positive action to preserve its assets and documents and conduct an investigation into Messrs Papas and Tesoriero's behaviour. Instead, the company has acted with Mr Papas in a manner which apparently has been calculated to delay steps to recover assets for it or its creditors. This is the circumstance to which the dicta in cases such as *ActivSuper* is directed. The company, having *prima facie* been used as a vehicle for a dishonest scheme, continues to be operated under the control of Messrs Papas and Tesoriero in a manner inconsistent with its and its creditors interests, and in effect in furtherance of the dishonest scheme.
37. In all of the circumstances, there are circumstances which justify the urgent need for the appointment of a provisional liquidator prior to the hearing of the winding up application.

#### **Conclusion in relation to provisional liquidation**

38. In the present circumstances, the public interest supports the appointment of a provisional liquidators who will be able to forthwith take into their possession all of the books and records of Forum Finance, examine the state of the accounts including between related entities and take steps to protect the position of creditors of Forum Finance: see *Re Huntford Pty Ltd* (1993) 12 ACSR 274 at 278. Such an appointment is necessary to protect the assets and affairs of Forum Finance, is supported by the public interest and the balance of convenience weighs in favor of the appointment. Westpac has a strong case that Forum Finance has been used as the vehicle for a fraudulent and dishonest scheme. Forum Finance has not paid the demand made of it, and there is no evidence that it will do so, or that it is capable of doing so.
39. For the reasons articulated above, provisional liquidators should be appointed prior to the final hearing of the winding up. Messrs Jason Preston and Jason Ireland of McGrathNicol have provided their consent to act as provisional liquidators which consents indicate that they are

not aware of any conflict of interest or duty, or relevant relationship which would prevent their appointment as provisional liquidators. In the circumstances the Court should make the orders in the short form of orders attached to these submissions in relation to the appointment of the provisional liquidators.

### **Continuation and extension of the freezing orders**

40. Orders made on 2 July 2021:
  - a. extended the operation of the freezing orders made against Forum Finance and Mr Papas; and
  - b. imposed freezing orders in relation to the assets of Mr Tesoriero.
41. The applicant now seeks a continuation of the freezing orders against Forum Finance, Mr Papas and Mr Tesoriero.

#### **Forum Finance**

42. In the event the Court orders the appointment of a provisional liquidator, the applicant seeks the extension of the freezing orders over Forum Finance for the period of one week, until 16 July 2021, unless an earlier discharge is requested by the provisional liquidators.
43. The purpose for this extension is to preserve the status quo until such time as the provisional liquidator has been able to take possession and control of Forum Finance's books, records and assets, including bank accounts.
44. If the orders appointing the provisional liquidator are not made on 9 July 2021, the freezing orders in relation to Forum Finance should be extended until further order.

#### **Mr Papas**

45. Westpac seeks the continuation of the freezing orders made against Mr Papas until further order. The basis for the freezing orders was addressed in the June Submissions. There has been no relevant change in circumstances that would mean that these freezing orders should not continue on the basis that they were made.
46. It is now known that Mr Papas has left Australia, although it is not known precisely where he is because he refused to tell his solicitor where he is.<sup>6</sup> While he has sent an itinerary to Mr Panetta for a Japan Airways flight from Dubai to Sydney at some time on Saturday, there is no direct evidence from Mr Papas to confirm that he is returning to Australia and when.

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<sup>6</sup> Transcript, 7.7.21, p 40.

47. It is also unclear what, if any, defence Mr Papas has to the allegations made by Westpac. Mr Panetta has given evidence that he has not asked Mr Papas what the defence of either Forum Finance or Mr Papas is to Westpac's claim, and that he presently has no instructions as to whether Forum Finance or Mr Papas has a defence to the claim.<sup>7</sup>

### Mr Tesoriero

48. Ex parte freezing orders were made against Mr Tesoriero on 2 July 2021 and currently continue in effect until 5pm 9 July 2021. In accordance with the orders made on that date, the application together with the orders were served on Mr Tesoriero:
- a. by email to Mr Rocco Panetta: Sixth Murray Affidavit [5]; and
  - b. personally on 2 July 2021 at 23 Margaret Street, Rozelle, which was Mr Papas previous address and is where Mr Tesoriero is currently residing: affidavit of Joseph Khoury (7 July 2021).
49. Westpac has served an amended originating application which sets out the relief sought against the parties, including Mr Tesoriero.
50. The principles relevant to a grant of freezing orders in the present circumstances were set out in the June Submissions [14]-[18], and are relied upon here.

### Relevant facts

51. Mr Tesoriero is:
- a. a shareholder of The Forum Group of Companies Pty Ltd, through Tesoriero Investment Group Pty Ltd (a company which Mr Tesoriero is one of two directors and shareholders, along with Giovanni Tesoriero, who appears to be Mr Tesoriero's father);
  - b. a director of Forum Finance and was appointed on 1 April 2017.
52. Mr Tesoriero and Mr Papas are both shareholders of six companies:
- a. 64-66 Berkeley St Hawthorn Pty Ltd ACN 643 838 662;
  - b. 14 James Street Pty Ltd ACN 638 449 206;
  - c. Forum Group Financial Services Pty Ltd ACN 623 033 705;
  - d. 26 Edmonstone Road Pty Ltd ACN 622 944 129;
  - e. 5 Bulkara Street Pty Ltd ACN 630 982 160; and

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<sup>7</sup> Transcript, 7.7.21, pp 15-20..

f. 6 Bulkara Street Pty Ltd ACN 639 734 473,

(the **Jointly Owned Entities**).<sup>8</sup>

53. Mr Tesoriero is also a shareholder of 12 companies that own real property (the **Tesoriero Entities**).<sup>9</sup>
54. The Jointly Owned Entities own 14 properties and the Tesoriero Entities own 18 properties, according to title searches that have been conducted.
55. Westpac has identified that the Jointly Owned Entities and the Tesoriero Entities have purchased a property portfolio with a total cost price of over \$55 million. These purchases occurred as ongoing fraudulent drawdowns were occurring. Schedule B to these submissions is a chronological summary of the property purchases, the fraudulent drawdown and summarises, at the end of each month in the chronology, the total quantum of the fraudulent drawdowns.
56. While Rocco Panetta, who is acting for Mr Papas and now Mr Tesoriero, has said to Westpac's solicitors that Mr Tesoriero has had no involvement in the management of Forum Finance:<sup>10</sup>
- a. Mr Tesoriero was present at Mr Papas' "registered address" when Eqwe went there in an attempt to contact Mr Papas on around 25 June 2021;<sup>11</sup>
  - b. Mr Tesoriero was present at Mr Papas' address at 23 Margaret Street, Rozelle, NSW on 1 July 2021 when the independent solicitor attended with respect to the execution of the search order;<sup>12</sup>
  - c. Mr Tesoriero signed the Master Sale of Receivables and Goods Agreement on behalf of Forum Finance which is dated 12 July 2019.<sup>13</sup>

#### Prima facie case

57. The basis of the claim against Mr Tesoriero has three broad limbs.
58. *First*, any funds that Mr Tesoriero has received, either himself or through the Jointly Owned Entities, the Tesoriero Entities or otherwise, as a result of the fraudulent scheme is held on trust for Westpac.

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<sup>8</sup> Fourth Murray Affidavit [6].

<sup>9</sup> Fourth Murray Affidavit [8].

<sup>10</sup> Fourth Murray Affidavit [16].

<sup>11</sup> Email from Luke Price to Rodney Owen dated 25 June 2021.

<sup>12</sup> Affidavit of Anna Ross affirmed 1 July 2021 [21].

<sup>13</sup> GKA-1 pages 84, 97 and 109.

59. While the proposition had been controversial in some cases, it is now recognised to be settled law that “[w]here money has been stolen, it is trust money in the hands of the thief, and he cannot divest it of that character”: **Black v S Freedman & Company** (1910) 12 CLR 105 at 110 (O’Connor J), see also *Fistar v Riverwood Legion and Community Club Ltd* (2016) 91 NSWLR 732 at [36] per Leeming JA with whom Bathurst CJ and Sackville AJA agreed.
60. Put another way, and very simply, “a thief holds stolen property on trust”.<sup>14</sup>
61. In *Toksoz v Westpac Banking Corporation* [2012] NSWCA 199, Allsop ACJ (Hoeben JA and Sackville AJA agreeing) noted at [9] that a number of cases revealed what his Honour described as “a sensible robust approach to the tracing of moneys from theft”. His Honour described the process as follows at [9]:
- The expression “tracing by exhaustion” is sometimes used. Where the facts as proved are sufficient to permit the inference that moneys have been received or property bought without there being an honest source available to explain the wealth and the sums or value can be seen as referable to the following party’s property wrongfully obtained, such that the inference is open that the wrongfully obtained funds were the source of the wealth, the funds can be so treated. One does not need to be able to show every link in the chain of accounts from and through which the money passed. **Inferences will be more easily drawn, as here, in circumstances where the funds were stolen, the person who is said to have provided the funds was one of the thieves who stole money from the follower, when the recipient has an apparent close relationship with the thief, which recipient gave no value for it, has no personal source of income and gives no explanation as to the source or circumstances of the receipt of the money or any honest source of it.** (emphasis added)
62. See also *Robb Evans of Robb Evans & Associates v European Bank Ltd* (2004) 61 NSWLR 75 at [111] (Spigelman CJ; Handley and Santow JJA agreeing), *Heperu Pty Ltd v Belle* (2009) 76 NSWLR 230 at [93] (Allsop P; Campbell JA and Handley AJA agreeing) and *Sze Tu v Lowe* (2014) 89 NSWLR 317 at [141]–[149].
63. In accordance with these principles, to the extent that Mr Tesoriero has received any funds as a consequence of the fraudulent transactions, then that money will be held on trust for Westpac and can be traced into the property bought by Mr Tesoriero with those funds.
64. In *Toksoz*, Allsop ACJ was discussing how these principles are applied on a final basis, where his Honour said that it was not necessary to be able to show “every link in the chain of accounts from and through which the money passed”. Here, where the question for the Court is whether Westpac has a prima facie case for this relief, the level of proof required is lower than it would be on a final basis.

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<sup>14</sup> *Fistar v Riverwood Legion and Community Club Ltd* (2016) 91 NSWLR 732 at [39] per Leeming JA with whom Bathurst CJ and Sackville AJA agreed.

65. Here, the position is that Mr Tesoriero was the director of a company which, prima facie, has been engaged in a fraudulent scheme. That scheme has resulted in the company which he controlled with Mr Papas dishonestly obtaining over \$250 million. Where that money has gone is presently not known, particularly when the orders requiring Forum Finance, Mr Papas and Mr Tesoriero to identify their assets have not yet been complied with. Nevertheless, the evidence does show that, while the company of which Mr Tesoriero was a director was engaging in this *prima facie* fraud, Mr Tesoriero either alone or with his co-director, Mr Papas, was acquiring a large number of expensive properties through the Jointly Owned Entities or the Tesoriero Entities. The timing of the drawdowns into Forum Finance is co-incident with otherwise unexplained source of funds for the Jointly Owned Entities or the Tesoriero Entities to buy a large number of expensive properties. The total cost price of these properties was over \$55 million and, while it appears that mortgage finance was obtained to assist these acquisitions, the likelihood is that the finance did not cover the whole of the purchase price and, in any event, the repayments required under this finance would have to be met.
66. These circumstances provide a prima facie basis for relief by Westpac against Mr Tesoriero on the basis that he has received funds, either himself or through the Jointly Owned Entities, the Tesoriero Entities or otherwise, as a result of the fraudulent scheme which are held on trust for Westpac.
67. *Secondly*, a claim is made against Mr Tesoriero in accordance with the principles of *Barnes v Addy*. Under those principles:
- a. a person who receives property with respect to which a fiduciary duty exists with knowledge that the property is transferred because of another person acting in breach of fiduciary duty holds that property on constructive trust for the person to whom the fiduciary duty was owed;<sup>15</sup>
  - b. a person who assists a fiduciary to breach his fiduciary duties, with knowledge of a dishonest and fraudulent design on the part of the fiduciary, is liable as though they were the fiduciary.<sup>16</sup> This includes liability to disgorge the property transferred to them by another person in breach of that person's fiduciary duty, as well as *in personam* liability.<sup>17</sup>
68. Knowledge of a respondent can be established in any of four different ways:<sup>18</sup>

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<sup>15</sup> *Simmons v New South Wales Trustee and Guardian* [2014] NSWCA 405 at [88]

<sup>16</sup> *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89 at [160]; *Lewis v Nortex Pty Ltd (in liq)*; *Lamru Pty Ltd v Kation Pty Ltd* [2005] NSWSC 482 at [33].

<sup>17</sup> *Sheahan v Thompson (No 2)* [2015] NSWSC 871 at [141]–[146]

<sup>18</sup> *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89 at [174]–[178].

- a. actual knowledge of the existence of the fiduciary duty, and of the misapplication of the transfer pursuant to a breach of fiduciary duty;
  - b. wilfully shutting one's eyes to those things;
  - c. abstaining in a calculated way from making such inquiries, as an honest and reasonable person would make, about the fiduciary and the transfer of the property;  
or
  - d. knowledge of facts which to an honest and reasonable person would indicate the existence of the fiduciary duties and the fact of transfer being a breach thereof.
69. The starting point of the analysis is that Forum Finance, when it received funds from Westpac pursuant to the fraudulent transactions, held those funds on trust for Westpac, in accordance with the principles already identified. Mr Tesoriero, as a director of Forum Finance, assisted Forum Finance to breach its duties as trustee of those funds by paying them away to himself, Mr Papas or to companies connected to them (including the Jointly Owned Entities and the Tesoriero Entities) as part of the dishonest and fraudulent scheme, rather than holding those funds for the benefit of Westpac and then returning them to Westpac. By doing so, Mr Tesoriero either received trust property himself or assisted entities he controlled to obtain those funds knowing it was held on trust for Westpac.
70. As a result, Mr Tesoriero holds any funds he received directly or within companies he controls on trust for Westpac. He is liable to an order to restore those funds to Westpac, including by taking all necessary steps as the director of those companies to restore them to Westpac. Further or alternatively, he is liable to pay equitable compensation to Westpac for all of the losses arising from the fraudulent scheme (even if he did not himself receive those funds) because of his involvement in the overall design and implementation, with Mr Papas, of the scheme. This amount is currently quantified at \$253 million as identified in the amended originating application.
71. *Third*, a claim against Mr Tesoriero is advanced under the tort of unlawful means conspiracy. The tort of conspiracy is committed where two or more respondents combine to do an unlawful act or to do a lawful act by unlawful means, thereby effecting some economic loss on the plaintiff. The elements of the tort are:<sup>19</sup>
- a. there was an agreement between two or more persons;

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<sup>19</sup> See recitation of the elements in *Australian Wool Innovation Ltd v Newkirk* [2005] FCA 290 at [59]-[64] per Hely J.



- b. there was an intention to injure, which element will be fulfilled if the conspiracy and the unlawful means were directed at the applicant;
  - c. the agreement was carried into effect in whole or in part; and
  - d. the applicant suffered some pecuniary loss as a result of the respondents' acts in furtherance of their agreement.
72. A breach of fiduciary duty or a breach of a statutory provision may constitute unlawful means.<sup>20</sup> As a director of Forum Finance, each of Mr Papas and Mr Tesoriero owed statutory and fiduciary duties to Forum Finance to exercise his powers bona fide in the interests of the company as a whole.<sup>21</sup> Acting contrary to those interests by involving Forum Finance in a dishonest scheme and then personally profiting were against those interests, and involved Forum Finance breaching its obligations to Westpac. Further and perhaps more directly, the fraud was engaged in by dishonest means, the fraudulent representations, and forged documents.
73. The same arguments as arise with respect to the *Barnes v Addy* claim apply here. In this case, there is a prima facie case of an agreement between Mr Papas and Mr Tesoriero, as the directors of Forum Finance, to design and then give effect to the fraudulent and dishonest scheme by having Forum Finance procure funds from Westpac through unlawful means (ie. fraudulent documentation) for their personal benefit. It is plain that this agreement was carried into effect and has caused loss.
74. The remedy for the tort can include damages, which can include expenses incurred in unravelling the conspiracy.<sup>22</sup> These damages would be for all of the losses arising from the conspiracy, even if Mr Tesoriero did not himself personally benefit from all of the fraudulent transactions. This amount is currently quantified at around \$253 million as identified in the amended originating application.

#### Conclusion on freezing orders

75. Westpac has a prima facie case for relief against Mr Tesoriero. Throughout the period of the fraudulent conduct, Mr Tesoriero was one of the two directors of Forum Finance. Over \$250 million of funds were unlawfully obtained by Forum Finance, and is held on trust for Westpac within the principles in *Black v S Freedman*. It is not presently known where all of

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<sup>20</sup> *Fatimi Pty Ltd v Bryant* (2004) 59 NSWLR 678 at [24]-[32] per Handley JA; *Dresna Pty Ltd v Misu Nominees Pty Ltd* [2004] FCAFC 169 at [14]-[19] per Kiefel and Jacobson JJ.

<sup>21</sup> *BCI Finances Pty Ltd (In Liq) v Binetter* [2018] FCAFC 189 at [596] per Allsop CJ, Moshinsky and Colvin JJ.

<sup>22</sup> *British Motor Trade Assn v Salvadori* [1949] Ch 556 at 568-9 per Roxburgh J, where “the money actually expended in unravelling and detecting the unlawful machinations of the defendants” was held to be recoverable and an inquiry ordered.

the funds improperly obtained have been dispersed to. However, the two directors of Forum Finance, either in jointly owned companies or in companies owned by Mr Tesoriero, have purchased properties with a cost price exceeding \$55 million. There is currently no explanation in the evidence as to how these very substantial purchases, coincident in timing with the *prima facie* fraud, occurred.

76. Consistently with the principles discussed by Allsop ACJ in *Toksoz* (recognising that this was said with respect to the level of persuasion needed on a final basis), any funds that have been improperly obtained by Forum Finance that have been used to purchase any of the properties held by the Jointly Owned Entities or the Tesoriero Entities are held on trust for Westpac. Westpac also has a prima facie case, either in accordance with the principles in *Barnes v Addy* or the tort of unlawful means conspiracy, that would entitle it to judgment against Mr Tesoriero for all of the losses arising from the fraud (which losses are presently quantified at \$253 million). Given the nature of the underlying conduct (that is, an elaborate fraud perpetrated over a number of years), there is an existence of a danger that any judgment would go unsatisfied if the freezing orders are not granted.
77. Accordingly, the freezing orders made against Mr Tesoriero made on 2 July 2021 should be extended until further order.

#### **Imaging orders for Our Kloud server**

78. The search orders granted by the Court have not been able to be given full effect to because it has transpired that before 2020 Forum Finance stored documents and emails and hosted its accounting system on virtual servers hosted at a data centre in Alexandria in New South Wales: Fifth Murray Affidavit, CMM-4 p 12-14. The independent computer experts have identified a number of these servers and listed them in an email to the independent solicitor. The independent computer experts have explained that collection of data from the virtual server hosted by Our Kloud.
79. Westpac seeks orders in the form annexed to the Fifth Murray Affidavit at pages 15 and 16. These orders seek to give effect to the search orders that were made previously, but with limited disruption to Our Kloud. Accordingly, rather than being drafted as an order compelling Our Kloud to permit the independent computer experts to enter its premises, it requires Forum Finance to take the necessary steps to facilitate access by the independent computer experts to its data on the Our Kloud serves so that a forensic image or copy can be made and, if any further difficulties arises for independent computer experts to identify these to the solicitors for the parties.

80. These orders will facilitate the obtaining of a forensic image or copy so that the data is preserved. Questions as to the process for access can be resolved once that forensic image or copy has been obtained by the independent computer expert.
81. In the meantime, Westpac seeks the continuation of the order made on 7 July 2021 restraining Forum Finance and Mr Papas from deleting or altering (other than in the ordinary course of business) any data held by Forum Finance on the Our Kloud servers, on the continuation of the undertaking to the Court given by Westpac.

### **Timetabling directions**

82. Westpac proposes that the next step in the matter is for it to serve a statement of claim and then for the matter to return for further case management. Given further parties may be added once Westpac has access to further information about the conduct and any further recipients of the fund, it proposes the following orders:
- a. Westpac to file and serve any application to further amend its originating application by 26 July 2021;
  - b. Westpac to serve the statement of claim it would file if leave were granted to amend the originating application by 26 July 2021; and
  - c. the matter be relisted for further directions in the week of 2 August 2021.

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8 July 2021

Counsel for the applicant

**Schedule A**

**Summary of key evidence about false documents**

<b>Customer Name</b>	<b>Evidence</b>
<p><b>Veolia</b> Environmental Services (Australia) Pty Ltd</p>	<p>Microsoft Teams meeting: First O'Brien [43] and NOB-1 p225-227</p> <ul style="list-style-type: none"> <li>• max of \$12M contracts with Forum which are legitimate (noting \$211M owing)</li> <li>• referred to previous meeting with Bill Papas in which said won't be ordering more machines in FY21</li> </ul> <p>Call with Veolia to review contracts: First Anderson [56]</p> <p>Veolia email in relation to contracts: First Anderson [58], [63], GKA-1 p264 (a further copy of at GKA-1 p273</p> <ul style="list-style-type: none"> <li>• "a forged signature has been used and that Preet Brar did not sign the document"</li> <li>• Preet Brar was not CFO on dates contract signed</li> </ul> <p>Further email from Veolia in relation to contacts: First Anderson [77], GKA-1 p298</p> <ul style="list-style-type: none"> <li>• Deed of Indemnity from Veolia and payment schedules (both Australia and NZ) "appear to be fraudulent in that the signatures on behalf of Veolia on the documents seem to be forged"</li> <li>• Signatures for Laurie Kozlovic and Preet Brar do not match signatures of theirs that I know to be genuine</li> <li>• Preet Brar was not CFO post 30 May 2021</li> <li>• Veolia has never engaged in any contracts with Iugis for the ORCA or Surfacide products</li> </ul> <p>Call with Veolia on 29 June 2021: Second O'Brien [15], NOB-2 p21</p> <ul style="list-style-type: none"> <li>• Veolia has only two genuine contracts – one for ORCA and one for Surfacide/NoTouch</li> </ul>
<p><b>WesTrac Pty Limited</b></p>	<p>Anomaly in leasing line discovered during call: First O'Brien [9]</p> <p>Initial response from WesTrac: First O'Brien [12]-[14]; NOB-1 p159A:</p> <ul style="list-style-type: none"> <li>• One photocopier/printer arrangement for \$1.6M</li> <li>• Jarvas Croome of WesTrac has no recollection of signing</li> </ul>

	<p>WesTrac meeting with Papas scheduled and Papas did not attend: First O'Brien [27]</p> <p>WesTrac confirmed that only the \$1.6M contract for the photocopier/printer was valid but that this had "run off" earlier in the year: First O'Brien [28]-[29] NOB-1 p171.</p> <p>WesTrac Letter in relation to contracts: First O'Brien [30] NOB-1 p172-173 states</p> <ul style="list-style-type: none"> <li>• Leading facility drawn on basis of fraudulent documentation</li> <li>• WesTrac has no record of the draw downs</li> <li>• Several of the assets are not assets WesTrac would use</li> <li>• Jarvas Croome has reviewed the documentation and said signatures are not his</li> <li>• Other employees purporting to sign were not employees at time of purported execution of the agreements</li> </ul> <p>Forum Finance explanation in a call to Luke Price and Anderson: First Anderson [40]; GKA-1 p246</p> <ul style="list-style-type: none"> <li>• Papas asserted the telematics software on the equipment was not working so Forum Finance was making the repayment on behalf of WesTrac</li> </ul>
<p><b>ALH</b> Group Pty Limited (at the time, a subsidiary of Woolworths Limited)</p>	<p>Notification from WBC of concern: First O'Brien [39]</p> <p>Notification from ALH that contracts a concern: First O'Brien [38]-[42]; NOB-1 p186</p> <p>Email from ALH regarding signatures: NOB-1 p186-192</p> <ul style="list-style-type: none"> <li>• p186: <ul style="list-style-type: none"> <li>○ ALH preliminary view is that they have not been able to substantiate the validity of the documents</li> </ul> </li> <li>• p187 <ul style="list-style-type: none"> <li>○ Trevor Smith "never sighted or seen ... documents"</li> <li>○ Trevor Smith "signature definitely not mine and the title is not mine" (title of Smith is National Food Manager not COO as set out in signature block)</li> </ul> </li> <li>• p188 <ul style="list-style-type: none"> <li>○ Trevor Smith "I never seen these documents"</li> <li>○ Trevor Smith "it is not my signature on them"</li> <li>○ ALH do not lease the machines and there was never any install cost</li> </ul> </li> </ul> <p>Call with ALH: Second O'Brien [13], NOB-2 p16-18</p>

	<ul style="list-style-type: none"> <li>ALH did have a relationship with Enviro Forum for the digesters but this relationship predated the dates in question</li> </ul> <p>Email from ALH in relation to contracts: Second O'Brien [14], NOB-2 p19</p> <ul style="list-style-type: none"> <li>Have not located any relationship in accounting system for Eqwe or Forum Finance, have found a relationship with Forum Enviro Pty Ltd</li> </ul>
<b>Coles Supermarkets Australia Pty Limited</b>	<p>Notification from WBC of concern call: O'Brien [37], NOB-1 p178</p> <p>Notification form Coles that contracts of concern: O'Brien [38]; NOB-1 p179</p> <ul style="list-style-type: none"> <li>not "Vinay's signature" on contracts</li> </ul> <p>Email from Coles in relation to contracts: Anderson [76], GKA-1 p296-297</p> <ul style="list-style-type: none"> <li>unsure where the payment schedules and executed documents have come from</li> <li>"I have never witnesses these documents, let alone signed them"</li> <li>"not my handwriting or my signature"</li> </ul> <p>Further call with Coles in relation to contracts: O'Brien 2 [12] NOB-2 p14-15</p> <ul style="list-style-type: none"> <li>Coles had not seen documentation before Westpac provided them</li> <li>Repayment schedules did not reconcile with Coles records</li> <li>Did have a legitimate arrangement with Forum for ORCA equipment that commenced prior to when the suspected fraudulent contracts were executed</li> </ul>
<b>Scentre Shopping Centre Management Pty Ltd</b>	<p>Notification from WBC of concern: O'Brien [35]-[36]</p> <ul style="list-style-type: none"> <li>Scentre commenced internal investigation and will revert</li> </ul> <p>Scentre unable to verify contracts: O'Brien 2 [10]; NOB-2 p10</p> <ul style="list-style-type: none"> <li>Scentre not able to locate a copy of the contracts or agreements</li> <li>No regular payment set up in Scentre's accounts payable system</li> </ul> <p>Further call with Scentre: O'Brien 2 [11], NOB-2 p12-13</p> <ul style="list-style-type: none"> <li>Equipment listed in payment schedule is not located at the Westfield shopping centres</li> </ul>
<b>Catholic Healthcare Limited (CHC)</b>	<p>Email from Catholic Healthcare: O'Brien [44] and NOB-1 p228</p> <ul style="list-style-type: none"> <li>completing review and can't meet with WBC until 12:30pm [28 June 2021]</li> </ul> <p>Update from Catholic Healthcare: O'Brien 2 [17]</p> <ul style="list-style-type: none"> <li>Investigations have not yet completed</li> <li>Not aware of any relationship between Forum Finance and CHC</li> <li>Check of accounting systems and accounts had not located any payments or details related to Forum Finance</li> </ul>

	<ul style="list-style-type: none"> <li>• Have certain ORCA equipment and a contract with Veolia to service that equipment</li> </ul>
<p>HWL Ebsworth Lawyers (<b>HWLE</b>)</p>	<p>Notification from WBC and call: O'Brien [33]-[34] NOB-1 p173</p> <p>HWLE express concern in relation to the contracts, call with Anderson: Anderson [74], GKA-1 p294</p> <ul style="list-style-type: none"> <li>• Kris Hopkins had not seen payment schedules before and “smell[s] a rat”</li> </ul> <p>HWLE confirms initial investigations indicate that the contracts are fraudulent: O'Brien 2 [7], NOB-2 p5-6</p> <ul style="list-style-type: none"> <li>• “Do not believe that they have ever seen, received or executed these documents”</li> <li>• They do not align with our print contract that we currently pay with Forum.</li> <li>• Hold a single printer contract with Forum</li> </ul>

**Schedule B**

**Summary of drawdowns and property purchases by Papas and Tesoriero entities**

<b>Date</b>	<b>Document / Event</b>	<b>Evidence Ref</b>
8 May 2017	Westpac and BHD Leasing Pty Ltd trading as BHO Finance ACN 154 478 707 ( <b>BHD Leasing</b> ) (an entity related to Eqwe) enter into a Principal and Agency Agreement dated 8 May 2017.	First Anderson Affidavit, [19]
11 Apr 2018	Property at 26 EDMONDSTONE RD, BOWEN HILLS QLD 4006 acquired by 26 EDMONSTONE ROAD PTY LTD ACN 622 944 129 (a Jointly Owned Entity).  <b>Purchase price: \$2.9 million. Cumulative property purchases: \$2,900,000.00.</b>	Fourth Murray Affidavit, p 9.
30 Apr 2018	Property at 23 MARGARET STREET, ROZELLE NSW 2039 acquired by 23 MARGARET STREET PTY LTD ACN 623 715 373 (a Tesoriero Owned Entity).  <b>Purchase price: \$4.1 million. Cumulative property purchases: \$7,000,000.00.</b>	Fourth Murray Affidavit, p 10 CMM-1, pp 30, 33
31 Aug 2018	Forum Finance and BHD Leasing enter into a Master Sale of Receivables and Goods Agreement dated 31 August 2018	First Anderson Affidavit, [20]
13 Sep 2018	Contract purportedly with Veolia Environmental Services (Australia) Pty Ltd ( <b>Veolia</b> ) commences with a drawdown on around this date of \$2,170,157.80. This is the first contract purportedly with Veolia.	Sixth Murray Affidavit, [20].
13 Sep 2018	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,840,044.30.	Sixth Murray Affidavit, [20].
14 Sep 2018	Contract purportedly with ALH Group Pty Ltd ( <b>ALH</b> ) entered with a drawdown on around this date of \$1,085,078.90. This is the first contract purportedly with ALH.	Sixth Murray Affidavit, [20].
18 Sep 2018	Property at 12 HARTINGTON STREET, ELSTERNWICK VIC 3185 acquired by CANNER INVESTMENTS PTY LTD ACN 624 176 049 (a Tesoriero Owned Entity).  <b>Purchase price: \$1.7 million. Cumulative property purchases: \$8,700,000.00.</b>	Fourth Murray Affidavit, p 10



<b>Date</b>	<b>Document / Event</b>	<b>Evidence Ref</b>
19 Sep 2018	Contract purportedly with HWL Ebsworth ( <b>HWLE</b> ) commences with a drawdown on around this date of \$4,840,044.30. This is the first contract purportedly with HWLE.	Sixth Murray Affidavit, [20].
20 Sep 2018	Contract purportedly with Coles Supermarkets Australia Pty Ltd ( <b>Coles</b> ) commences with a drawdown on around this date of \$3,047,534.90. This is the first contract purportedly with Coles.	Sixth Murray Affidavit, [20].
21 Sep 2018	Further contract purportedly with ALH commences with a drawdown on around this date of \$2,021,768.30.	Sixth Murray Affidavit, [20].
25 Sep 2018	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,326,826.30.	Sixth Murray Affidavit, [20].
30 Sep 2018	Total drawdown as at 30 Sep 2018 was \$22,944,857.74.  The net drawdowns purportedly by customer were ALH - \$3,112,927.00; Coles - \$3,052,861.07; HWLE - \$4,417,078.20; Veolia - \$12,361,991.47.	CMM-2, p 116.
04 Oct 2018	Further contract purportedly with Coles commences with a drawdown on around this date of \$2,707,584.60.	Sixth Murray Affidavit, [20].
5 Oct 2018	Contract purportedly with Catholic Healthcare Limited ( <b>CHC</b> ) commences with a drawdown on around this date of \$2.941 million. This is the first contract purportedly with CHC.	Sixth Murray Affidavit, [20].
05 Oct 2018	Further contract purportedly with CHC commences with a drawdown on around this date of \$2,940,985.20.	Sixth Murray Affidavit, [20].
9 Oct 2018	Contract purportedly with Westrac Pty Ltd ( <b>Westrac</b> ) commences with a drawdown on around this date of \$2.589 million. This is the first contract purportedly with Westrac.	Sixth Murray Affidavit, [20].
09 Oct 2018	Further contract purportedly with Westrac commences with a drawdown on around this date of \$2,588,731.20.	Sixth Murray Affidavit, [20].
15 Oct 2018	Further contract purportedly with Coles commences with a drawdown on around this date of \$2,515,302.60.	Sixth Murray Affidavit, [20].
15 Oct 2018	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,979,169.40.	Sixth Murray Affidavit, [20].
25 Oct 2018	Contract purportedly with Scentre Shopping Centre Management Pty Ltd ( <b>Scentre</b> ) commences with a drawdown on around this date of \$3.156 million. This is the first and only contract purportedly with Scentre.	Sixth Murray Affidavit, [20].
25 Oct 2018	Further contract purportedly with Scentre commences with a drawdown on around this date of \$3,155,544.70.	Sixth Murray Affidavit, [20].

Date	Document / Event	Evidence Ref
31 Oct 2018	Further contract purportedly with CHC commences with a drawdown on around this date of \$1,905,269.20.	Sixth Murray Affidavit, [20].
31 Oct 2018	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,048,429.50.	Sixth Murray Affidavit, [20].
31 Oct 2018	<p>Total drawdown as at 31 Oct 2018 was \$46,951,558.34.</p> <p>The net drawdowns purportedly by customer were ALH - \$3,127,618.13; CHC - \$4,859,046.21; Coles - \$8,308,123.98; HWLE - \$4,439,233.31; Scentre - \$3,158,558.40; Veolia - \$20,460,688.96; Westrac - \$2,598,289.35.</p>	CMM-2, p 116.
01 Nov 2018	Further contract purportedly with ALH commences with a drawdown on around this date of \$2,068,197.50.	Sixth Murray Affidavit, [20].
22 Nov 2018	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,542,598.50.	Sixth Murray Affidavit, [20].
30 Nov 2018	<p>Total drawdown as at 30 Nov 2018 was \$54,406,320.84.</p> <p>The net drawdowns purportedly by customer were ALH - \$5,160,449.34; CHC - \$4,825,360.93; Coles - \$8,288,522.81; HWLE - \$4,375,637.62; Scentre - \$3,173,641.29; Veolia - \$25,971,337.53; Westrac - \$2,611,371.32.</p>	CMM-2, p 116.
13 Dec 2018	<p>Property at Lots 1 and 2 on Title Plan 092625B - Atherton Road, Oakleigh acquired by FORUM GROUP FINANCIAL SERVICES PTY LTD ACN 623 033 705 (a Jointly Owned Entity).</p> <p><b>Purchase price: \$4.21 million. Cumulative property purchases: \$12,910,000.00.</b></p>	Fourth Murray Affidavit, page 9
14 Dec 2018	Further contract purportedly with ALH commences with a drawdown on around this date of \$1,515,584.60.	Sixth Murray Affidavit, [20].
14 Dec 2018	Further contract purportedly with Coles commences with a drawdown on around this date of \$1,850,418.80.	Sixth Murray Affidavit, [20].
14 Dec 2018	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,942,882.40.	Sixth Murray Affidavit, [20].
31 Dec 2018	<p>Total drawdown as at 31 Dec 2018 was \$63,189,830.73.</p> <p>The net drawdowns purportedly by customer were ALH - \$6,644,517.62; CHC - \$4,791,507.82; Coles - \$10,023,297.74; HWLE - \$4,311,722.96; Scentre - \$3,127,838.05; Veolia - \$31,716,963.29; Westrac - \$2,573,983.25.</p>	CMM-2, p 116.

Date	Document / Event	Evidence Ref
23 Jan 2019	Property at 5 BULKARA ST, WAGSTAFFE NSW 2257 acquired by 5 BULKARA STREET PTY LTD ACN 630 982 160 (a Jointly Owned Entity). <b>Purchase price: \$5.8 million. Cumulative property purchases: \$18,710,000.00.</b>	Fourth Murray Affidavit, p 9
23 Jan 2019	Property at 6 BULKARA ST, WAGSTAFFE NSW 2257 acquired by 6 BULKARA STREET PTY LTD ACN 639 734 473 (a Jointly Owned Entity). <b>Purchase price: \$9.5 million. Cumulative property purchases: \$28,210,000.00.</b>	Fourth Murray Affidavit, p 9
31 Jan 2019	Total drawdown as at 31 Jan 2019 was \$62,545,256.14.  The net drawdowns purportedly by customer were ALH - \$6,575,834.24; CHC - \$4,720,730.41; Coles - \$9,910,927.06; HWLE - \$4,247,487.71; Scentre - \$3,081,816.08; Veolia - \$31,472,053.70; Westrac - \$2,536,406.94.	CMM-2, p 116.
01 Feb 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,212,082.50.	Sixth Murray Affidavit, [20].
22 Feb 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,663,392.70.	Sixth Murray Affidavit, [20].
28 Feb 2019	Total drawdown as at 28 Feb 2019 was \$69,650,857.85.  The net drawdowns purportedly by customer were ALH - \$6,506,825.11; CHC - \$4,649,614.29; Coles - \$9,762,228.74; HWLE - \$4,182,930.27; Scentre - \$3,035,574.35; Veolia - \$39,015,043.65; Westrac - \$2,498,641.44.	CMM-2, p 116.
07 Mar 2019	Further contract purportedly with HWLE commences with a drawdown on around this date of \$2,111,871.10.	Sixth Murray Affidavit, [20].
15 Mar 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,686,561.50.	Sixth Murray Affidavit, [20].
31 Mar 2019	Total drawdown as at 31 Mar 2019 was \$76,562,892.20.  The net drawdowns purportedly by customer were ALH - \$6,408,111.02; CHC - \$4,578,157.86; Coles - \$9,612,826.12; HWLE - \$6,236,791.85; Scentre - \$2,989,111.80; Veolia - \$44,277,207.76; Westrac - \$2,460,685.79.	CMM-2, p 116.
12 Apr 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$6,050,337.20.	Sixth Murray Affidavit, [20].

<b>Date</b>	<b>Document / Event</b>	<b>Evidence Ref</b>
12 Apr 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,697,428.30.	Sixth Murray Affidavit, [20].
29 Apr 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,680,571.80.	Sixth Murray Affidavit, [20].
30 Apr 2019	Total drawdown as at 30 Apr 2019 was \$89,074,856.39.  The net drawdowns purportedly by customer were ALH - \$6,308,930.69; CHC - \$4,506,359.47; Coles - \$9,462,715.83; HWLE - \$6,180,202.77; Scentre - \$2,942,427.38; Veolia - \$57,251,681.21; Westrac - \$2,422,539.04.	CMM-2, p 116.
16 May 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,537,659.80.	Sixth Murray Affidavit, [20].
16 May 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$6,181,983.10.	Sixth Murray Affidavit, [20].
31 May 2019	Total drawdown as at 31 May 2019 was \$97,682,471.27.  The net drawdowns purportedly by customer were ALH - \$6,209,281.91; CHC - \$4,434,217.49; Coles - \$9,311,894.53; HWLE - \$6,083,291.85; Scentre - \$2,895,520.04; Veolia - \$66,364,065.23; Westrac - \$2,384,200.22.	CMM-2, p 116.
07 Jun 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,704,635.60.	Sixth Murray Affidavit, [20].
07 Jun 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,425,977.60.	Sixth Murray Affidavit, [20].
18 Jun 2019	Further contract purportedly with HWLE commences with a drawdown on around this date of \$1,635,996.20.	Sixth Murray Affidavit, [20].
24 Jun 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,812,629.20.	Sixth Murray Affidavit, [20].
25 Jun 2019	Further contract purportedly with ALH commences with a drawdown on around this date of \$4,906,053.70.	Sixth Murray Affidavit, [20].
28 Jun 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,123,184.90.	Sixth Murray Affidavit, [20].

Date	Document / Event	Evidence Ref
30 Jun 2019	<p>Total drawdown as at 30 Jun 2019 was \$119,989,440.75.</p> <p>The net drawdowns purportedly by customer were ALH - \$11,019,838.04; CHC - \$4,361,730.27; Coles - \$9,160,358.86; HWLE - \$7,625,250.83; Scentre - \$2,848,388.70; Veolia - \$82,628,205.67; Westrac - \$2,345,668.38.</p>	CMM-2, p 116.
12 Jul 2019	Eqwe Pty Ltd ACN 630 535 554 (formerly named BHO Funding Pty Ltd) ( <b>Eqwe</b> ) (as the 'Purchaser') and Forum Finance Pty Ltd ACN 153 301 172 (as the 'Seller') enter into a Master Sale of Receivables and Goods Agreement dated 12 July 2019	First Anderson Affidavit, [20]
15 Jul 2019	<p>Westpac (as the 'Principal') and Eqwe (as the 'Agent') enter into a Principal and Agency Agreement dated on or about 15 July 2019</p> <p>Westpac and Eqwe enter into a document titled 'Business Terms Letter BHO Funding Pty Limited – Disclosed Principal and Agency Program' dated 15 July 2019 (<b>Business Terms Letter</b>)</p>	First Anderson Affidavit, [18]-[20]
16 Jul 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,030,083.00.	Sixth Murray Affidavit, [20].
16 Jul 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,453,720.00.	Sixth Murray Affidavit, [20].
24 Jul 2019	Further contract purportedly with HWLE commences with a drawdown on around this date of \$4,432,952.00.	Sixth Murray Affidavit, [20].
24 Jul 2019	Further contract purportedly with Westrac commences with a drawdown on around this date of \$2,365,922.00.	Sixth Murray Affidavit, [20].
29 Jul 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,934,490.00.	Sixth Murray Affidavit, [20].
31 Jul 2019	<p>Total drawdown as at 31 Jul 2019 was \$137,776,587.30.</p> <p>The net drawdowns purportedly by customer were ALH - \$10,942,376.88; CHC - \$4,288,896.16; Coles - \$9,008,105.42; HWLE - \$11,941,383.10; Scentre - \$2,801,032.29; Veolia - \$94,119,363.34; Westrac - \$4,675,430.11.</p>	CMM-2, p 116.
08 Aug 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$6,070,155.00.	Sixth Murray Affidavit, [20].

Date	Document / Event	Evidence Ref
31 Aug 2019	<p>Total drawdown as at 31 Aug 2019 was \$141,799,789.15.</p> <p>The net drawdowns purportedly by customer were ALH - \$10,769,960.52; CHC - \$4,215,713.49; Coles - \$8,855,130.83; HWLE - \$11,715,982.11; Scentre - \$2,753,449.75; Veolia - \$98,981,729.28; Westrac - \$4,507,823.17.</p>	CMM-2, p 116.
10 Sep 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$6,127,898.00.	Sixth Murray Affidavit, [20].
30 Sep 2019	<p>Total drawdown as at 30 Sep 2019 was \$145,689,792.85.</p> <p>The net drawdowns purportedly by customer were ALH - \$10,596,730.75; CHC - \$4,142,180.60; Coles - \$8,701,431.67; HWLE - \$11,455,664.70; Scentre - \$2,705,639.98; Veolia - \$103,750,001.31; Westrac - \$4,338,143.84.</p>	CMM-2, p 116.
01 Oct 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,812,137.00.	Sixth Murray Affidavit, [20].
08 Oct 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,057,261.00.	Sixth Murray Affidavit, [20].
21 Oct 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,674,375.00.	Sixth Murray Affidavit, [20].
31 Oct 2019	<p>Total drawdown as at 31 Oct 2019 was \$155,854,654.36.</p> <p>The net drawdowns purportedly by customer were ALH - \$10,422,683.68; CHC - \$4,068,295.82; Coles - \$8,547,004.51; HWLE - \$11,193,898.08; Scentre - \$2,657,601.92; Veolia - \$114,797,729.80; Westrac - \$4,167,440.55.</p>	CMM-2, p 116.
11 Nov 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,964,751.00.	Sixth Murray Affidavit, [20].
26 Nov 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,052,543.00.	Sixth Murray Affidavit, [20].
30 Nov 2019	<p>Total drawdown as at 30 Nov 2019 was \$163,382,011.83.</p> <p>The net drawdowns purportedly by customer were ALH - \$10,247,815.50; CHC - \$3,994,057.45; Coles - \$8,391,845.88; HWLE - \$10,930,899.73; Scentre - \$2,609,334.46; Veolia - \$123,212,240.22; Westrac - \$3,995,818.59.</p>	CMM-2, p 116.

Date	Document / Event	Evidence Ref
05 Dec 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$7,335,730.00.	Sixth Murray Affidavit, [20].
20 Dec 2019	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,572,477.63.	Sixth Murray Affidavit, [20].
31 Dec 2019	<p>Total drawdown as at 31 Dec 2019 was \$172,491,584.64.</p> <p>The net drawdowns purportedly by customer were ALH - \$10,072,122.30; CHC - \$3,919,463.80; Coles - \$8,235,952.34; HWLE - \$10,666,211.36; Scentre - \$2,560,836.51; Veolia - \$133,213,948.96; Westrac - \$3,823,049.37.</p>	CMM-2, p 116.
14 Jan 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,705,351.94.	Sixth Murray Affidavit, [20].
16 Jan 2020	<p>Property at 14 JAMES STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity).</p> <p><b>Purchase price: \$672,000. Cumulative property purchases: \$28,882,000.00.</b></p>	Fourth Murray Affidavit, p 8.
20 Jan 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,321,478.00.	Sixth Murray Affidavit, [20].
28 Jan 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,043,625.76.	Sixth Murray Affidavit, [20].
31 Jan 2020	<p>Total drawdown as at 31 Jan 2020 was \$177,676,091.33.</p> <p>The net drawdowns purportedly by customer were ALH - \$9,895,600.20; CHC - \$3,844,513.17; Coles - \$8,079,320.39; HWLE - \$10,400,258.56; Scentre - \$2,512,106.98; Veolia - \$139,294,958.32; Westrac - \$3,649,333.71.</p>	CMM-2, p 116.
05 Feb 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,124,862.76.	Sixth Murray Affidavit, [20].
14 Feb 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,191,898.75.	Sixth Murray Affidavit, [20].
24 Feb 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,120,554.00.	Sixth Murray Affidavit, [20].
28 Feb 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,583,160.00.	Sixth Murray Affidavit, [20].

Date	Document / Event	Evidence Ref
29 Feb 2020	<p>Total drawdown as at 29 Feb 2020 was \$186,647,282.48.</p> <p>The net drawdowns purportedly by customer were ALH - \$9,718,245.28; CHC - \$3,769,203.84; Coles - \$7,921,946.56; HWLE - \$10,132,614.90; Scentre - \$2,463,144.74; Veolia - \$149,090,401.56; Westrac - \$3,551,725.60.</p>	CMM-2, p 116.
04 Mar 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$6,420,047.00.	Sixth Murray Affidavit, [20].
18 Mar 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,077,251.00.	Sixth Murray Affidavit, [20].
31 Mar 2020	<p>Total drawdown as at 31 Mar 2020 was \$191,784,895.49.</p> <p>The net drawdowns purportedly by customer were ALH - \$9,540,053.64; CHC - \$3,693,534.11; Coles - \$7,763,827.30; HWLE - \$9,863,284.53; Scentre - \$2,413,948.70; Veolia - \$155,056,782.09; Westrac - \$3,453,465.12.</p>	CMM-2, p 116.
01 Apr 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,929,591.00.	Sixth Murray Affidavit, [20].
14 Apr 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,057,234.00.	Sixth Murray Affidavit, [20].
17 Apr 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,803,002.00.	Sixth Murray Affidavit, [20].
24 Apr 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,093,576.00.	Sixth Murray Affidavit, [20].
30 Apr 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,535,519.00.	Sixth Murray Affidavit, [20].
30 Apr 2020	<p>Total drawdown as at 30 Apr 2020 was \$203,074,806.84.</p> <p>The net drawdowns purportedly by customer were ALH - \$9,361,021.32; CHC - \$3,617,502.25; Coles - \$7,604,959.11; HWLE - \$9,592,834.14; Scentre - \$2,364,517.74; Veolia - \$167,179,169.82; Westrac - \$3,354,802.46.</p>	CMM-2, p 116.
1 May 2020	<p>Property at 124 HIGH STREET, TARADALE VIC 3447 acquired by 123 HIGH STREET TARADALE PTY LTD ACN 639 872 512 (a Tesoriero Owned Entity).</p> <p><b>Purchase price: \$562,500. Cumulative property purchases: \$29,444,500.00.</b></p>	Fourth Murray Affidavit, p 10



Date	Document / Event	Evidence Ref
1 May 2020	Property at 2 COWSLIP STREET, VIOLET TOWN VIC 3669 acquired by 4 COWSLIP STREET VIOLET TOWN PTY LTD ACN 639 872 352 (a Tesoriero Owned Entity). <b>Purchase price: \$3.485 million. Cumulative property purchases: \$32,930,314.29.</b>	Fourth Murray Affidavit, p 10
1 May 2020	Property at 15 MAIN STREET, DERRINALLUM VIC 3325 acquired by 9 MAIN STREET DERRINALLUM PTY LTD ACN 639 872 736 (a Tesoriero Owned Entity). <b>Purchase price: \$1.25 million. Cumulative property purchases: \$34,180,314.29.</b>	Fourth Murray Affidavit, p 11
1 May 2020	Properties at 9-13 MAIN STREET, DERRINALLUM VIC 3325 acquired by 9 MAIN STREET DERRINALLUM PTY LTD ACN 639 872 736 (a Tesoriero Owned Entity). <b>Purchase price: \$1.25 million (included with 15 Main St). Cumulative property purchases: \$34,180,314.29.</b>	Fourth Murray Affidavit, p 11
08 May 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$5,257,288.00.	Sixth Murray Affidavit, [20].
18 May 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,740,612.00.	Sixth Murray Affidavit, [20].
22 May 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,516,365.00.	Sixth Murray Affidavit, [20].
22 May 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,585,310.00.	Sixth Murray Affidavit, [20].
31 May 2020	Total drawdown as at 31 May 2020 was \$210,566,316.07.  The net drawdowns purportedly by customer were ALH - \$9,181,144.32; CHC - \$3,541,106.50; Coles - \$7,445,338.42; HWLE - \$9,320,690.87; Scentre - \$2,314,850.73; Veolia - \$175,507,699.86; Westrac - \$3,255,485.37.	CMM-2, p 116.
04 Jun 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,257,362.00.	Sixth Murray Affidavit, [20].
11 Jun 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,831,433.00.	Sixth Murray Affidavit, [20].
11 Jun 2020	Property at 1160 GLEN HUNTLY ROAD, GLEN HUNTLY VIC 3163 acquired by 1160 GLEN HUNTLY ROAD PTY LTD ACN 639 447 984 (a Tesoriero Owned Entity). <b>Purchase price: \$1.672 million. Cumulative property purchases: \$35,852,314.29.</b>	Fourth Murray Affidavit, p 10

Date	Document / Event	Evidence Ref
12 Jun 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,478,849.00.	Sixth Murray Affidavit, [20].
26 Jun 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,259,273.00.	Sixth Murray Affidavit, [20].
26 Jun 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,594,102.00.	Sixth Murray Affidavit, [20].
30 Jun 2020	<p>Total drawdown as at 30 Jun 2020 was \$219,192,441.76.</p> <p>The net drawdowns purportedly by customer were ALH - \$9,000,418.69; CHC - \$3,464,345.16; Coles - \$7,284,961.68; HWLE - \$9,047,201.19; Scentre - \$2,264,946.54; Veolia - \$184,974,901.58; Westrac - \$3,155,666.92.</p>	CMM-2, p 116.
06 Jul 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,587,414.00.	Sixth Murray Affidavit, [20].
13 Jul 2020	Further contract purportedly with Westrac commences with a drawdown on around this date of \$1,538,174.00.	Sixth Murray Affidavit, [20].
13 Jul 2020	<p>Property at 89 BETKA ROAD, MALLACOOTA VIC 3892 acquired by 89 BETKA ROAD MALLACOOTA PTY LTD 641 393 179 (a Tesoriero Owned Entity).</p> <p><b>Purchase price: \$1.137 million. Cumulative property purchases: \$36,989,000.00.</b></p>	Fourth Murray Affidavit, p 11
15 Jul 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,256,543.00.	Sixth Murray Affidavit, [20].
15 Jul 2020	<p>Property at 14 KIRWIN ROAD, MORWELL VIC 3840 acquired by 14 KIRWIN ROAD MORWELL PTY LTD 641 402 093 (a Tesoriero Owned Entity).</p> <p><b>Purchase price: \$1.324 million. Cumulative property purchases: \$38,313,285.71.</b></p>	Fourth Murray Affidavit, p 10
15 Jul 2020	<p>Properties at 160 MURRAY VALLEY HIGHWAY, LAKE BOGA VIC 3584 acquired by 160 MURRAY VALLEY HWY LAKE BOGA PTY LTD ACN 641 392 921 (a Tesoriero Owned Entity).</p> <p><b>Purchase price: \$1,781,250. Cumulative property purchases: \$40,094,535.71.</b></p>	Fourth Murray Affidavit, p 10
15 Jul 2020	<p>Property at 31 ELLERMAN STREET DIMBOOLA VIC 3414 acquired by 31 ELLERMAN STREET DIMBOOLA PTY LTD ACN 641 392 887 (a Tesoriero Owned Entity).</p> <p><b>Purchase price: \$1,05 million. Cumulative property purchases: \$41,144,535.71.</b></p>	Fourth Murray Affidavit, p 10

Date	Document / Event	Evidence Ref
15 Jul 2020	Property at 55 NOLAN STREET, MARYBOROUGH VIC 3465 acquired by 55 NOLAN STREET MARYBOROUGH PTY LTD 641 392 912 (a Tesoriero Owned Entity). <b>Purchase price: \$1.2 million. Cumulative property purchases: \$42,344,535.71.</b>	Fourth Murray Affidavit, p 11
20 Jul 2020	Property at WAREHOUSE 1, 9 PARSONS STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$406,000. Cumulative property purchases: \$42,750,535.71.</b>	Fourth Murray Affidavit, p 8
20 Jul 2020	Property at WAREHOUSE 2, 9 PARSONS STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$406,000. Cumulative property purchases: \$43,156,535.71.</b>	Fourth Murray Affidavit, p 8
20 Jul 2020	Property at WAREHOUSE 3, 9 PARSONS STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$406,000. Cumulative property purchases: \$43,562,535.71.</b>	Fourth Murray Affidavit, p 8
20 Jul 2020	Property at 10 JAMES STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$1.035 million. Cumulative property purchases: \$44,597,835.71.</b>	Fourth Murray Affidavit, p 8
20 Jul 2020	Property at 12 JAMES STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$1.043 million. Cumulative property purchases: \$45,641,255.71.</b>	Fourth Murray Affidavit, p 8
20 Jul 2020	Property at 16 JAMES STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$406,000. Cumulative property purchases: \$46,047,255.71.</b>	Fourth Murray Affidavit, p 8
20 Jul 2020	Property at 18 JAMES STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$406,000. Cumulative property purchases: \$46,453,255.71.</b>	Fourth Murray Affidavit, p 8

Date	Document / Event	Evidence Ref
20 Jul 2020	Property at 8 OLIVE STREET, CLAYTON SOUTH VIC 3169 acquired by 14 JAMES STREET PTY LTD ACN 638 449 206 (a Jointly Owned Entity). <b>Purchase price: \$523,740.00. Cumulative property purchases: \$46,976,995.71.</b>	Fourth Murray Affidavit, p 8
24 Jul 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,784,226.00.	Sixth Murray Affidavit, [20].
31 Jul 2020	Total drawdown as at 31 Jul 2020 was \$223,576,484.59.  The net drawdowns purportedly by customer were ALH - \$8,818,840.41; CHC - \$3,387,216.44; Coles - \$7,123,825.30; HWLE - \$8,772,017.39; Scentre - \$2,214,804.06; Veolia - \$188,663,372.71; Westrac - \$4,596,408.28.	CMM-2, p 116.
05 Aug 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,525,328.00.	Sixth Murray Affidavit, [20].
14 Aug 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,005,152.00.	Sixth Murray Affidavit, [20].
17 Aug 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,453,968.00.	Sixth Murray Affidavit, [20].
31 Aug 2020	Total drawdown as at 31 Aug 2020 was \$225,558,194.20.  The net drawdowns purportedly by customer were ALH - \$8,636,405.48; CHC - \$3,309,718.59; Coles - \$6,961,925.68; HWLE - \$8,495,452.93; Scentre - \$2,164,422.13; Veolia - \$191,489,771.14; Westrac - \$4,500,498.25.	CMM-2, p 116.
09 Sep 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,006,980.00.	Sixth Murray Affidavit, [20].
09 Sep 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,945,415.00.	Sixth Murray Affidavit, [20].
29 Sep 2020	Further contract purportedly with Westrac commences with a drawdown on around this date of \$2,032,513.00.	Sixth Murray Affidavit, [20].
30 Sep 2020	Total drawdown as at 30 Sep 2020 was \$227,324,025.55.  The net drawdowns purportedly by customer were ALH - \$8,453,109.84; CHC - \$3,231,849.86; Coles - \$6,799,259.24; HWLE - \$8,217,339.14; Scentre - \$2,113,799.62; Veolia - \$192,100,145.06; Westrac - \$6,408,522.79.	CMM-2, p 116.

Date	Document / Event	Evidence Ref
07 Oct 2020	Further contract purportedly with HWLE commences with a drawdown on around this date of \$2,339,357.00.	Sixth Murray Affidavit, [20].
15 Oct 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,256,712.00.	Sixth Murray Affidavit, [20].
15 Oct 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,694,733.00.	Sixth Murray Affidavit, [20].
28 Oct 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,898,911.00.	Sixth Murray Affidavit, [20].
31 Oct 2020	<p>Total drawdown as at 31 Oct 2020 was \$232,191,127.40.</p> <p>The net drawdowns purportedly by customer were ALH - \$8,268,949.44; CHC - \$3,153,608.47; Coles - \$6,635,822.29; HWLE - \$10,283,861.21; Scentre - \$2,062,935.36; Veolia - \$195,496,509.63; Westrac - \$6,289,441.00.</p>	CMM-2, p 116.
02 Nov 2020	Further contract purportedly with Westrac commences with a drawdown on around this date of \$2,135,491.00.	Sixth Murray Affidavit, [20].
04 Nov 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,697,237.00.	Sixth Murray Affidavit, [20].
04 Nov 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,006,051.00.	Sixth Murray Affidavit, [20].
23 Nov 2020	<p>Property at 64-66 BERKELEY STREET, HAWTHORN, VIC 3122 acquired by 64-66 BERKELEY ST HAWTHORN PTY LTD ACN 643 838 662 a Jointly Owned Entity).</p> <p><b>Purchase price: \$7.95 million. Cumulative property purchases: \$54,926,995.71.</b></p>	Fourth Murray Affidavit, p 8
27 Nov 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,945,845.00.	Sixth Murray Affidavit, [20].
30 Nov 2020	<p>Total drawdown as at 30 Nov 2020 was \$237,560,711.53.</p> <p>The net drawdowns purportedly by customer were ALH - \$8,083,920.20; CHC - \$3,074,992.61; Coles - \$6,471,611.22; HWLE - \$9,967,619.09; Scentre - \$2,011,828.22; Veolia - \$199,638,608.70; Westrac - \$8,312,131.49.</p>	CMM-2, p 116.
03 Dec 2020	Further contract purportedly with Westrac commences with a drawdown on around this date of \$1,921,796.00.	Sixth Murray Affidavit, [20].
08 Dec 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,179,876.00.	Sixth Murray Affidavit, [20].

Date	Document / Event	Evidence Ref
08 Dec 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,011,679.00.	Sixth Murray Affidavit, [20].
18 Dec 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,207,685.00.	Sixth Murray Affidavit, [20].
18 Dec 2020	Property at 9 GREGORY STREET, OUYEN VIC 3490 acquired by 9 GREGORY STREET OUYEN PTY LTD ACN 641 392 707 (a Tesoriero Owned Entity). <b>Purchase price: \$900,000. Cumulative property purchases: \$55,826,995.71.</b>	Fourth Murray Affidavit, p 11
22 Dec 2020	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,184,390.00.	Sixth Murray Affidavit, [20].
31 Dec 2020	Total drawdown as at 31 Dec 2020 was \$244,536,868.30.  The net drawdowns purportedly by customer were ALH - \$7,898,018.00; CHC - \$2,996,000.49; Coles - \$6,306,622.34; HWLE - \$9,693,327.21; Scentre - \$1,960,477.04; Veolia - \$205,632,802.84; Westrac - \$10,049,620.38.	CMM-2, p 116.
25 Jan 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$4,358,149.00.	Sixth Murray Affidavit, [20].
31 Jan 2021	Total drawdown as at 31 Jan 2021 was \$244,179,661.19.  The net drawdowns purportedly by customer were ALH - \$7,711,238.72; CHC - \$2,916,630.33; Coles - \$6,140,851.99; HWLE - \$9,373,693.02; Scentre - \$1,908,880.64; Veolia - \$206,223,981.91; Westrac - \$9,904,384.58.	CMM-2, p 116.
04 Feb 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,278,149.00.	Sixth Murray Affidavit, [20].
04 Feb 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,008,661.00.	Sixth Murray Affidavit, [20].
16 Feb 2021	Further contract purportedly with ALH commences with a drawdown on around this date of \$3,218,174.00.	Sixth Murray Affidavit, [20].
18 Feb 2021	Further contract purportedly with Westrac commences with a drawdown on around this date of \$712,173,173.00.	Sixth Murray Affidavit, [20].
18 Feb 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,379,141.00.	Sixth Murray Affidavit, [20].

<b>Date</b>	<b>Document / Event</b>	<b>Evidence Ref</b>
28 Feb 2021	Total drawdown as at 28 Feb 2021 was \$249,955,395.32.  The net drawdowns purportedly by customer were ALH - \$10,744,555.98; CHC - \$2,836,880.31; Coles - \$5,974,296.46; HWLE - \$9,052,229.35; Scentre - \$1,857,037.85; Veolia - \$209,094,041.28; Westrac - \$10,396,354.09.	CMM-2, p 116.
11 Mar 2021	Further contract purportedly with ALH commences with a drawdown on around this date of \$2,325,528.00.	Sixth Murray Affidavit, [20].
26 Mar 2021	Further contract purportedly with ALH commences with a drawdown on around this date of \$2,894,802.00.	Sixth Murray Affidavit, [20].
26 Mar 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,957,725.00.	Sixth Murray Affidavit, [20].
26 Mar 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$1,069,712.00.	Sixth Murray Affidavit, [20].
31 Mar 2021	Total drawdown as at 31 Mar 2021 was \$253,092,184.99.  The net drawdowns purportedly by customer were ALH - \$15,786,663.47; CHC - \$2,756,748.61; Coles - \$5,806,952.02; HWLE - \$8,728,847.71; Scentre - \$1,804,947.50; Veolia - \$208,018,950.88; Westrac - \$10,189,074.80.	CMM-2, p 116.
13 Apr 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$3,427,024.00.	Sixth Murray Affidavit, [20].
13 Apr 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$802,506,506.00.	Sixth Murray Affidavit, [20].
14 Apr 2021	Further contract purportedly with ALH commences with a drawdown on around this date of \$2,221,902.00.	Sixth Murray Affidavit, [20].
30 Apr 2021	Total drawdown as at 30 Apr 2021 was \$254,401,578.37.  The net drawdowns purportedly by customer were ALH - \$17,781,734.14; CHC - \$2,676,233.39; Coles - \$5,638,814.93; HWLE - \$8,404,002.73; Scentre - \$1,752,608.40; Veolia - \$208,180,338.94; Westrac - \$9,967,845.84.	CMM-2, p 116.
06 May 2021	Further contract purportedly with ALH commences with a drawdown on around this date of \$2,281,892.00.	Sixth Murray Affidavit, [20].
07 May 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$14,122,374.00.	Sixth Murray Affidavit, [20].

<b>Date</b>	<b>Document / Event</b>	<b>Evidence Ref</b>
18 May 2021	Further contract purportedly with ALH commences with a drawdown on around this date of \$1,728,725.00.	Sixth Murray Affidavit, [20].
21 May 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$20,408,402.00.	Sixth Murray Affidavit, [20].
31 May 2021	Total drawdown as at 31 May 2021 was \$261,343,318.57.  The net drawdowns purportedly by customer were ALH - \$21,479,667.46; CHC - \$2,595,332.82; Coles - \$5,469,881.44; HWLE - \$8,077,325.27; Scentre - \$1,700,019.37; Veolia - \$212,275,473.41; Westrac - \$9,745,618.80.	CMM-2, p 116.
09 Jun 2021	Further contract purportedly with Veolia commences with a drawdown on around this date of \$2,900,277.00.	Sixth Murray Affidavit, [20].
16 Jun 2021	Last known communication with Mr Papas.	First Anderson Affidavit, [46]-[53]
30 Jun 2021	Total drawdown as at 30 Jun 2021 was \$254,219,440.23.  The net drawdowns purportedly by customer were ALH - \$21,026,117.46; CHC - \$2,501,882.82; Coles - \$5,274,781.44; HWLE - \$7,713,916.82; Scentre - \$1,639,119.37; Veolia - \$210,985,057.83; Westrac - \$5,078,564.49.	CMM-2, p 116.