

Exhibit certificate

No. NSD616 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: General

WESTPAC BANKING CORPORATION ABN 33 007 457 and others named in the Schedule
Applicants

FORUM FINANCE PTY LIMITED and others named in the Schedule
Respondents

This is the exhibit marked 'DC-1' now produced and shown to Domenico Alessandro Calabretta at the time of swearing his affidavit on 15 July 2021 before me



Kieran Kelly
Solicitor

Filed on behalf of (name & role of party) Forum Group Pty Ltd ACN 153 336 997 (Receivers Appointed)
(Administrators Appointed), the proposed Fifth Respondent

Prepared by (name of person/lawyer) Luke Whiffen

Law firm (if applicable) Hilton Bradley Lawyers

Tel 1300 240 319 Fax _____

Email luke@hiltonbradley.com.au

Address for service Suite 1101, Level 11, 99 York Street, Sydney NSW 2000
(include state and postcode) _____

Annexure A

Company Name	ACN	ABN
14 James Street Pty Ltd	638 449 206	Not registered
26 Edmonstone Road Pty Ltd	622 944 129	Not registered
5 Bulkara Street Pty Ltd	630 982 160	Not registered
6 Bulkara Street Pty Ltd	639 734 473	Not registered
Aramia Holdings Pty Ltd	114 958 717	Not registered
Autonomus Energy Pty Ltd	113 593 383	94 113 593 383
Eros Management Pty Ltd	622 298 346	Not registered
Forum Direct Pty Ltd	054 890 710	20 054 890 710
Forum Enviro (Aust) Pty Ltd	607 484 364	78 607 484 364
Forum Enviro Pty Ltd	168 709 840	87 168 709 840
Forum Fleet Pty Limited	155 440 994	37 155 440 994
Forum Group (QLD) Pty Ltd	103 609 678	77 103 609 678
Forum Group (VIC) Pty Ltd	153 062 018	56 153 062 018
Forum Group Financial Services Pty Ltd	623 033 705	45 623 033 705
Forum Group Pty Ltd	153 336 997	25 153 336 997
Imagetec Financial Services Pty Ltd	111 978 182	78 111 978 182
Imagetec Solutions Australia Pty Ltd	074 715 718	68 074 715 718
Intrashield Investment Group Pty Ltd	645 578 829	98 645 578 829
Intrashield Pty Ltd	133 426 534	78 133 426 534
Iugis Investments Pty Ltd	647 627 745	Not registered
Iugis Pty Ltd	632 882 243	67 632 882 243
Iugis Waste Solutions Pty Ltd	647 212 299	48 647 212 299
Onesource Australia Holdings Pty Limited	120 463 541	50 120 463 541
Orca Enviro Solutions Pty Ltd	626 552 645	95 626 552 645
Orca Enviro Systems Pty Ltd	627 597 782	42 627 597 782
Smartprint Fleet Management Pty Ltd	132 807 080	35 132 807 080
Spartan Consulting Group Pty Ltd	168 989 544	39 168 989 544
The Forum Group of Companies Pty Ltd	151 964 626	72 151 964 626

MinterEllison

12 July 2021

BY EMAIL: kieran.kelly@hiltonbradley.com.au

Kieran Kelly
Hilton Bradley Lawyers
Suite 1101 - Level 11
99 York Street
Sydney NSW 2000

Dear Mr Kelly

Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia Proceeding NSD616/2021 (Proceedings)

Introduction

- 1.1 As you are aware, we act for Westpac Banking Corporation (**Westpac**).
- 1.2 We note that you appeared at the hearings on 9 July 2021 in the Proceedings before his Honour Justice Lee on behalf of your clients Domenico Alessandro Calabretta, Grahame Robert Ward and Thyge Trafford-Jones of Mackay Goodwin in their capacity as voluntary administrators of Forum Group Pty Ltd ACN 153 336 997 (Receivers Appointed) (Administrators Appointed) (**Forum Group**).
- 1.3 We understand that:
 - (a) on or about 8 July 2021, your clients were appointed as voluntary administrators of Forum Group and certain other companies related to Mr Basile Papadimitriou (also known as Bill Papas) (**Mr Papas**) including those listed in the Schedule to this letter which we have identified based on the records of the Australian Securities and Investments Commission since 10 July 2021 (together, the **Administration Companies**); and
 - (b) your clients' appointments were made by Mr Papas as the director of the Administration Companies pursuant to section 436A of the *Corporations Act 2001* (Cth) (**Act**). Please urgently let us know if that was not the case.

Our client's claim in the Proceedings

- 2.1 Our client has a strong prima facie case that all of the amounts that it paid to Forum Finance Pty Ltd (in liquidation) ACN 153 301 172 (**Forum Finance**), the first respondent in the Proceedings, are impressed with a trust in accordance with the principles set out in *Black v S Freedman & Co* (1910) 12 CLR 105 (**Black v Freedman**), presently quantified by our client in its amended originating application filed 8 July 2021 in the amount of \$253,766,555.76. Pursuant to the principles described in *Toksoz v Westpac Banking Corporation* [2012] NSWCA 199 and *Fistar v Riverwood Legion and Community Club Ltd* (2016) 91 NSWLR 732, any persons who have received or had distributed to them any funds by Forum Finance also hold those funds on trust for our client.
- 2.2 Based on investigations to date, which are continuing, and the principles in relation to the tracing of moneys from theft, our client considers that some or all of the Administration Companies are also trustees for Westpac of funds paid to them by Forum Finance that were stolen from Westpac.

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Our preliminary review of the bank statements that were made available on 9 July 2021 have shown a regular pattern of the stolen funds being received from Westpac and then immediately paid out to other Forum companies, in particular, Forum Group, Forum Enviro (Aust) Pty Ltd (Administrators Appointed) ACN 607 484 364, Forum Enviro Pty Ltd (Administrators Appointed) ACN 168 709 840 and Forum Group Financial Services Pty Ltd (Administrators Appointed) ACN 623 033 705. It appears that much of the group of companies of which Mr Papas was a director operated in an interrelated way, with significant intercompany transfers. Any of the Administration Companies which received money from Forum Finance, either directly or through another of the Administration Companies or Mr Papas, is a trustee for Westpac in relation to those funds and the assets that they hold are impressed with a trust. To the extent those companies have in turn dissipated the funds they received, those companies have an obligation to account to our client for the money paid away.

- 2.3 Given our client's claims (or more accurately, choses in action) as against the Administration Companies are proprietary in nature, our client's claims for amounts that are the subject of our client's proprietary interests in the assets of the Administration Companies will prevail over any priority your clients are entitled to with respect to their fees and any statutory right of indemnity in connection with their appointments as administrators.

Your clients should consent to their replacement as administrators of the Administration Companies

- 3.1 As you know, on 9 July 2021 Messrs Preston and Ireland of McGrathNicol were appointed by the Court as joint and several liquidators of Forum Finance.
- 3.2 Messrs Preston and Ireland have consented to act as administrators and liquidators of each of the Administration Companies. We are in the process of obtaining written consents to act in relation to each of the Administration Companies signed by Messrs Preston and Ireland which will be provided to you imminently.
- 3.3 Given the nature of our client's claims as outlined above, our client's position (and that of the broader Westpac Group) is that:
- (a) the affairs of the Administration Companies appear very likely to be complex and will involve claims of fraud, both within Australia and potentially in many other jurisdictions. Such complex administrations will require significant resources and international connections. McGrathNicol, having offices in both Australia and New Zealand (with more than 30 partners and almost 300 staff) and a strategic association with global professional services firm, Alvarez & Marsal, worldwide are able to provide that expertise and resourcing. Without being critical of your clients' firm, our client's position is that McGrathNicol are better placed to handle the affairs of the Administration Companies, noting that they have been appointed by the Court as the liquidators of Forum Finance on 9 July 2021;
 - (b) similarly, our client considers that with offices only in Sydney, your clients are unlikely to have the resources to undertake a liquidation of the Administration Companies, which will involve a thorough and complex investigation of a very large fraud throughout Australia and potentially overseas;
 - (c) there is a significant interest in there being a single administration of the Administration Companies in the context of these companies, rather than that responsibility being divided between multiple insolvency administrators. There is also very great interest in avoiding duplication of effort by multiple administrations – and even worse, a contest between your clients and our client as to the form of the administration and the identity of the administrators – which can only detract from whatever resources might be available for ultimate distribution amongst creditors including our client. Similarly, there is a real benefit in the investigation into the conduct of the Administration Companies and Mr Papas being undertaken with considerable expedition. The investigation into Forum Finance's affairs and conduct is already being impeded by a failure of the company's officers to give the liquidators access to, for example, bank accounts based on an assertion of the interests of the Administration Companies (which is similar to a point taken by Forum Finance when under the control of Mr Papas in relation to documents obtained by search orders);

- (d) in the context of the appointment of your clients as voluntary administrators, having regarding to section 440A(2) of the Act, our client considers that the Court would not be satisfied that it is in the interests of the Administration Companies' creditors to continue under administration rather than to have a liquidator appointed. For the Administration Companies to continue under administration of your clients would have the detrimental consequences, to which we refer in paragraph (c) above, of dividing the administration, potentially resulting in duplications of costs and effort and very likely resulting in the application of limited resources to a dispute between your clients and potential liquidators rather than for the benefit of creditors including our client; and
 - (e) further, there is nothing to indicate any realistic probability of a deed of company arrangement being proposed or any benefit to creditors of the Administration Companies arising in that way. Ultimately, our client's position is the Administration Companies should be placed into liquidation without delay.
- 3.4 Given these matters, our client (a) intends to urgently apply for the liquidation of those of the Administration Companies of which it is a creditor and (b) at the meetings of the creditors of the respective Administration Companies convened under section 436E of the Act (**First Creditors Meetings**) our client intends to submit a proof of debt in each of the administrations.
- 3.5 In the interests of avoiding your clients incurring any further unnecessary costs in the administration associated with convening the First Creditors Meetings, our client invite your clients to consent to Messrs Preston and Ireland replacing them as administrators of the Administration Companies (and any other related entities to which they have been appointed) and to resign prior to the First Creditors Meeting. Please confirm in writing that your clients consent to their removal and replacement by Messrs Preston and Ireland as administrators of the Administration Companies by no later than **5.00pm (AEST), today 12 July 2021**.
- 3.6 Pending that confirmation, and given the urgent nature of the proceedings and the seriousness of the underlying fraud, Westpac intends to apply to the Court for orders that some or all of the Administration Companies be wound up by the Court and that Messrs Preston and Ireland appointments as liquidators of some or all of the Administration Companies.

Request for information under the IPSC

- 4.1 We are instructed that Westpac requests the following information from your clients pursuant to section 70-45 of the Insolvency Practice Schedule (Corporations) (**IPSC**)¹:
- (a) All records of communications, including but not limited to emails, text messages, WhatsApp messages or other electronic messaging platforms and file notes, that your clients and their staff have had, in the period from 1 June 2021, to date with:
 - (i) any director, employees or representatives of any of the Administration Companies; or
 - (ii) Mr Papas or his representatives,
- (the **Information Requested**).
- 4.2 Westpac considers that the Information Requested is an appropriate request in the circumstances, and note that your clients bear the onus of establishing that it would be unreasonable for them to comply with Westpac's request under section 70-45 of the IPSC and rule 70-15(2) of the *Insolvency Practice Rules (Corporations) 2016* (Cth).²
- 4.3 Please provide the Information Requested by no later than **10.00am (AEST), Tuesday 13 July 2021**.

¹ Schedule 2 to the Act.

² *In the matter of 1st Fleet Pty Ltd (in liquidation)* [2019] NSWSC 6 at [27]; *Re Pacific Biotechnologies Ltd* [2020] VSC 636 at [24]-[36].

4.4 We note that the respective solicitors for:

- (a) Societe Generale (ARBN 092 516 286), the applicant in Federal Court of Australia proceedings NSD642/2021 as against Forum Finance and Mr Papas as respondents; and
- (b) SMBC Leasing and Finance, Inc (ARBN 602 309 366),

whose respective clients we understand are creditors of at least some of the Administration Companies, are copied to this correspondence.

All of our client's rights are expressly reserved.

Yours faithfully
MinterEllison



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COPY BY EMAIL TO:

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Roger Dobson
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Schedule – Administration Companies

	Company name	ACN
1.	The Forum Group of Companies Pty Limited (Administrators Appointed)	151 964 626
2.	Forum Group Pty Ltd (Receivers Appointed) (Administrators Appointed)	153 336 997
3.	Forum Group (QLD) Pty Ltd (Administrators Appointed)	103 609 678
4.	Forum Group (VIC) Pty Ltd (Administrators Appointed)	153 062 018
5.	Forum Fleet Pty Limited (Administrators Appointed)	155 440 994
6.	Forum Enviro Pty Ltd (Administrators Appointed)	168 709 840
7.	Forum Direct Pty Ltd (Administrators Appointed)	054 890 710
8.	Forum Enviro (Aust) Pty Ltd (Administrators Appointed)	607 484 364
9.	Forum Group Financial Services Pty Ltd (Administrators Appointed)	623 033 705
10.	Iugis Pty Ltd (Administrators Appointed)	632 882 243
11.	Iugis Investments Pty Ltd (Administrators Appointed)	647 627 745
12.	Iugis Waste Services Pty Ltd (Administrators Appointed)	647 212 299
13.	Imagetec Financial Services Pty Ltd (Administrators Appointed)	111 978 182
14.	Imagetec Solutions Australia Pty Ltd (Administrators Appointed)	074 715 718
15.	Onesource Australia Holdings Pty Limited (Administrators Appointed)	120 463 541
16.	Smartprint Fleet Management Pty Ltd (Administrators Appointed)	132 807 080
17.	Autonomous Energy Pty Ltd (Administrators Appointed)	113 593 383
18.	Orca Enviro Solutions Pty Ltd (Administrators Appointed)	626 552 645
19.	Orca Enviro Systems Pty Ltd (Administrators Appointed)	627 597 782

CONTACT: Kieran Kelly
CONTACT EMAIL: kieran.kelly@hiltonbradley.com.au
RESPONSIBLE DIRECTOR: Luke Whiffen
OUR REF: 1495



12 July 2021

Anthony Sommer
MinterEllison
Level 40, Governor Macquarie Tower
1 Farrer Place Sydney NSW 2000
By email only: anthony.sommer@minterellison.com

Dear Mr Sommer,

**FEDERAL COURT OF AUSTRALIA, PROCEEDING NO. NSD616 OF 2021
WESTPAC BANKING CORPORATION V FORUM FINANCE PTY LIMITED & ORS**

We refer to your letter dated 12 July 2021 and adopt the definitions therein.

In your letter you:

1. assert that Westpac has a proprietary claim with respect to the funds of some or all of the Administration Companies on the basis that monies were paid over to them by Forum Finance that were stolen from Westpac (**Trust Assertion**);
2. assert that the Administration Companies should be wound up and / or that our clients should consent to Messrs Preston and Ireland of McGrathNicol replacing them as administrators of the Administration Companies (**Replacement Assertion**); and
3. request that the Information Requested be provided by 10am tomorrow.

We will deal with each of these matters in turn.

Trust Assertion

As you are no doubt aware, our clients were only very recently appointed as administrators to the Administration Companies. Accordingly, their investigations are continuing as to the affairs of these companies and the extent of their connection to Forum Finance.

However, our clients' investigations thus far reveal that a large component of the Administration Companies carried out stand-alone information technology support businesses unrelated to that of Forum Finance and may not be subject to any alleged fraud carried out by Forum Finance and its directors. The business carried out by the Administration Companies involved the derivation of revenue from customers and the activities of the companies were financed from sources unrelated to Forum Finance (for example, facilities provided by National Australia Bank Limited and Octet Finance Pty Ltd).

It is not clear, therefore, that any monies obtained from Westpac by way of allegedly fraudulent activity by Forum Finance are necessarily traceable into the assets or property of the Administration Companies (No doubt that is why, for example, your client consented to orders involving a specific exception to extant freezing orders so as to permit funds advanced by Octet Finance Pty Ltd to Forum Group to be repaid to Octet Finance Pty Ltd from the assets of that company).

Hilton Bradley Lawyers
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Level 21
133 Castlereagh Street
SYDNEY NSW 2000
Phone: (02) 8379 1896

We wish to be clear, however, that the question of the source of funds received by the Administration Companies is a matter that the administrators will be investigating in detail. Accordingly, we assure you and your client that our clients intend to undertake a detailed and comprehensive assessment of the source of funds paid to the Administration Companies including the extent to which funds were fraudulently obtained by Forum Finance and paid over to some or all of the Administration Companies. Indeed, the allegations of the magnitude of the fraud are alarming and a matter of the utmost concern.

We note in that regard your letter states that:

[a] preliminary review of the bank statements that were made available on 9 July 2021 have [sic] shown a regular pattern of the stolen funds being received from Westpac and then immediately paid out to other Forum companies, in particular, Forum Group, Forum Enviro (Aust) Pty Ltd (Administrators Appointed) ACN 607 484 364, Forum Enviro Pty Ltd (Administrators Appointed) ACN 168 709 840 and Forum Group Financial Services Pty Ltd (Administrators Appointed) ACN 623 033 705.

To assist the administrators with their enquiries, we would be grateful if you could please provide the relevant bank statements that are referred to in the passage above.

Finally, as to the matter of your client's claim, we do not necessarily accept your assertion as to Westpac's priority vis-à-vis the property and assets of the Administration Companies. For example, there are other secured creditors who may have acquired a security interest over some or all of the assets of the Administration Companies in good faith and without notice of any alleged trust in favour of Westpac. Moreover, a *Universal Distributing* claim of the external administrators may take priority over any proprietary claim of your client: *Stewart v Atco Controls Pty Ltd (in liq)* (2014) 252 CLR 307. However, we do not consider that this is the proper time to consider these matters; rather, our clients' present concern (which you will no doubt appreciate) is to continue to undertake their investigations into the affairs of the Administration Companies and act in the interests of all stakeholders including the substantial number of employees and creditors of the companies.

Replacement Assertion

The Replacement Assertion appears to be made on the basis that:

1. the Administration Companies should immediately be placed into liquidation;
2. our clients do not have the resources to undertake a liquidation of the Administration Companies; and
3. there is a benefit in there being a single external administration of the Administration Companies and Forum Finance conducted by the present liquidators of Forum Finance.

We do not agree with the premises of the assertion or the ultimate conclusion for which you contend. We address these matters below.

In relation to (1), our clients do not accept that the Administration Companies should necessarily be placed into liquidation immediately and the administrations should end. The objects of an administration conducted under Part 5.3A of the *Corporations Act 2001* (Cth) are to preserve and salvage as much of the business of the company as possible and otherwise to take steps that will maximise the return to creditors of the company. An immediate winding up may be antithetical to those statutory objects.

As set out above, our clients are currently investigating the affairs of the Administration Companies; further, they are exploring options for the sale of the legitimate business operated by some or all of the Administration Companies and are in discussions with several interested parties. A sale of business as a going concern is in the interests of employees and creditors (including your client) as it is likely to preserve the continuity of the employment of possibly more than one hundred employees, maximise the price at which the assets of the companies may be realised (for example, by preserving existing contacts and customers) and, importantly, avoid the crystallisation of further liabilities such as employee entitlements arising on a winding up (for example, deemed redundancy payments).

None of that is to say that a winding up may not be an inevitable outcome at some later point in time. However, it is plainly premature for the Administration Companies to be wound up immediately (especially in circumstances where there is no suggestion that they participated in any fraudulent activity).

In relation to (2), our clients reject any assertion that they do not have the resources to undertake an administration and/or liquidation of the Administration Companies. Contrary to paragraph 3.3(b) of your letter, our clients do not have offices only in Sydney; rather, the administrators have offices and 41 staff in Sydney, Melbourne and Brisbane and have engaged an agent in Perth to deal with any issues that arise in Western Australia. In relation to the two New Zealand entities, our clients have engaged Rodgers Reidy, an insolvency firm, to assist in relation to the two entities. If necessary, our clients will engage a global services firm such as Alvarez and Marshall. Further, and in any event, the principal place of business of the majority of the Administration Companies is in Sydney.

In relation to (3), no material has been proffered to support your assertion that there will be a duplication of work or that it is in the interests of creditors for Messrs Preston and Ireland of McGrathNicol to be appointed administrators of each of the Administration Companies. That is especially so in circumstances where: (a) the business carried out by Forum Finance is discrete from the business varied out by the Administration Companies; and (b) as noted above, there is no suggestion that the Administration Companies participated in any fraudulent activity. Rather, our clients have already undertaken work in relation to the Administration Companies that is likely to be wasted or duplicated if they are replaced as administrators.

Our clients will, of course, work with McGrathNicol (the liquidators of Forum Finance), Westpac and all other creditors of Administration Companies on a fully cooperative basis.

Finally, and in any event, the question of the appropriate administrator of a company should be decided by the company's body of creditors as a whole in the usual course as prescribed by s 436E(4) of the *Corporations Act 2001* (Cth). The first meeting of creditors is to be held very shortly (within a few days) and it seems appropriate that the matter be considered on that occasion if Messrs Preston and Ireland are nominated as a possible replacement of the current administrators.

We invite your client to provide a proof of debt or claim in each administration together with supporting documentation as soon as possible to assist the administrators is assessing this claim for voting purposes at the upcoming meeting.

Information Requested

We are seeking instructions in relation to whether our clients will be in a position to respond to the Information Request by 10am tomorrow. However, we note that section 70-1 of the *Insolvency Practice Rules (Corporations) 2016* provides that the external administrator is to provide the documents requested within 5 business days or such later period as agreed or

which may be reasonable. In that regard, requiring a response within 24 hours may not be regarded as reasonable.

We apprehend that your client's primary concern is with respect to communications prior to the appointment of the administrators (given that the administrators will have had, and are continuing to have, extensive communications with the employees of the Administration Companies since their appointment).

Please let us know, therefore, whether your client is prepared to narrow the scope of the Information Requested in that regard as that may assist our clients to provide the documents in a timely manner.

Final Comments

Our clients' preference is to avoid a contest with your client and for our respective clients to cooperate fully with each other and together with the present liquidators of Forum Finance.

Moreover, we consider that a continuation of the administration to be in the interests of all creditors of the Administration Companies at present.

We would be grateful if you could please provide your clients' position in relation to the above by midday tomorrow, 13 July 2021.

We otherwise reserve the rights of the Administration Companies and their administrators.

Yours sincerely,

HILTON BRADLEY LAWYERS



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13 July 2021

BY EMAIL: kieran.kelly@hiltonbradley.com.au

Kieran Kelly
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99 York Street
Sydney NSW 2000

Dear Mr Kelly

**Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia
Proceeding NSD616/2021 (Proceedings)**

1. We refer to:
 - (a) our letter dated 12 July 2021 (**Our Letter**);
 - (b) your letter dated 12 July 2021 received by email at 4.04pm (AEST) (**Your First Letter**);
and
 - (c) your letter dated 12 July 2021 received by email at 4.53pm (AEST) (**Your Second Letter**).
2. Unless otherwise defined, capitalised terms in this letter have the same meaning given in Our Letter.
3. We do not intend to respond to Your Second Letter on a line by line basis. To do so would not be constructive given that our client's interlocutory application dated 12 July 2021 as against the four respondent Administration Companies is listed for hearing at 2.30pm (AEST) on Thursday, 15 July 2021 before his Honour Justice Lee, at which time your clients may be heard as to the relief sought by our client as against those four respondent Administration Companies. Suffice to say, our client's position in relation to at least some of the Administration Companies, and by extension to the Companies Under Administration (as defined in Your First Letter), is as set out in Our Letter. We also disagree with your contention as to priorities, and your clients act at their own risk and over our client's objection.
4. At the outset, we note that Annexure A to Your First Letter contains a list of 28 Companies Under Administration (as defined in Your First Letter), 19 of which are listed as Administration Companies in the Schedule to Our Letter (which was prepared based on publicly available information obtained from the Australian Securities and Investments Commission). It appears that your clients were appointed as administrators of nine of the Companies Under Administration on or after 9 July 2021. As we understand was the case in relation to the Administration Companies, we presume that your clients' appointments to the balance of the Companies Under Administration were made by Mr Papas as the director pursuant to section 436A of the Act. As requested in Our Letter, please urgently let us know if that was not the case. Further, and in light of our client's claims in the Proceedings, we request that you confirm without delay whether your clients have been appointed to any other companies directed or controlled or associated with Mr Papas or interests connected with him.
5. On page 4 of Your Second Letter it is asserted that "*a continuation of the administration [would] be in the interests of all creditors of the Administration Companies at present*". We do not agree

with that position in circumstances where (a) in our client's Proceedings Forum Finance was placed in liquidation by order of the Court with the consent of Forum Finance; (b) our client has now applied to the Court for orders that four Administration Companies be wound up provisionally under section 472(2) of the Act and/or wound up under section 461(1)(k) of the Act by reason of their transactions with Forum Finance involving misappropriated funds in which our client has or may have proprietary interests in accordance with the principles in *Black v Freedman*; and (c) your clients are seeking to urgently sell the assets in what amounts to a de facto (and surprisingly, to say the least, rapid) liquidation¹. As such, we invite your clients to consent to the relief sought as against as against the four respondent Administration Companies in our client's interlocutory application dated 12 July 2021.

6. Whilst our client's investigations are continuing, it is likely that other Companies Under Administration received misappropriated funds from Forum Finance provided by our client. Moreover and irrespective, even if a Company Under Administration received the funds without notice of the misappropriation (given Mr Papas was a director of each company that proposition appears improbable, to say the least), it must still account for the traceable proceeds from the time that it became aware of the misappropriation (i.e. at the latest, now), being the time that its conscience became bound: see *Black v Freedman*; *Sze Tu v Lowe* [2014] NSWCA 462 (2014) 89 NSWLR 317 at [157]-[160] per Gleeson JA.
7. On page 2 of Your Second Letter, your clients request copies of the relevant bank statements that are referred to in Our Letter. It is more than surprising that your clients have instructed you to make this request given that they have access to this information by reason of their position as administrators of the Companies Under Administration since at least 8 July 2021. In any event, pertinent extracts of these bank statements produced by National Australia Bank Limited under subpoena are set out within Exhibit CMM-5 to Ms Murray's affidavit sworn 12 July 2021, a copy of which has been provided to you on 12 July 2021 (and which are subject to the implied undertaking²).
8. Your Second Letter also asserts that your clients "*are currently investigating the affairs of the Administration Companies*". Given that your clients appear not to have reviewed bank statements of the Administration Companies, it would appear that your clients have not taken any meaningful steps to investigate the matters relating to payments by Forum Finance to at least some of Administration Companies, particularly in light of our client's claims in the Proceedings of which you and your clients are aware (and the claims of other financiers of which your clients must be aware, at least including Societe Generale and humm group limited).
9. Further, it is asserted that your clients "*are exploring options for the sale of the legitimate business operated by some or all of the Administration Companies and are in discussions with several interested parties*". Please explain the basis on which you assert that this business is "*legitimate*", and urgently confirm the identity of which relevant Companies Under Administration conduct such business, and whether your clients' investigations have satisfied themselves that these companies are not the direct or indirect recipients of the misappropriated funds from Forum Finance which may be held on trust for our client. In the event that your clients seek to dispose of assets of the Companies Under Administration, your clients and any purchasers of those businesses act at their own risk, and are on notice of our client's claim to a proprietary interest in their assets, for the reasons given in Our Letter. We assume that your clients will inform any potential purchasers of the contents of Our Letter and this letter, and provide copies to them. Please let us know immediately if that is not the case.
10. As set out in Our Letter, our client intends to submit a proof of debt in the administrations, as to which our client (and its controlled entities and interests) reserve all rights. We ask that the notice of the First Creditors Meetings be provided to us without delay given our client's interest in attendance and voting at the meetings. Given your clients have not consented to their replacement as administrators, as foreshadowed our client will now propose resolutions that your clients be replaced as administrators of the Companies Under Administration by Messrs Preston and Ireland and Ms Sozou of McGrathNicol in accordance with section 436E(4) of the Act. On that score, our client has received the attached consents to act from Messrs Preston and Ireland

¹ See the online advertisement published by your clients on "Xclusive Business Sales" available at <https://www.xclusive.com.au/businesses-for-sale/it-managed-services-business-the-forum-group-in-voluntary-administration-sydney/> (accessed 13 July 2021).

² In accordance with the principles set out in *Harman v Secretary of State for the Home Department* [1983] 1 AC 280 and *Hearne v Street* (2008) 235 CLR 125.

and Ms Sozou of McGrathNicol to act as administrators of the Administration Companies, and it intends to seek their consents to act in relation to the balance of the Companies Under Administration. We note the letter from the solicitors for Societe Generale dated 12 July 2021 indicates that their client also supports our client's position on the matter of your clients' replacement as administrators by Messrs Preston and Ireland of McGrathNicol.

11. Finally, in relation to your request to narrow the scope of the Information Requested, our client would be content to receive in the first instance by **10.00am today, 13 July 2021** the Information Requested in respect of the circumstances of your clients' appointments as administrators of the Administration Companies up to the time of their appointment.
12. We note that the respective solicitors for Societe Generale and SMBC Leasing and Finance, Inc whose respective clients we understand are creditors of at least some of the Companies Under Administration, are copied to this correspondence.
13. All of our client's rights are expressly reserved.

Yours faithfully
MinterEllison



Contact: Anthony Sommer T: +61 2 9921 4182
anthony.sommer@minterellison.com
Partner: Caitlin Murray T: +61 2 9921 4279
caitlin.murray@minterellison.com
OUR REF: AGS:CMM 1353397

COPY BY EMAIL TO:

Ian Bolster
Ashurst
ian.bolster@ashurst.com

Roger Dobson
Jones Day
rdobson@jonesday.com

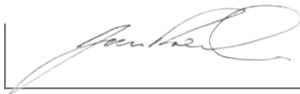
CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

The Forum Group of Companies Pty Limited (Administrators Appointed) ACN 151 964 626

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of The Forum Group of Companies Pty Limited (Administrators Appointed) ACN 151 964 626 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Group Pty Ltd (Receivers Appointed) (Administrators Appointed) ACN 153 336 997

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Group Pty Ltd (Receivers Appointed) (Administrators Appointed) ACN 153 336 997 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

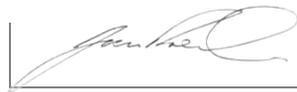
CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Group (QLD) Pty Ltd (Administrators Appointed) ACN 103 609 678

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Group (QLD) Pty Ltd (Administrators Appointed) ACN 103 609 678 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

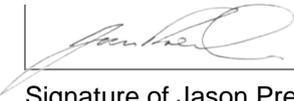
CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Group (VIC) Pty Ltd (Administrators Appointed) ACN 153 062 018

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Group (VIC) Pty Ltd (Administrators Appointed) ACN 153 062 018 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

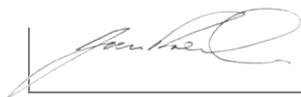
CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Fleet Pty Limited (Administrators Appointed) ACN 155 440 994

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Fleet Pty Limited (Administrators Appointed) ACN 155 440 994 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

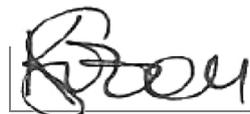
Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Enviro Pty Ltd (Administrators Appointed) ACN 168 709 840

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Enviro Pty Ltd (Administrators Appointed) ACN 168 709 840 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Direct Pty Ltd (Administrators Appointed) ACN 054 890 710

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Direct Pty Ltd (Administrators Appointed) ACN 054 890 710 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Enviro (Aust) Pty Ltd (Administrators Appointed) ACN 607 484 364

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Enviro (Aust) Pty Ltd (Administrators Appointed) ACN 607 484 364 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Forum Group Financial Services Pty Ltd (Administrators Appointed) ACN 623 033 705

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Forum Group Financial Services Pty Ltd (Administrators Appointed) ACN 623 033 705 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Iugis Pty Ltd (Administrators Appointed) ACN 632 882 243

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Iugis Pty Ltd (Administrators Appointed) ACN 632 882 243 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Iugis Investments Pty Ltd (Administrators Appointed) ACN 647 627 745

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Iugis Investments Pty Ltd (Administrators Appointed) ACN 647 627 745 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Iugis Waste Services Pty Ltd (Administrators Appointed) ACN 647 212 299

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Iugis Waste Services Pty Ltd (Administrators Appointed) ACN 647 212 299 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Imagetec Financial Services Pty Ltd (Administrators Appointed) ACN 111 978 182

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Imagetec Financial Services Pty Ltd (Administrators Appointed) ACN 111 978 182 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Imagetec Solutions Australia Pty Ltd (Administrators Appointed) ACN 074 715 718

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Imagetec Solutions Australia Pty Ltd (Administrators Appointed) ACN 074 715 718 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Onesource Australia Holdings Pty Limited (Administrators Appointed) ACN 120 463 541

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Onesource Australia Holdings Pty Limited (Administrators Appointed) ACN 120 463 541 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Smartprint Fleet Management Pty Ltd (Administrators Appointed) ACN 132 807 080

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Smartprint Fleet Management Pty Ltd (Administrators Appointed) ACN 132 807 080 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Autonomous Energy Pty Ltd (Administrators Appointed) ACN 113 593 383

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Autonomous Energy Pty Ltd (Administrators Appointed) ACN 113 593 383 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Orca Enviro Solutions Pty Ltd (Administrators Appointed) ACN 626 552 645

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Orca Enviro Solutions Pty Ltd (Administrators Appointed) ACN 626 552 645 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Orca Enviro Systems Pty Ltd (Administrators Appointed) ACN 627 597 782

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Orca Enviro Systems Pty Ltd (Administrators Appointed) ACN 627 597 782 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 12 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

From: Kieran Kelly
Sent: Tuesday, 13 July 2021 2:46 PM
To: Luke Whiffen; Kevin Cheng; Yan Ong
Subject: FW: Westpac Banking Corporation v Forum Finance Pty Limited (in liquidation) & Ors - Federal Court of Australia Proceeding NSD616/2021 [ME-ME.FID6264995]
Attachments: NSD616_2021 orders dated 12 July 2021.pdf

From: Anthony Sommer <Anthony.Sommer@minterellison.com>
Sent: Tuesday, 13 July 2021 1:56 PM
To: cnehme@fortislaw.com.au; r.panetta@panetta.com.au; Prestwich, Chris <chris.prestwich@allens.com.au>; Prinsloo, Kirsty <Kirsty.Prinsloo@allens.com.au>; Kieran Kelly <kieran.kelly@hiltonbradley.com.au>; Luke Whiffen <Luke@hiltonbradley.com.au>; b.quan@cornwalls.com.au; Adrian Lee <A.Lee@cornwalls.com.au>; Kang, Justin <justin.kang@dentons.com>; Leen, Delano <delano.leen@dentons.com>; Ian.Bolster@ashurst.com; matthew.youssef@ashurst.com
Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Anthony Sommer <Anthony.Sommer@minterellison.com>; Simon Brandis <Simon.Brandis@minterellison.com>; Kate Cockburn <Kate.Cockburn@minterellison.com>
Subject: Westpac Banking Corporation v Forum Finance Pty Limited (in liquidation) & Ors - Federal Court of Australia Proceeding NSD616/2021 [ME-ME.FID6264995]

Dear Colleagues

We refer to the attached Court's orders of 12 July 2021 listing the interlocutory applications for hearing at 2.30pm on Thursday, 15 July 2021 (AEST) before his Honour Justice Lee.

His Honour's Associate requested that our client confer with the parties to the interlocutory applications regarding the case management steps necessary to ready the applications for a hearing on Thursday.

Our client would propose that any written submissions and evidence are to be served and sent to the Associate by 5.00pm (AEST) on Wednesday, 14 July 2021.

Please let us know if you disagree with our proposed case management step **before 4.00pm (AEST) today**. Subject to any disagreement, we will communicate the parties' agreement to our proposed case management step to the Associate.

Regards

Anthony Sommer
Senior Associate
T +61 2 9921 4182 M +61 431 058 780
anthony.sommer@minterellison.com
MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000
minterellison.com [Follow us on LinkedIn and Twitter](#)



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Sensitive: Legal

From: Anthony Sommer <Anthony.Sommer@minterellison.com>
Sent: Tuesday, 13 July 2021 3:51 PM
To: Kieran Kelly
Cc: Caitlin Murray; Michael Hughes; Andrew Clarke; Luke Whiffen; Yan Ong; Kevin Cheng; Ian.Bolster@ashurst.com; matthew.youssef@ashurst.com; rdobson@jonesday.com
Subject: RE: Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia Proceeding NSD616/2021 [ME-ME.FID6264995]
Attachments: Forum group (tranche 2) - Consent to act as Administrators _ SIGNED.pdf
Importance: High

Dear Mr Kelly

We refer to our correspondence below.

Attached are further consents to act as administrators of Messrs Preston and Ireland and Ms Sozou of McGrathNicol in relation to the following companies:

	Company name	ACN
1.	14 James Street Pty Ltd (Administrators Appointed)	638 449 206
2.	26 Edmonstone Road Pty Ltd (Administrators Appointed)	622 944 129
3.	5 Bulkara Street Pty Ltd (Administrators Appointed)	630 982 160
4.	6 Bulkara Street Pty Ltd (Administrators Appointed)	639 734 473
5.	Aramia Holdings Pty Ltd (Administrators Appointed)	114 958 717
6.	Eros Management Pty Ltd (Administrators Appointed)	622 298 346
7.	Intrashield Investment Group Pty Ltd (Administrators Appointed)	645 578 829
8.	Intrashield Pty Ltd (Administrators Appointed)	133 426 534
9.	Spartan Consulting Group Pty Ltd (Administrators Appointed)	168 989 544

Regards

—
Anthony Sommer
Senior Associate
T +61 2 9921 4182 M +61 431 058 780
anthony.sommer@minterellison.com
MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000
minterellison.com [Follow us on LinkedIn and Twitter](#)



From: Anthony Sommer
Sent: Tuesday 13 July 2021 09:29 AM
To: 'Kieran Kelly' <kieran.kelly@hiltonbradley.com.au>
Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Luke Whiffen <Luke@hiltonbradley.com.au>; Yan Ong

<yan.ong@hiltonbradley.com.au>; Kevin Cheng <kevin@hiltonbradley.com.au>; Ian.Bolster@ashurst.com;
matthew.youssef@ashurst.com; 'rdobson@jonesday.com' <rdobson@jonesday.com>

Subject: RE: Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia Proceeding
NSD616/2021 [ME-ME.FID6264995]

Importance: High

Dear Colleagues

Please see the attached correspondence.

Regards

Anthony Sommer

Senior Associate

T +61 2 9921 4182 M +61 431 058 780

anthony.sommer@minterellison.com

MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000

minterellison.com **Follow us on LinkedIn and Twitter**

From: Kieran Kelly <kieran.kelly@hiltonbradley.com.au>

Sent: Monday 12 July 2021 04:53 PM

To: Anthony Sommer <Anthony.Sommer@minterellison.com>

Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>;

Andrew Clarke <Andrew.Clarke@minterellison.com>; Luke Whiffen <Luke@hiltonbradley.com.au>; Yan Ong

<yan.ong@hiltonbradley.com.au>; Kevin Cheng <kevin@hiltonbradley.com.au>

Subject: RE: Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia Proceeding
NSD616/2021 [ME-ME.FID6264995]

Dear Colleagues,

Please see the attached correspondence.

Kind regards,

Kieran Kelly | Associate Director

M | 0416 473 046

E | kieran.kelly@hiltonbradley.com.au

Level 11, 99 York Street, Sydney NSW 2000

HILTONBRADLEY.COM.AU

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From: Anthony Sommer <Anthony.Sommer@minterellison.com>

Sent: Monday, 12 July 2021 11:11 AM

To: Kieran Kelly <kieran.kelly@hiltonbradley.com.au>

Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Ian.Bolster@ashurst.com; rdobson@jonesday.com
Subject: Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia Proceeding NSD616/2021 [ME-ME.FID6264995]
Importance: High

Dear Mr Kelly

Please see the attached correspondence.

Regards

Anthony Sommer

Senior Associate

T +61 2 9921 4182 M +61 431 058 780

anthony.sommer@minterellison.com

MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000

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Sensitive: Legal

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

14 James Street Pty Ltd (Administrators Appointed) ACN 638 449 206

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of 14 James Street Pty Ltd (Administrators Appointed) ACN 638 449 206 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

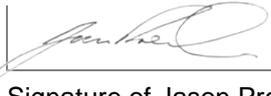
CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

26 Edmonstone Road Pty Ltd (Administrators Appointed) ACN 622 944 129

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of 26 Edmonstone Road Pty Ltd (Administrators Appointed) ACN 622 944 129 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

5 Bulkara Street Pty Ltd (Administrators Appointed) ACN 630 982 160

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of 5 Bulkara Street Pty Ltd (Administrators Appointed) ACN 630 982 160 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

6 Bulkara Street Pty Ltd (Administrators Appointed) ACN 639 734 473

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of 6 Bulkara Street Pty Ltd (Administrators Appointed) ACN 639 734 473 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Aramia Holdings Pty Ltd (Administrators Appointed) ACN 114 958 717

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Aramia Holdings Pty Ltd (Administrators Appointed) ACN 114 958 717 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Eros Management Pty Ltd (Administrators Appointed) ACN 622 298 346

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Eros Management Pty Ltd (Administrators Appointed) ACN 622 298 346 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

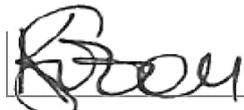
Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Intrashield Investment Group Pty Ltd (Administrators Appointed) ACN 645 578 829

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Intrashield Investment Group Pty Ltd (Administrators Appointed) ACN 645 578 829 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Intrashield Pty Ltd (Administrators Appointed) ACN 133 426 534

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Intrashield Pty Ltd (Administrators Appointed) ACN 133 426 534 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONSENT TO ACT AS ADMINISTRATORS PURSUANT TO PART 5.3A

Spartan Consulting Group Pty Ltd (Administrators Appointed) ACN 168 989 544

We, Jason Preston, Jason Ireland and Katherine Sozou, each being a registered liquidator, of McGrathNicol, Level 12, 20 Martin Place, Sydney, New South Wales, 2000, consent to act, if appointed, as joint and several voluntary administrators of Spartan Consulting Group Pty Ltd (Administrators Appointed) ACN 168 989 544 (**Company**).

To the best of our knowledge, we are not disqualified from acting as voluntary administrators of the Company by reason of the provisions of Part 5.3A of the *Corporations Act 2001* (Cth).

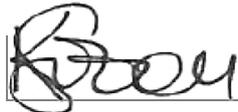
Dated: 13 July 2021



Signature of Jason Preston



Signature of Jason Ireland



Signature of Katherine Sozou

CONTACT: Kieran Kelly
CONTACT EMAIL: kieran.kelly@hiltonbradley.com.au
RESPONSIBLE DIRECTOR: Luke Whiffen
OUR REF: 1495



13 July 2021

Anthony Sommer
MinterEllison
Level 40, Governor Macquarie Tower
1 Farrer Place Sydney NSW 2000
By email only: anthony.sommer@minterellison.com

Dear Mr Sommer,

**FEDERAL COURT OF AUSTRALIA, PROCEEDING NO. NSD616 OF 2021
WESTPAC BANKING CORPORATION V FORUM FINANCE PTY LIMITED & ORS**

We refer to your letter (containing 13 numbered paragraphs and attaching consents to act as administrators) of earlier today (“**your letter**”) and your email sent at 1:56pm this afternoon seeking a response within 2 hours.

At numbered paragraph 10 of your letter you state that your client will propose resolutions at the First Creditors Meeting that they replace our clients as administrators of companies that include the four companies the subject of your client’s interlocutory application for appointment of provisional liquidators. Our clients have no objection to your client proposing such resolutions. Indeed, it is a course that our clients suggested as appropriate in our letter of yesterday. Consistently with s 436E(4) of the Corporations Act 2001, it is a course that enables the creditors to decide who is to be appointed as the administrators of the company. As you are aware, the First Creditors Meeting is to be held next Tuesday.

In view of your client’s abovementioned proposal notified this morning, the hearing of their interlocutory application should not proceed on Thursday. It should be adjourned until after the First Creditors Meeting. Your client’s interlocutory application may be rendered unnecessary by the outcome of the resolutions to be proposed by them at the meeting. Given this, proceeding with the hearing prior to the conclusion of the First Creditors Meeting is wasteful: it may involve a waste of the Court’s time, the parties’ time and involve the incurring of costs that may be avoided.

Please indicate if you agree to the adjournment of Thursday’s hearing to a time after the First Creditors Meeting. If you do not agree and our clients’ position as expressed above is accepted by the Court (so that the hearing does not proceed on Thursday), we shall tender this letter in support of an application that your client pay our clients’ costs of preparing for and appearing on Thursday on an indemnity basis. In addition, and for completeness, our clients will not be in a position to serve evidence and submissions prior to the hearing on Thursday. In the event that you do not agree to the adjournment of Thursday’s hearing, at the hearing our clients will seek 7 days to file and serve evidence and submissions opposing your clients’ interlocutory application.

Hilton Bradley Lawyers
ABN 13630977776
Level 21
133 Castlereagh Street
SYDNEY NSW 2000
Phone: (02) 8379 1896

Owing to the very limited time that we have been afforded to respond to your correspondence, we do not address the other matters raised in your letter. We rely on the contents of our letter of yesterday and otherwise reserve our clients' position with respect to the same.

Yours sincerely,

HILTON BRADLEY LAWYERS

A handwritten signature in black ink, appearing to read 'K Kelly', written in a cursive style.

Kieran Kelly
Associate Director

E: kieran.kelly@hiltonbradley.com.au

P: 02 7229 2925

CONTACT: Kieran Kelly
CONTACT EMAIL: kieran.kelly@hiltonbradley.com.au
RESPONSIBLE DIRECTOR: Luke Whiffen
OUR REF: 1495



13 July 2021

Anthony Sommer
MinterEllison
Level 40, Governor Macquarie Tower
1 Farrer Place Sydney NSW 2000
By email only: anthony.sommer@minterellison.com

Dear Mr Sommer,

**FEDERAL COURT OF AUSTRALIA, PROCEEDING NO. NSD616 OF 2021
WESTPAC BANKING CORPORATION V FORUM FINANCE PTY LIMITED & ORS**

We refer to your letter received by email at 9.29am today.

At paragraph 9 of your letter you state, *inter alia*:

In the event that your clients seek to dispose of assets of the Companies Under Administration, your clients and any purchasers of those businesses act at their own risk, and are on notice of our client's claim to a proprietary interest in their assets, for the reasons given in Our Letter. We assume that your clients will inform any potential purchasers of the contents of Our Letter and this letter, and provide copies to them. Please let us know immediately if that is not the case.

This position directly jeopardises sales negotiations being undertaken with several interested parties as they have no interest in purchasing goods which may be subject to such a claim. In fact, on being provided with your letter, several purchasers immediately withdrew from negotiations. If the administrators cannot proceed to progress a sale of the businesses the administrators will need to consider whether it is viable for the companies to continue to trade on.

If the companies do not continue to trade there will be prejudicial outcomes for creditors, including your client. Such outcomes include the crystallisation of employee entitlements and the loss of opportunity to transfer such entitlements to a purchaser. At present the administrators estimate such loss to Forum Group Pty Ltd would amount to \$3,913,105. Clearly this benefit to the companies is not something that would be subject to any proprietary interest of your client.

Further, any sum paid for the businesses would not be received.

To protect your client's interests, our clients will undertake not deal with any proceeds of any sale of the businesses until there is agreement with your client or by order of the Court.

In return for the undertaking, we request that you confirm that your client will not press any claim against any unrelated third-party purchaser for value.

If your client refuses to proceed on the above suggested basis then it is likely such conduct will result in an inability to sell the companies' businesses and cause significant loss to those companies. The administrators expressly reserve their rights against your client in those circumstances.

Hilton Bradley Lawyers
ABN 13630977776
Level 21
133 Castlereagh Street
SYDNEY NSW 2000
Phone: (02) 8379 1896

The administrators require a response to this letter by no later than noon tomorrow, 14 July 2021.

Yours sincerely,

HILTON BRADLEY LAWYERS

A handwritten signature in black ink, appearing to read 'K Kelly', written in a cursive style.

Kieran Kelly

Associate Director

E: kieran.kelly@hiltonbradley.com.au

P: 02 7229 2925

MinterEllison

13 July 2021

BY EMAIL: kieran.kelly@hiltonbradley.com.au

Kieran Kelly
Hilton Bradley Lawyers
Suite 1101 - Level 11
99 York Street
Sydney NSW 2000

Dear Mr Kelly

**Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia
Proceeding NSD616/2021 (Proceedings)**

1. We refer to:
 - (a) our letter dated 12 July 2021;
 - (b) our letter dated 13 July 2021 sent at 9.29am (AEST),

(together, **Our Letters**). Unless otherwise defined, capitalised terms in this letter have the same meaning given in Our Letters; and
 - (c) your letter of 13 July 2021 received by email at 3.58pm (AEST) (**Your Letter**).
2. For the reasons given in Our Letters, our client does not agree with the contention set out in Your Letter that our client's interlocutory application filed 12 July 2021 against the four respondent Companies Under Administration should be adjourned until after the First Creditors Meeting. As set out in Our Letters, our client's investigations are continuing into whether each of the Companies Under Administration received misappropriated funds from Forum Finance provided by our client (and in relation to some of those companies, how much was received) and to where that money was dissipated. In circumstances where our client has adduced evidence that the four respondent Companies Under Administration received large amounts of misappropriated funds, our client is therefore prejudiced by delay that would arise from the proposed adjournment as set out in Your Letter. Any delay risks further dissipation by the recipients of our client's (and others') money and the traceable proceeds of that money.
3. We note that your clients have consented to a proposed case management order that your clients file any evidence and submissions on their foreshadowed application to adjourn the hearing of our client's interlocutory application by 10.00am (AEST) on 15 July 2021, which, as you are aware, is reflected in the short minutes provided to the Court this evening.
4. Finally, your clients have not provided any of the Information Requested, nor have you sought to provide any explanation for the delay in Your Letter. We note that you have also not provided us with a copy of the notice of the First Creditors Meeting. Please provide the Information Requested and a copy of notice of the First Creditors Meeting by no later than **9.00am (AEST), tomorrow 14 July 2021**.
5. We note that the respective solicitors for Societe Generale and SMBC Leasing and Finance, Inc are copied to this correspondence.

Level 40 Governor Macquarie Tower 1 Farrer Place Sydney
GPO Box 521 Sydney NSW 2001 Australia DX 117 Sydney
T +61 2 9921 8888 F +61 2 9921 8123 minterellison.com

6. All of our client's rights are expressly reserved.

Yours faithfully
MinterEllison



Contact: Anthony Sommer T: +61 2 9921 4182
anthony.sommer@minterellison.com
Partner: Caitlin Murray T: +61 2 9921 4279
caitlin.murray@minterellison.com
OUR REF: AGS:CMM 1353397

COPY BY EMAIL TO:

Ian Bolster
Ashurst
ian.bolster@ashurst.com

Roger Dobson
Jones Day
rdobson@jonesday.com

MinterEllison

14 July 2021

BY EMAIL: kieran.kelly@hiltonbradley.com.au

Kieran Kelly
Hilton Bradley Lawyers
Suite 1101 - Level 11
99 York Street
Sydney NSW 2000

Dear Mr Kelly

**Westpac Banking Corporation v Forum Finance Pty Limited & Ors - Federal Court of Australia
Proceeding NSD616/2021 (Proceedings)**

1. We refer to:
 - (a) our letter dated 13 July 2021 sent at 9.29am (AEST) (**Our 13 July Letter**);
 - (b) your letter of 12 July 2021 received by email at 4.53pm (AEST) (**Your 12 July Letter**);
and
 - (c) your letter of 13 July 2021 received by email at 5.47pm (AEST) (**Your 13 July Letter**).
2. Unless otherwise defined, capitalised terms in this letter have the same meaning given in Our 13 July Letter.
3. We note that Your 13 July Letter refers to your clients' alleged efforts to sell certain unspecified "*goods*" apparently under their control, along with the "*companies' businesses*", and the request set out in paragraph 9 of Our 13 July Letter.
4. We are at loss to understand your clients' seeking to sell any property or business of the Companies Under Administration, in haste, within 2 business days of their appointment, without first seeking our client's views about the matter given its substantial claims in the Proceedings of which you and your clients are aware.
5. At the outset, it stands completely at odds with the statement made in Your 12 July Letter, that it was your clients' "*preference*" to "*cooperate fully*" with our client and the liquidators of Forum Finance. The facts are that your clients appear to have proceeded, quite consciously, without communicating with our client, which only found about the proposed sale from its own sources. These matters tell to our client's lack of confidence in your clients' ability to carry out their duties as administrators of the Companies Under Administration, and why they should be replaced as such at the First Creditors Meeting by Messrs Preston and Ireland and Ms Sozou of McGrathNicol, after (but obviously subject to) our client's applications in relation to the four respondent Companies Under Administration are heard on Thursday.
6. Second, your clients are squarely on notice of our client's proprietary claims over the same assets which, it would seem, they are seeking to sell. The requirement that any prospective purchaser be given notice of our client's claim, causes no damage to the Companies Under Administration; indeed it has been shown to be protective of the very people with whom to whom your clients seek to transact, and who would in due course make their own tortious claims against your clients for failing to secure proper title.

7. Third, your letter is completely opaque as to the actual process your clients have actually undertaken (beyond placing the online advertisement referred to in paragraph 5 of Our 13 July Letter which our client discovered), such as the number and identity of the parties with whom your clients have dealt, whether your clients have undertaken their own due diligence to satisfy themselves as to critical matters, such as their power of sale, title (which is plainly in issue), and the value of the property and business they are seeking to sell, or that there was a proper basis to include the financial information that was contained in the advertisement.
8. Further, we consider it wholly unsatisfactory that your clients demand that our client withdraw a claim to allow a sale, yet our client has to learn from the *Australian Financial Review* this morning that your clients have shut at least one of the businesses because it was unviable.¹
9. Given these matters and as to the request you have made, the position outlined in Our 13 July Letter has not changed. Nor will our client provide any comfort that it will not pursue its proprietary claims as against any party to whom the property and business currently under your client's control is passed.
10. We note that the respective solicitors for Societe Generale and SMBC Leasing and Finance, Inc are copied to this correspondence.
11. All of our client's rights are expressly reserved.

Yours faithfully
MinterEllison



Contact: Anthony Sommer T: +61 2 9921 4182
anthony.sommer@minterellison.com
Partner: Caitlin Murray T: +61 2 9921 4279
caitlin.murray@minterellison.com
OUR REF: AGS:CMM 1353397

COPY BY EMAIL TO:

Ian Bolster
Ashurst
ian.bolster@ashurst.com

Roger Dobson
Jones Day
rdobson@jonesday.com

¹ *Australian Financial Review* (online), 'Administrators shut one Papas business, two more under review', available at <https://www.afr.com/companies/financial-services/administrators-shut-one-papas-business-two-more-under-review-20210713-p589f8> (accessed 14 July 2021).

List of Tasks undertaken to date

Administration Tasks

General matters

- Client setup on filing system
- Client setup on computing system
- Timesheets and dashboards setup
- Important dates and events reminders setup

Document maintenance/file review/checklist

- Establishing filing system
- Filing of documents
- File reviews of setups
- Preparing and updating checklists on matter progress
- Preparing filenotes of matters and progress
- Preparing structure of Group of Companies

Insurance

- Obtaining general insolvency insurance cover
- Identification of potential issues requiring attention of insurance specialists.
- Correspondence with Insurer regarding initial and ongoing insurance requirements.
- Liaising with key staff regarding pre-appointment insurance.
- Liaising with key staff regarding ongoing requirements.
- Obtaining pre-appointment policies.
- Obtaining quotes for continuing insurance.
- determining adequate cover and insurance requirements, give size of business and nature of trading activities.
- proceeding with policies to obtain adequate cover for ongoing projects.

ASIC forms

- Preparing and lodging ASIC forms including forms 505 and 531.
- Preparing and lodging ASIC advertisements.
- Preparation and lodgement of Documents with NZ Companies Office

ATO & other statutory reporting

- Notification of appointment.
- Correspondence with ATO to collect RFD information.
- Collating information received
- Understanding taxation position and lodgements

Planning / Review

- Internal communication concerning administration, progress, process and ongoing resources.
- Discussions regarding status of administration.
- Engaged Nexia to assist with Taxation and other services and have obtained access to their global network in order to recover/investigate international assets and entities.

Bank account administration

- Preparing correspondence opening accounts.
- Liaising with banking institutions regarding set up and facilities required
- Requesting bank statements and transactional documents.

Investigation Tasks

Conducting investigations

- Discussions with key staff with respect to the Group's financial affairs.
- Reviewing and collecting the books and records from the premises.
- Review and preparation of the Group Company structure, nature and analysis of same.
- Conducting and summarising statutory searches to understand structure.
- Obtaining bank statements
- Conducted listings for records secured;
- Secured physical financial reports and bank statements;
- Datamined and extracted other key financial records from the backup cloud and systems data files;
- Requested and confirmed online access for the trading analysis;
- Issued request for information, books and records, to various external parties including accountants in Australia and New Zealand;
- Conducted investigations into the online presence of each company and determined ownership of the Group web pages;
- Conducted investigations via google searches, white and yellow pages to confirm all trading addresses had been appropriately recorded as noted in the ASIC database;
- Investigated the financial position of the Companies' Director and conducted personal property and shareholding searches on a national basis;
- Undertook national land title searches in Australia for all Companies in the Group, including leases and ownership searches
- Undertook land title searches across Australia to identify any property owned by the officers of the Group
- Updating the organisational chart to reflect the shareholding and status of each of the companies and their related parties in respect to the ongoing litigation and freezing orders;
- Contacting MYOB and XERO to request access to any online management accounts held in the name of the individual Companies of the Group;
- Liaising with the Australian Taxation Office ("ATO") regarding the Company's tax position, in particular request for documents pursuant to the Freedom of Information guidelines.

- Engaged Nexia to provide taxation services and obtain access to their global network
- Liaising with our solicitors to represent the Administrators and the Companies in respect to various applications of the courts. These applications related to the related entity, Forum Finance Pty Ltd (In Liquidation), and the impacts on the Companies.
- Liaising with the Attorney-General's Department in respect to the ongoing litigation and potential outcome and contingent liabilities which may result in relation to the outcome of the hearings.

Transactional Investigation Tasks including Preferences and Voidable Transactions

- Collecting relevant documentation in support of any potential claim.
- Conducting a preliminary review of the Company's records with respect to potential preference payments and/or voidable transactions.
Reviewing bank statements for transactions and tracing the source of funds currently held in the bank accounts of the Group
- Review and reconciliation of specific transactions and liaising with various parties to determine the source of funds recovered by the group of companies and its nature, noting the allegations of fraud.
- Dealing with Fraud allegations and planning the tracing of such transactions relating to the Group (if any)
- Noting background regarding fraud and tracing funds received into the Company bank account to ascertain what funds if any were subject to fraudulent activity.
- Liaised with an external IT company to secure cloud access to the Company's books and records, conduct a back-up of the cloud systems, onsite computers, systems data and removed system access from the director and former director.

Insolvent Trading

- Collecting relevant documentation in support of any potential claim.
- Conducting a preliminary review of the potential insolvent trading claims based on information currently available.

Creditors Tasks

Creditor Enquiries

- Receiving and following up creditor enquiries via telephone and email and post.
- Numerous telephone discussions with a large quantity of creditors to discuss the appointment and help creditors understand the process of an administration
- Reviewing and prepare correspondence to creditors and their representatives via telephone, email and post.
- Identifying and separating creditor claims per individual entity.

Creditor reports

- Preparing combined initial report to creditors,
- Preparing DIRRI and annexures for group of Companies
- Publishing combined ASIC advert in respect to the appointments and meetings on the Public Notices Website (PNW);
- Discussions with the key staff regarding the relevant information required for the reports to creditors.
- Structuring plan for the upcoming 439A report to creditors

Secured Creditors

- Issuing correspondence with secured creditors advising of appointment
- Notified all parties registered on the Personal Property Security Register (“PPSR”) of our appointment
- Maintaining schedule of security interests and assets subject to same;
- Ongoing correspondence with Secured creditors regarding the Administration and quantum of debt owing to the Secured creditors
- Understanding the Secured creditors position
- Correspondence issued to mortgages, caveators and tenants in respect to the various properties held by the Group of Companies;
-
- Issuing correspondence with Receivers appointed to Forum Group
- Understanding Receivers position
- Liaising with Receivers as to payment of their Debt and retirement
- Dealing with NAB regarding release of funds for trading activities
- Ongoing negotiations with NAB regarding payment of wages for Forum Group
- Ongoing discussions with NAB regarding unfreezing of accounts across the Group
- Continually corresponding with NAB regarding the amount owing by the Group

Dealing with claims, lodgements and proofs of debts

- Receipting and filing Proof of Debt (“POD”) submitted by creditors.
- Reviewing the PODs and the supporting documents submitted by creditors and allocation to entity with the Group.
- Corresponding with creditors regarding POD when not sufficient documents were not provided.
- Review of related entity claims including shareholder claims and the nature of same.

Meeting of Creditors

- Preparation meeting notices, proxies and advertisements.
- Forwarding notice of meeting to all known creditors.
- Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting.
- Preparation for attendance at initial meeting of creditors.
- Dealing with creditor queries relating to meeting.

Employee Enquiries

- Communication with employees of the group, approximately 200 in number
- Receive and return employee enquiries via telephone and email.
- Review and prepare correspondence to creditors and their representatives via telephone, email and post.
- Preparing notices and correspondence to employees
- Liaising with HR regarding notices to employees being terminated and direction to these employees regarding their rights and options under the FEG Scheme;
- Liaising with the Attorney-General's Department in respect to the current termination position and intentions to preserve the business operations of other companies with approximately 167 employees to be retained during the sale of business process;
- Attending to the termination of employment of staff, as trading was not feasible and due to a freeze on funds.
- Individually contacting all employees who were terminated approximately 50 in number, to discuss the situation and events leading up to the terminations.
- We also sought legal advice to understand the following:
 1. as to termination and or temporary stand down provisions. The advice received was we could not stand down temporarily.
 2. Whether a recent ruling relating to redundancy eligibility when a company is restructured to a smaller size below the redundancy threshold, applies to this business. The advice received was the size is considered as a group, not as individual companies.
 3. We were intending to extend the engagement through to reviewing pay conditions but because the access to funds was uncertain and limited, this was put that on hold.

Asset Tasks

Bank Accounts and Debtors

- Liaising with financial institutions regarding freezing of pre-appointment bank accounts and obtaining bank statements;
- Liaising with banking institutions in relation to the balance of funds held in the Company's pre-appointment bank accounts and freezing orders impacting on the viability of the businesses;
- Preparation of bank accounts schedule across the numerous entities and available balances
- Review debtors as per Company records and assess recoverability. Identifying and quarantining debtors subject to Octet security;
- Additional correspondence with the debtors of Iugis Pty Ltd
- Preparation of Debtors Schedule across the numerous entities and understanding collection turnaround

Inventory, Equipment and Vehicles

- Interviews with key personnel in respect to assets and inventory and vehicles
- Arranged for Valuers, Lloyds Auctioneers and Valuers ("Lloyds") to attend each trading premises and conduct independent stock listing and valuations of assets;

- Conducting motor vehicle searches in the states of NSW, QLD, VIC and WA with the appropriate departments of each state;
- Communicating with Lloyds for sight unseen valuations for various assets;
- Organised for Lloyds to collect motor vehicles from the terminated employees of Iugis Pty Ltd;

- Maintaining asset schedule for both encumbered and unencumbered assets including locations, security interests.

Sale of Business

- Undertaking an Expression of Interest Campaign for the sale of business of Autonomous Energy Pty Ltd and Forum Group Pty Ltd;
- Liaising with 111 interested buyers and organising for Non-Disclosure Agreements (“NDAs”) to be executed for each party;
- Prepared information memorandum for all interested parties who had returned their NDA;
- Negotiations and ongoing discussions with interested parties
- Understanding the financial capacity to complete a sale of the interested parties
- Liaising with the Receivers of Forum Group Pty Ltd in respect to the restriction of funds required to maintain the going concern status of the companies and ongoing trading;

Other Assets

- Engaged Lloyds to conduct a valuation on the properties (and contents) located at 5 and 6 Bulkara Street Wagstaffe NSW 2257;
- Engaged Lloyds to conduct a valuation on the properties (and contents) located at 26 Edmondstone Road, Bowen Hills QLD 4006;
- Undertaken necessary steps in respect to the maintain ongoing lease contracts with all tenants of 14 James Street Pty. Ltd.
- Engaged a valuer to conduct a valuation on the contents of the North Sydney premises;
- Reviewing trust deeds and considering actions for realisation of the properties held by the Companies and their duties as bare trustees;
- Communicating with solicitors regarding the right of indemnity under the trustee deeds and protecting rights of the creditors;

Trading Tasks

Cashflow and Trading Activity

- Met with key personnel to discuss the financial position of each entity, and ongoing correspondence and discussion regarding trading;
- Management of Company’s trading activities and monitoring cash flow position, including review of trading activities;
- Reviewing and adapting historical budgets and existing cashflow budgets to assess continued trading of the businesses;

- Review of consolidated financial statements and isolated income streams relating to Forum Finance Pty Ltd from all budgets and cashflow reports for the trading entities;
- Holding periodic meetings with key personnel regarding ongoing trading operations;
- Removed authorised access of premises and online records for both the Director and Former Director.
- Contacted utility providers in respect to the appointments and usage requirements for each trading premises;
- Contacting suppliers in respect to the appointments and ongoing services. Set up administration accounts for services;
- Processing wages for employees including liaising with external parties for an undertaking in respect to the release of funds subject to freezing orders;
- Setting up direct debits for ongoing trading from the Administration bank accounts for each trading company;
- Issued correspondence to the landlords in respect to the rent-free period pursuant to Section 433B and our intentions in respect to the adoption of leases where necessary;
- Implemented controls for ongoing trade on tasks including ongoing purchase orders; and
- Liaising with insurance broker for ongoing insurance coverage for all companies with ongoing trading operations and assets.

Site Attendances:

Representatives and Staff of Mackay Goodwin attended the following premises:

NSW Premises

- Level 5, 141 Walker Street, North Sydney NSW 2060 on the following days:
 - Friday 9 July 2021;
 - Saturday 10 July 2021;
 - Sunday 11 July 2021;
 - Monday 12 July 2021;
 - Tuesday 13 July 2021; and
 - Wednesday 14 July 2021
- 1/10 Rodborough Road, Frenchs Forest NSW 2086 on Friday 9 July 2021
- 5 Bulkara Street, Wagstaffe NSW 2257 on Tuesday 13 July 2021
- 6 Bulkara Street, Wagstaffe NSW 2257 on Tuesday 13 July 2021

QLD Premises

- 26 Edmonstone Road, Bowen Hills QLD 4006 on Friday 9 July 2021
- Level 1, 14 Bruce Avenue, Paradise Point QLD 4216 on Friday 9 July 2021

VIC Premises

- Building 1, Level 5, 658 Church Street, Richmond VIC 3121 on 9 July 2021

WA Premises

- Level 8, 182 Georges Terrace, Perth WA 6000 on 9 July 2021 and 12 July 2021

Lloyds personnel also attended the following premises during the period 9 July 2021 and 14 July 2021:

NSW Premises

- Level 5, 141 Walker Street, North Sydney NSW 2060
- 1/10 Rodborough Road, Frenchs Forest NSW 2086
- 5 Bulkara Street, Wagstaffe NSW 2257
- 6 Bulkara Street, Wagstaffe NSW 2257

QLD Premises

- 26 Edmonstone Road, Bowen Hills QLD 4006
- Level 1, 14 Bruce Avenue, Paradise Point QLD 4216

VIC Premises

- Building 1, Level 5, 658 Church Street, Richmond VIC 3121

WA Premises

- Level 8, 182 Georges Terrace, Perth WA 6000