

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 24/01/2022 1:30:47 PM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged: Interlocutory Application - if seeking Freezing or Search Order - Form 35 - Rule 17.01(1)(a)
File Number: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v FORUM FINANCE PTY LIMITED (IN LIQUIDATION) ACN 153 301 172 & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: Interlocutory Hearing
Time and date for hearing: 25/01/2022, 4:00 PM
Place: Court Room 21A, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney; By Web Conference, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney



Sia Lagos

Dated: 24/01/2022 2:53:36 PM AEDT

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Interlocutory application

No. NSD 616 / 2021

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

Westpac Banking Corporation ABN 33 007 457 141 and another named in the Schedule
Applicants

Forum Finance Pty Limited ACN 153 301 172 and others named in the Schedule
Respondents

To

Forty-Seventh Respondent, Louise Maria Agostino

The Applicants apply for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

Time and date for hearing:

Place:

Filed on behalf of (name & role of party)	Westpac Banking Corporation and Westpac New Zealand Limited, Applicants		
Prepared by (name of person/lawyer)	Caitlin Murray		
Law firm (if applicable)	MinterEllison		
Tel	(02) 9921 4279	Fax	(02) 9921 8123
Email	caitlin.murray@minterellison.com		
Address for service (include state and postcode)	Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000		
	Our reference: 1353397		

[Form approved 01/08/2011]



The Court ordered that the time for serving this application be abridged to 4pm on 24 January 2022.

Date: ____ January 2022

Signed by an officer acting with the authority
of the District Registrar



Interlocutory orders sought

1. An order that the Applicants (**Westpac**) be granted leave to file:
 - (a) this Interlocutory Application dated 21 January 2022;
 - (b) the affidavit of Caitlin Maria Murray sworn on 21 January 2022.
2. An order that paragraphs 1 to 6 of this interlocutory application be returnable *instanter*.
3. An order pursuant to rule 1.39 of the Federal Court Rules 2011 (Cth) (**FCR**) abridging the time for service of the interlocutory application and the supporting affidavits (the affidavits of Caitlin Maria Murray sworn 19 October 2021 and 21 January 2022) to 4.00pm on 24 January 2022 with service to be effected by service on the Forty-Seventh Respondent, Louise Maria Agostino:
 - (a) by email to loulou1743@gmail.com; and
 - (b) by sending a text message to 0439 392 008 with the following link https://drive.google.com/drive/folders/1SuRpkLjLxG1p6ixsOZmvAeR8xYlLdY_p?usp=sharing which contains the interlocutory application and supporting affidavit;
 - (c) by email to Ralph Daher of Cobden and Hayson Balmain at ralph@ch.com.au;
 - (d) by email to Peter Gordon of Cobden and Hayson Balmain at peterg@ch.com.au.
4. This interlocutory application be listed for hearing on ___ January 2022 at ___.
5. Westpac has leave to file and issue a subpoena which is returnable at the hearing of the interlocutory application on ___ January 2022 at ___ to:
 - (a) Balmain Real Estate Pty. Limited in the form of **Annexure B** to these orders;
 - (b) Commonwealth Bank of Australia Limited in the form of **Annexure C** to these orders; and
 - (c) Sydney City Realty Pty Limited in the form of **Annexure D** to these orders.
6. Pursuant to r 24.13(8)(a)(ii) of the Federal Court Rules the time for service of the subpoenas referred to in paragraph 5 above be abridged to 4.00pm on 24 January 2022.



7. A freezing order against the Forty-Seventh Respondent, Louise Maria Agostino, pursuant to section 23 of the Federal Court of Australia Act 1976 (Cth) (**Act**) and rule 7.32 of the Federal Court Rules 2011 (Cth) (**Federal Court Rules**), in the form of the orders attached as Annexure A to this interlocutory application.
8. Leave to enter these orders forthwith.
9. Such further or other orders as the Court deems fit or necessary.
10. Costs.

Service on the Respondents

It is intended to serve this application on the named Respondent.

Date: 21 January 2022

A handwritten signature in blue ink, appearing to read 'Caitlin Murray', written over a horizontal line.

Signed by Caitlin Murray
Lawyer for the Applicant



Schedule of Parties

No. NSD616/2021

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

Applicants

First Applicant	Westpac Banking Corporation ABN 33 007 457 141
Second Applicant	Westpac New Zealand Limited (company registration number company number 1763882)

Respondents

First Respondent:	Forum Finance Pty Limited (in liquidation) ACN 153 301 172
Second Respondent:	Basile Papadimitriou
Third Respondent:	Vincenzo Frank Tesoriero
Fourth Respondent:	Forum Group Financial Services Pty Ltd (provisional liquidators appointed) ACN 623 033 705
Fifth Respondent:	Forum Group Pty Ltd (Receivers Appointed) (in liquidation) ACN 153 336 997
Sixth Respondent:	Forum Enviro Pty Ltd (provisional liquidators appointed) ACN 168 709 840
Seventh Respondent:	Forum Enviro (Aust) Pty Ltd (provisional liquidators appointed) ACN 607 484 364
Eighth Respondent	64-66 Berkeley St Hawthorn Pty Ltd ACN 643 838 662
Ninth Respondent	14 James Street Pty Ltd (in liquidation) ACN 638 449 206
Tenth Respondent	26 Edmonstone Road Pty Ltd (in liquidation) ACN 622 944 129
Eleventh Respondent	5 Bulkara Street Pty Ltd (in liquidation) ACN 630 982 160
Twelfth Respondent	6 Bulkara Street Pty Ltd (in liquidation) ACN 639 734 473
Thirteenth Respondent	23 Margaret Street Pty Ltd ACN 623 715 373
Fourteenth Respondent	1160 Glen Huntly Road Pty Ltd ACN 639 447 984
Fifteenth Respondent	14 Kirwin Road Morwell Pty Ltd ACN 641 402 093
Sixteenth Respondent	Canner Investments Pty Ltd ACN 624 176 049
Seventeenth Respondent	123 High Street Taradale Pty Ltd ACN 639 872 512
Eighteenth Respondent	160 Murray Valley Hwy Lake Boga Pty Ltd ACN 641 392 921
Nineteenth Respondent	31 Ellerman Street Dimboola Pty Ltd ACN 641 392 887
Twentieth Respondent	4 Cowslip Street Violet Town Pty Ltd ACN 639 872 352



Twenty-First Respondent	55 Nolan Street Maryborough Pty Ltd ACN 641 392 912
Twenty-Second Respondent	89 Betka Road Mallacoota Pty Ltd ACN 641 393 179
Twenty-Third Respondent	9 Gregory Street Ouyen Pty Ltd ACN 641 392 707
Twenty-Fourth Respondent	9 Main Street Derrinallum Pty Ltd ACN 639 872 736
Twenty-Fifth Respondent	286 Carlisle Street Pty Limited ACN 610 042 343
Twenty-Sixth Respondent	275 High Street Golden Square Pty Ltd ACN 639 870 545
Twenty-Seventh Respondent	Mazcon Investments Hellas IKE
Twenty-Eighth Respondent	Palante Pty Ltd ACN 135 344 151
Twenty-Ninth Respondent	Anastasios Giamouridis
Thirtieth Respondent	The Forum Group of Companies Pty Ltd (in liquidation) ACN 151 964 626
Thirty-First Respondent	Iugis Pty Ltd (in liquidation) ACN 632 882 243
Thirty-Second Respondent	Iugis (UK) Limited
Thirty-Third Respondent	Iugis Holdings Limited
Thirty-Fourth Respondent	Iugis Global Financial Services Limited
Thirty-Fifth Respondent	Iugis Finance Limited
Thirty-Sixth Respondent	Spartan Consulting Group Pty Ltd (in liquidation) ACN 168 989 544
Thirty-Seventh Respondent	Intrashield Pty Ltd (in liquidation) ACN 133 426 534
Thirty-Eighth Respondent	Tesoriero Investment Group Pty Ltd ACN 161 088 115
Thirty-Ninth Respondent	Mangusta (Vic) Pty Ltd ACN 631 520 682
Fortieth Respondent	193 Carlisle Street Enterprises Pty Ltd ACN 612 615 237
Forty-First Respondent	8-12 Natalia Ave Oakleigh Pty Ltd ACN 643 838 626
Forty-Second Respondent	Iugis Hellas IKE
Forty-Third Respondent	Iugis Energy SA
Forty-Fourth Respondent	Eric Constantinidis
Forty-Fifth Respondent	Giovanni (John) Tesoriero
Forty-Sixth Respondent	Moussa (Tony) Bouchahine
Forty-Seventh Respondent	Louisa Maria Agostino
Forty-Eighth Respondent	D&D Group O.E
Forty-Ninth Respondent	Aromatika Fyta Tsai Olympou Theion Ike



ANNEXURE A – FREEZING ORDER

PENAL NOTICE – FREEZING ORDER

TO: Forty-Seventh Respondent, Louise Maria Agostino

IF YOU (BEING THE PERSON BOUND BY THIS ORDER):

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU NOT TO DO,**

YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.

TO: Louise Maria Agostino

This is a '*freezing order*' made against you on ___ January 2022 by Justice Lee at a hearing after the Court was given the undertakings set out in Schedule A to this order.

THE COURT ORDERS:

INTRODUCTION

- (1) Subject to the next paragraph, this order has effect until further order.
- (2) Anyone served with or notified of this order, including you, may apply to the Court at any time to vary or discharge this order or so much of it as affects the person served or notified.
- (3) In this order:
 - (a) 'applicant', if there is more than one applicant, includes all the applicants;
 - (b) 'you', where there is more than one of you, includes all of you and includes you if you are a corporation;
 - (c) 'third party' means a person other than you and the applicant;
 - (d) 'unencumbered value' means value free of mortgages, charges, liens or other encumbrances.
 - (e) 'Relevant Amount' means the amount of AUD\$253,766,555.76 and NZD\$44,097,969.
- (4) (a) If you are ordered to do something, you must do it by yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions.



- (b) If you are ordered not to do something, you must not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions or with your encouragement or in any other way.

FREEZING OF ASSETS

- (5) (a) You must not remove from Australia or New Zealand or in any way dispose of, deal with or diminish the value of any of your assets in Australia and New Zealand ('Australian and NZ assets') up to the unencumbered value of AUD\$253,766,555.76 and NZD\$44,097,969 (the 'Relevant Amount').
- (b) If the unencumbered value of your Australian and NZ assets exceeds the Relevant Amount, you may remove any of those assets from Australia and New Zealand or dispose of or deal with them or diminish their value, so long as the total unencumbered value of your Australian and NZ assets still exceeds the Relevant Amount.
- (c) If the unencumbered value of your Australian assets is less than the Relevant Amount, and you have assets outside Australia (**Worldwide Assets**):
- (i) you must not dispose of, deal with or diminish the value of any of your Australian assets or your Worldwide Assets up to the unencumbered value of the Relevant Amount; and
- (ii) you may dispose of, deal with or diminish the value of any of your Worldwide Assets, so long as the unencumbered value of all of your Australian assets and Worldwide Assets still exceeds the Relevant Amount.
- (6) For the purposes of this order,
- (a) your assets include:
- (i) all your assets, whether or not they are in your name and whether they are solely or co-owned;
- (ii) any asset which you have the power, directly or indirectly, to dispose of or deal with as if it were your own (you are to be regarded as having such power if a third party holds or controls the asset in accordance with your direct or indirect instructions); and
- (iii) the following asset in particular the property with NSW Land Title Folio Reference 189/SP91250 being the property known as Unit 413, 3 Nagurra Place, Rozelle NSW 2039 (**Nagurra Place Property**), or if it has been sold, the net proceeds of the sale.
- (b) the value of your assets is the value of the interest you have individually in your assets.

PROVISION OF INFORMATION

- (7) Subject to paragraph 8, you must:
- (a) within 5 business days after these orders are made (or within such further time as the Court may allow) to the best of your ability inform the applicants in writing of all your assets, giving their value, location and details (including any mortgages, charges or other encumbrances to which they are subject) and the extent of your interest in the assets;
- (b) within 5 business days after this order is made, swear by a proper officer and serve on the applicants an affidavit setting out the above information.



- (8) (a) This paragraph (8) applies if you are not a corporation and you wish to object to complying with paragraph 7 on the grounds that some or all of the information required to be disclosed may tend to prove that you:
- (i) have committed an offence against or arising under an Australian law or a law of a foreign country; or
 - (ii) are liable to a civil penalty.
- (b) This paragraph (8) also applies if you are a corporation and all of the persons who are able to comply with paragraph 7 on your behalf and with whom you have been able to communicate, wish to object to your complying with paragraph 7 on the grounds that some or all of the information required to be disclosed may tend to prove that they respectively:
- (i) have committed an offence against or arising under an Australian law or a law of a foreign country; or
 - (ii) are liable to a civil penalty.
- (c) You must:
- (i) disclose so much of the information required to be disclosed to which no objection is taken; and
 - (ii) prepare an affidavit containing so much of the information required to be disclosed to which objection is taken, and deliver it to the Court in a sealed envelope; and
 - (iii) file and serve on each other party a separate affidavit setting out the basis of the objection.

EXCEPTIONS TO THIS ORDER

- (9) This order does not prohibit:
- (a) you paying up to \$2,500 a week on your ordinary living expenses;
 - (b) paying up to \$50,000 on your reasonable legal expenses;
 - (c) dealing with or disposing of any of your assets in the ordinary and proper course of your business, including paying business expenses bona fide and properly incurred; and
 - (d) in relation to matters not falling within (a), (b) or (c), dealing with or disposing of any of your assets in discharging obligations bona fide and properly incurred under a contract entered into before this order was made, provided that before doing so you give the applicant, if possible, at least two working days written notice of the particulars of the obligation;
 - (e) completion of the sale of the Nagurra Place Property pursuant to the existing contract to sell that property and payment from the proceeds of sale of the Nagurra Place Property of:
 - (i) the amount of the loan owed to the Commonwealth Bank of Australia as at 21 January 2022 (together with any interest thereon accrued after that date) secured by first registered mortgage over the Nagurra Place Property;



- (ii) bona fide costs of sale of the Nagurra Place Property insofar as those costs have not been previously paid.
- (10) You and the applicant may agree in writing that the exceptions in the preceding paragraph are to be varied. In that case the applicant or you must as soon as practicable file with the Court and serve on the other a minute of a proposed consent order recording the variation signed by or on behalf of the applicant and you, and the Court may order that the exceptions are varied accordingly.
- (11) (a) This order will cease to have effect if you:
- (i) pay the sum of AUD\$253,766,555.76 and NZD\$44,097,969 into Court; or
 - (ii) pay that sum into a joint bank account in the name of your lawyer and the lawyer for the applicant as agreed in writing between them; or
 - (iii) provide security in that sum by a method agreed in writing with the applicant to be held subject to the order of the Court.
- (b) Any such payment and any such security will not provide the applicant with any priority over your other creditors in the event of your insolvency.
- (c) If this order ceases to have effect pursuant 11(a) above, you must as soon as practicable file with the Court and serve on the applicant notice of that fact.

COSTS

- (12) The costs of this application are reserved to the Court hearing the application on the Return Date.

PERSONS OTHER THAN THE APPLICANT AND RESPONDENT

(13) Set off by banks

This order does not prevent any bank from exercising any right of set off it has in respect of any facility which it gave you before it was notified of this order.

(14) Bank withdrawals by the respondent

No bank need inquire as to the application or proposed application of any money withdrawn by you if the withdrawal appears to be permitted by this order.

(15) Persons outside Australia and New Zealand

- (a) Except as provided in subparagraph (b) below, the terms of this order do not affect or concern anyone outside Australia or New Zealand.
- (b) The terms of this order will affect the following persons outside Australia and New Zealand:
 - (i) you and your directors, officers, employees and agents (except banks and financial institutions);
 - (ii) any person (including a bank or financial institution) who:
 - (A) is subject to the jurisdiction of this Court; and
 - (B) has been given written notice of this order, or has actual knowledge of the substance of the order and of its requirements; and
 - (C) is able to prevent or impede acts or omissions outside Australia which constitute or assist in a disobedience of the terms of this order; and



- (iii) any other person (including a bank or financial institution), only to the extent that this order is declared enforceable by or is enforced by a court in a country or state that has jurisdiction over that person or over any of that person's assets.

(16) Assets located outside Australia and New Zealand

Nothing in this order shall, in respect of assets located outside Australia and New Zealand, prevent any third party from complying or acting in conformity with what it reasonably believes to be its bona fide and properly incurred legal obligations, whether contractual or pursuant to a court order or otherwise, under the law of the country or state in which those assets are situated or under the proper law of any contract between a third party and you, provided that in the case of any future order of a court of that country or state made on your or the third party's application, reasonable written notice of the making of the application is given to the applicant.



SCHEDULE A

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANTS

- (1) The applicants undertake to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.
- (2) As soon as practicable, the applicants will file and serve upon Louise Maria Agostino copies of:
 - (a) this order;
 - (b) the following material in so far as it was relied on by the applicant at the hearing when the order was made:
 - (i) affidavits (or draft affidavits);
 - (ii) exhibits capable of being copied;
 - (iii) any written submission; and
 - (iv) any other document that was provided to the Court.
 - (c) a transcript, or, if none is available, a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put, to the Court;
 - (d) the originating process, or, if none was filed, any draft originating process produced to the Court.
- (3) As soon as practicable, the applicants will cause anyone notified of this order to be given a copy of it.
- (4) The applicants will pay the reasonable costs of anyone other than the respondents which have been incurred as a result of this order, including the costs of finding out whether that person holds any of assets of Louise Maria Agostino.
- (5) If this order ceases to have effect the applicants will promptly take all reasonable steps to inform in writing anyone to who has been notified of this order, or who he has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.
- (6) The applicants will not, without leave of the Court, use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in or outside Australia, other than this proceeding.
- (7) The applicants will not, without leave of the Court, seek to enforce this order in any country outside Australia or seek in any country outside Australia an order of a similar nature or an order conferring a charge or other security against the respondent or the respondent's assets.

**SCHEDULE B****AFFIDAVITS RELIED ON****Name of deponent**

- (1) Geoffrey Keith Anderson
- (2) Nicholas Anthony O'Brien
- (3) Caitlin Maria Murray

Date affidavit made

28 June 2021; 8 July 2021
27 June 2021; 1 July 2021
19 October 2021 and 21 January
2022

NAME AND ADDRESS OF APPLICANT'S LAWYERS

The applicant's lawyers are:

MinterEllison
Governor Macquarie Tower
Level 40, 1 Farrer Place
Sydney NSW 2000

Attention: Caitlin Murray

caitlin.murray@minterellison.com ; T +61 2 9921 4279 ; M +61 422 977 971 ref: CMM:1353397