

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 23/09/2021 5:27:19 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Statement of Charge - Form 137 - Rule 42.12(a)
File Number: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v
FORUM FINANCE PTY LIMITED & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



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

Dated: 6/10/2021 2:45:59 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 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.



Statement of charge

No. NSD616/2021

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 the second respondent, Basile Papadimitriou.

You are charged with contempt of court in that:

Charge

1. You disobeyed order 6 of the orders in Annexure A to orders first made by the Honourable Justice Lee on 28 June 2021 and extended on 2 July 2021, 9 July 2021 and 16 July 2021 (the **Freezing Order**) because on or around 1 July 2021 you gave instructions to Macrovue Pty Limited (**Macrovue**) to pay (or caused instructions to be given to Macrovue on your behalf using your user name and access credentials) which caused the payment by Macrovue of \$150,000 held in cash by Macrovue on behalf of the twenty-eighth respondent, Palante Pty Limited ACN 135 344 151 (**Palante**), whose assets you had power over, to a third party, Mr Eric Constantinidis, and you thereby disposed of, dealt with or diminished the value of your assets in Australia (as defined by the Freezing Order) by \$150,000 in circumstances where, as at 1 July 2021, you had assets in Australia with an unencumbered value of less than the 'Relevant Amount' stated in the Freezing Order, being \$262,907,838.23.
2. You disobeyed order 6 of the Freezing Order because on or around 6 July 2021 you gave instructions to Macrovue to pay (or caused instructions to be given to Macrovue on your behalf using your user name and access credentials) which caused the payment by Macrovue of \$570,000 held in cash by Macrovue on behalf of Palante, whose assets you

Filed on behalf of (name & role of party)	Westpac Banking Corporation, Applicant		
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	Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000		
(include state and postcode)	Our reference: 1353397		

had power over, to a third party, Mr Eric Constantinidis, and you thereby disposed of, dealt with or diminished the value of your assets in Australia (as defined by the Freezing Order) by \$570,000 in circumstances where, as at 1 July 2021, you had assets in Australia with an unencumbered value of less than the 'Relevant Amount' stated in the Freezing Order, being \$262,907,838.23.

Particulars of Charges 1 and 2

In these particulars, all times and dates refer to the time and date in Sydney, Australia when the relevant event occurred.

- a. On 28 June 2021, Justice Lee at a hearing without notice to you made the Freezing Order pursuant to s 23 of the *Federal Court of Australia Act 1976* (Cth) (**Act**) and rule 7.34 of the *Federal Court Rules 2011* (Cth).
- b. The Freezing Order was served on you on 28 June 2021 at 3:34pm by email to your email address 'bpapas@forumgroup.com.au' from Caitlin Murray of MinterEllison, solicitors for the applicants.
- c. You have been in the Hellenic Republic since on or around 21 June 2021 and have been primarily based in or near Thessaloniki (see paragraph 5 of the affidavit you swore on 29 July 2021 purporting to disclose your assets).
- d. You had access to your email address 'bpapas@forumgroup.com.au' at the time the email was sent on 28 June 2021 and thereafter until at least 9 or 10 July 2021 (see paragraph 7(d) of the affidavit you swore on 29 July 2021 purporting to disclose your assets).
- e. The Freezing Order contained a notice that warned you that if you disobeyed the Freezing Order you would be liable to imprisonment, sequestration of property or other punishment.
- f. By order 6 of the Freezing Order, you were ordered not to remove from Australia or in any way dispose of, deal with or diminish the value of any of your assets in Australia up to the unencumbered value of \$262,907,838.23 (the **Relevant Amount**).
- g. By order 7 of the Freezing Order, your assets for the purpose of the Freezing Order (including order 6) were defined to include among other things:
 - 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).

- h. At all times since 28 June 2021, the unencumbered value of your assets in Australia has been less than the Relevant Amount.
- i. By 3:28pm on 1 July 2021, you had retained Rocco Panetta of Panetta Lawyers to act for you in the above proceeding.
- j. At 3:28pm on 1 July 2021, Mr Panetta communicated that fact to Caitlin Murray of MinterEllison, solicitors for the applicant, and Mr Panetta requested and was sent at 4:44pm on 1 July 2021 all documents served on Mr Papas including the Freezing Order.
- k. Since 6 March 2018, you have been the sole director of Palante.
- l. At all material times since 6 March 2018, and since the Freezing Order was made, you have had the power, directly or indirectly, to dispose of or deal with as if they were your own the assets of Palante as you are its sole director (and in that regard the first sentence of paragraph 17 of the affidavit you swore on 29 July 2021 purporting to disclose your assets is relied upon as an admission).
- m. Since at least 10 July 2019, and at the time the Freezing Order was made, Palante was the holder of account number 1545 with Macrovue.
- n. Macrovue operates through an online platform that grants its clients a secure login from which to provide instructions to Macrovue regarding their account.
- o. Since at least 24 January 2020, and since the Freezing Order was made, you were the only user linked to Macrovue account number 1545, with user identification number 1887 and user name 'bpapas@forumgroup.com.au'.
- p. Since at least 24 January 2020, and since the Freezing Order was made, you were the only person granted access to Macrovue account number 1545 and able to operate it and provide instructions to Macrovue about its operations and therefore the only person on whose instructions Macrovue would act in relation to the assets of Palante which Macrovue held.
- q. On 29 June 2021, you logged into Macrovue account number 1545 from a device connected to IP address 37.6.10.124 and gave instructions to create order 214352 (or caused a person unknown to log in and give those instructions).
- r. On 30 June 2021, you logged into Macrovue account number 1545 from a device connected to IP address 37.6.10.124 and gave instructions to create order 214553 (or caused a person unknown to log in and give those instructions).

- s. On 1 July 2021, you logged into Macrovue account number 1545 from a device connected to IP address 37.6.10.124 and gave instructions:
 - i. to create order 214879 and 214881;
 - ii. to create a withdrawal in the amount of \$150,000 from the Macrovue account to an account held by Mr Eric Constantinidis with National Australia Bank Limited,

or caused a person unknown to log in and give those instructions.
- t. Following the instruction given on 1 July 2021, Macrovue transferred \$150,000 from Palante's account to an account held by Mr Eric Constantinidis with National Australia Bank Limited on or around 4 July 2021 (or caused a person unknown to log in and give those instructions).
- u. By reason of the matters in particulars (s) and (t), you disposed of, dealt with or diminished the value of your assets in Australia (as defined by the Freezing Order) by the amount of \$150,000 in circumstances where, as at 1 July 2021, you had assets in Australia with an unencumbered value of less than the 'Relevant Amount' stated in the Freezing Order, being \$262,907,838.23.
- v. On 1 July 2021, you logged into Macrovue account number 1545 for a second time from a device connected to IP address 37.6.10.124 and gave instructions to create orders 214951, 214952, 214954, 214955 and 214967 (or caused a person unknown to log in and give those instructions).
- w. On 5 July 2021, you logged into Macrovue account number 1545 from a device connected to IP address 62.38.150.220 and gave instructions to create orders 215675, 215676 and 215677 (or caused a person unknown to log in and give those instructions).
- x. On 6 July 2021, you logged into Macrovue account number 1545 from a device connected to IP address 37.6.10.124 and gave instructions:
 - i. to create orders 216397, 216398, 216399, 216401 and 216402;
 - ii. to create a withdrawal in the amount of \$570,000 from the Macrovue account to an account held by Mr Eric Constantinidis with National Australia Bank Limited,

or caused a person unknown to log in and give those instructions.
- y. Following the instruction given on 6 July 2021, Macrovue transferred \$570,000 from Palante's account to an account held by Mr Eric Constantinidis with National

Australia Bank Limited on or around 7 July 2021 (or caused a person unknown to log in and give those instructions).

- z. By reason of the matters in particulars (x) and (y), you disposed of, dealt with or diminished the value of your assets in Australia (as defined by the Freezing Order) by the amount of \$570,000 in circumstances where, as at 6 July 2021, you had assets in Australia with an unencumbered value of less than the 'Relevant Amount' stated in the Freezing Order, being \$262,907,838.23.
- aa. On 7 July 2021, you logged into Macrovue account number 1545 from a device connected to IP address 62.38.150.220 and gave instructions to create orders 217216, 217217 and 217218 (or caused a person unknown to log in and give those instructions).
- bb. IP address 37.6.10.124 is connected to an internet service provider called Wind Hellas in Thessaloniki, Greece.
- cc. IP address 62.38.150.220 is connected to an internet service provider called Vodafone Greece in Athens, Greece.

Date:

Judge