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### Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
File Number: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



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

Dated: 5/07/2021 11:31:42 AM AEST

Registrar

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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.

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Form 59  
Rule 29.02(1)

## AFFIDAVIT

No. NSD1220 of 2020

Federal Court of Australia  
District Registry: NSW  
Division: Commercial and Corporations

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and others named in the Schedule**

Defendants

Affidavit of: Isabella Lucy Allen

Address: Level 5, 100 Market Street, Sydney, New South Wales

Occupation: Senior Investigator

Date: 17 May 2021

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Filed on behalf of (name & role of party) Australian Securities and Investments Commission, the Plaintiff  
 Prepared by (name of person/lawyer) Nicolette Bearup  
 Law firm (if applicable) \_\_\_\_\_  
 Tel (02) 9911 5745 Fax (02) 9911 2414  
 Email nicolette.beaup@asic.gov.au  
**Address for service** Level 5, 100 Market Street, Sydney, NSW, 2000  
 (include state and postcode)

[Version 3 form approved 02/05/2019]

A large, stylized handwritten signature in black ink, appearing to be 'Isabella Lucy Allen'.

A smaller, cursive handwritten signature in black ink, likely of the preparer Nicolette Bearup.

Document number	Details	Paragraph	Page
2	Annexure <b>IA-29</b> , being a copy of an email from NSW Police dated 17 March 2021 with Ringtail barcode MAL.0003.0023.0001	6	
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4	Annexure <b>IA-31</b> , being a screenshot of the search results from the National Registry of Missing Persons webpage with Ringtail barcode MAL.0003.0001.1130	8	
5	Annexure <b>IA-32</b> , being a copy of the results of a search of records held by the [REDACTED] and [REDACTED]	12	
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11	Annexure <b>IA-38</b> , being copies of Form 5, "Notice of acting – change of lawyer", and Form 8, "Notice of ceasing to act"	21	
12	Annexure <b>IA-39</b> , being a copy of an affidavit of Mr Scott Harris affirmed on 15 December 2020	22	

I, Isabella Lucy Allen, Investigator of Level 5, 100 Market Street Sydney New South Wales 2000 affirm:

1. I am employed by the Australian Securities and Investments Commission (**ASIC**) as an investigator in ASIC's Financial Services Enforcement team as part of the Office of Enforcement.
2. I am authorised to make this affidavit on behalf of ASIC pursuant to section 102 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) and have




been delegated certain functions and powers, including the functions and powers under Part 3 of the ASIC Act which relate to ASIC's investigation and information gathering powers.

3. Unless otherwise stated, I make this affidavit from information within my own knowledge and from an examination of the records of, or otherwise in the possession of, ASIC. Where I depose to matters from information and belief, I believe those matters to be true and correct.
4. I have previously affirmed affidavits in relation to these proceedings. I affirm this affidavit in support of the interlocutory process dated 17 May 2021, in which ASIC seeks the following orders:
  - (a) *This interlocutory process be made returnable instanter and be determined on the papers.*
  - (b) *Service of the interlocutory process be dispensed with.*
  - (c) *Pursuant to s 23, or alternatively, s 37P, of the Federal Court of Australia Act 1976 (Cth), Ms Carrie Rome-Sievers of counsel be appointed to act as contradictor for the purposes of making submissions on behalf of the First Defendant (Contradictor).*
  - (d) *Until further order and pursuant to sections 37AF(1)(a) and (b) and 37AG(1)(a) and (c) of the Federal Court of Australia Act 1976 (Cth), the publication or disclosure of paragraphs 12 to 13 of Ms Isabella Allen's affidavit affirmed on 17 May 2021 (including the document annexed to her affidavit and marked "IA-32"), is prohibited (except to the parties and their legal representatives).*
  - (e) *ASIC to pay the costs of the Contradictor in preparing for and making submissions on behalf of the First Defendant as contradictor.*
  - (f) *Such further or other order as the Court sees fit.*

#### **NSW Police enquiry**

5. Ms Caddick was reported as missing on 13 November 2020.
6. On 17 March 2021, Detective Sargent Michael Foscholo (**Mr Foscholo**) of Paddington Police Station, Eastern Suburbs Police Area Command sent an email to Senior Investigator Mr Brendan Hough (**Mr Hough**) copying me. The email stated among other things the following:



- (a) the due date for the brief to the coroner is due 17 June 2021;
- (b) it is unlikely the brief will be submitted by the specified date;
- (c) it is too early to say whether the Coroner will direct a coronial inquest; and
- (d) the post-mortem has been completed however the pathology reports are not available yet and it is unclear at this stage if the pathologist can determine the condition of the remains.

A copy of this email (MAL.0003.0023.0001) is at annexed to this affidavit and marked "IA-29".

7. On 30 April 2021, I instructed investigator Ms Steph Colbran (**Ms Colbran**) to navigate to the Missing Persons webpage on the NSW Police website located at [https://www.police.nsw.gov.au/can\\_you\\_help\\_us/missing\\_persons](https://www.police.nsw.gov.au/can_you_help_us/missing_persons) and search for 'Melissa Caddick' via the "missing persons enquiry system". I am informed by Ms Colbran that the search results stated that "[n]o results exist for this search criteria". As a result, this database did not list Ms Caddick as a missing person as at 30 April 2021. A copy of the screenshot of the search results (MAL.0003.0001.1120) is annexed to this affidavit and marked "IA-30".
8. On 30 April 2021, I also instructed Ms Colbran to navigate to the AFP Missing Persons website located at <https://www.missingpersons.gov.au/> and search for 'Melissa Caddick'. When conducting a search of the National Registry of Missing Persons, it is possible to search the "register" or the "website". I understand that when Ms Colbran searched the "register" using the search term "Melissa Caddick", she received one result in respect of a person called "Melissa Brown". This person appears to be unrelated to Ms Caddick. I also understand that when Ms Colbran searched the "website" using the search term "Melissa Caddick", she did not receive any search results. As a result, Ms Caddick does not appear to be listed as a missing person on the register or website as at 30 April 2021. A copy of the screenshot of the search results (MAL.0003.0001.1130) is annexed to this affidavit and marked "IA-31".
9. On or around 12 May 2021, I was informed by Mr Hough of his discussion with Mr Foscholo of NSW Police that:
  - (a) NSW Police is treating Ms Caddick as a missing person;





14.



### **Enduring Power of Attorney**

15. Mr Adam Grimley has been representing Ms Caddick's interests in the proceedings under an enduring power of attorney dated 15 September 2016 (**EPOA**). A copy of the EPOA was exhibited at pages 2 to 15 of Exhibit AEG1 to the affidavit of Mr Grimley sworn on 8 December 2020. A copy of the EPOA is annexed to this affidavit and marked "**IA-33**".
16. At paragraph 9 of Mr Grimley's affidavit, he stated that on 3 December 2020, he lodged an application to Queensland Civil and Administrative Tribunal seeking a declaration as to the validity of the EPOA. A copy of the application was exhibited at pages 17 to 78 of Exhibit AEG1 to Mr Grimley's affidavit. At "Annexure A" to the application are submissions made by Mr Grimley in support of the declaration as to the validity of the EPOA. A copy of the application (including the submissions at "Annexure A") is annexed to this affidavit and marked "**IA-34**".
17. On 21 December 2020, ASIC received an email from Mr Scott Harris of Hogan Lovells stating that "earlier today, Mr Grimley's application to the Queensland Civil Administrative Tribunal was heard in relation to the validity of the Enduring Power of Attorney dated 15 September 2016 ("EPOA"). The Tribunal made a finding confirming that the EPOA was valid". A copy of this email is annexed to this affidavit and marked "**IA-35**".
18. ASIC has not received a copy of the finding referred to above.

### **Ms Caddick's representation**

19. Mr Grimley, in his capacity as the representative of Ms Caddick, was represented by Ms Jennifer Wilson of Williamson and Associates Solicitors from 17 November 2020 to 1 December 2020. A copy Form 4, "Notice of acting – appointment of lawyer", states that



"ADAM GRIMLEY as Attorney for Melissa Louise Caddick under Enduring Power has appointed, JENNIFER LESLIE WILLIAMSON of Williamson and Associates Solicitors to represent the Defendant Melissa Louse [sic] Caddick and others named in the Schedule in the proceeding". A copy of the form is annexed to this affidavit and marked "IA-36".

20. On 26 November 2020, Ms Williamson affirmed an affidavit stating that "I receive instructions from Mr Adam Grimley, the brother of the First Defendant, Ms Caddick. He is instructing me on behalf of Ms Caddick". A copy of this affidavit is annexed to this affidavit and marked "IA-37".
21. Mr Grimley was represented by Mr Harris of Hogan Lovells from 1 December 2020 to 19 February 2021. Copies of Form 5, "Notice of acting – change of lawyer", and Form 8, "Notice of ceasing to act", are annexed to this affidavit and marked "IA-38".
22. On 15 December 2020, Mr Harris affirmed an affidavit stating that "I am a partner of Hogan Lovells, the solicitors for Mr Adam Grimley ("Representative") who is the attorney of the First Defendant acting under an enduring power of attorney granted by the First Defendant on 15 September 2016 ("EPOA"), and I have the care and conduct of his proceeding on behalf of the Representative". A copy of this affidavit is annexed to this affidavit and marked "IA-39".
23. From 19 February 2021 to date, ASIC has liaised with Mr Grimley in relation to the proceedings. This has included: Mr Grimley discussing proposed orders with officers of ASIC; Mr Grimley consenting to communications to the Associate; and, Mr Grimley signing consent orders on 16 April 2021 regarding ASIC's further amended originating process.

#### **Appointment of Ms Carrie Rome-Sievers as contradictor**

24. I am informed by Stephen Johnson, a Senior Specialist in the Chief Legal Office of the Plaintiff, that on 5 May 2021 he separately contacted each of Ms Rome-Sievers, Mr Grimley and Mr Michael Hayter (the lawyer for the receivers and provisional liquidators) regarding the appointment of a contradictor for the purposes of making submissions on behalf of the First Defendant.
25. I am further informed by Mr Johnson that during the telephone calls:
  - (a) Mr Grimley stated that he consents to the appointment of a contradictor;
  - (b) Mr Hayter stated that his clients consent to the appointment of Ms Rome-Sievers to act as contradictor; and






(c) Ms Rome-Sievers stated that she consents to being appointed as contradictor for the purposes of making submissions on behalf of the First Defendant.

26. Lastly, ASIC will meet the costs of Ms Rome-Sievers acting as contradictor. They will not be borne by the aggrieved investors.

Affirmed by the deponent  
at Level 5, 100 Market Street, Sydney  
in the State of New South Wales  
on 17 May 2021  
Before me:

)  
)  
)  
)  
)

  
\_\_\_\_\_  
Signature of deponent



Signature of witness  
George Biankin  
An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (NSW)



Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-29**

This is the annexure marked "IA-29" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me:.....

George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff	
Prepared by	Nicolette Bearup	
Tel	(02) 9911 5745	Fax (02) 9911 2414
Email	Nicolette.Bearup@asic.gov.au	
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup	

**RE: Coronial [SEC=OFFICIAL]**

**From:** Michael Foscholo <fosc1mic@police.nsw.gov.au>  
**To:** Brendan Hough <brendan.hough@asic.gov.au>  
**Cc:** Isabella Allen <isabella.allen@asic.gov.au>  
**Date:** Wed, 17 Mar 2021 07:15:33 +1100

**EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.**

Hi Brendan,  
 Yeah it's definitely been a busy time for everyone. I have six staff preparing the brief at the moment. Our due date was 17 June but I don't anticipate it being done by this time. Could take a few extra weeks or months, it's a bit hard to say at this stage. We're getting statements off all the investors/associates/family members etc and all Police involved in the response. So there is quite a bit to compile.  
 It is too early to say whether the Coroner will direct an inquest. They may be satisfied based on the full brief of evidence we provide. But I won't know until the Coroner has reviewed the brief.  
 No I don't have any pathology reports yet. The post mortem has been completed. It'll probably take a few more weeks to get this info. It may or may not be something the pathologist can determine depending on the condition of the remains.  
 Thanks.  
 Michael.



**Michael Foscholo**  
 Detective Sergeant  
 Paddington Police Station  
 Eastern Suburbs Police Area Command  
 16 Jersey Road, Paddington 2021  
 E: [fosc1mic@police.nsw.gov.au](mailto:fosc1mic@police.nsw.gov.au) P: 9265 5491 E: 20491

**From:** Brendan Hough <Brendan.Hough@asic.gov.au>  
**Sent:** Tuesday, 16 March 2021 3:29 PM  
**To:** Michael Foscholo <fosc1mic@police.nsw.gov.au>  
**Cc:** Isabella Allen <Isabella.Allen@asic.gov.au>  
**Subject:** Coronial [SEC=OFFICIAL]

Hi Michael,

I was wondering if you could help me with the following questions? We are under the pump preparing for a Federal Court hearing. As part of that, we need to know:

- How long it will take for NSWP to provide the brief of evidence to the coroner?
- Whether the NSW Coroner's Court has provided an indication to NSWP with regards to when the coronial inquest will likely be heard?
- Whether there is any additional forensic reports which are available from NSW Forensic Pathology lab which may confirm one way or the other how Caddick's foot was severed (if in fact the media reports regarding the further tests are accurate).

Thanks Michael, take care,

**Brendan Hough**  
 Senior Investigator, Financial Services Enforcement  
 Office of Enforcement

**Australian Securities and Investments Commission**

Level 5, 100 Market Street, Sydney, 2000  
 Tel: 0435 700 021  
[brendan.hough@asic.gov.au](mailto:brendan.hough@asic.gov.au)



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Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**  
**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-30**

This is the annexure marked "IA-30" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me: 

George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff
Prepared by	Nicolette Bearup
Tel (02) 9911 5745	Fax (02) 9911 2414
Email Nicolette.Bearup@asic.gov.au	
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup



Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-31**



This is the annexure marked "IA-31" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me: .....



George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff		
Prepared by	Nicolette Bearup		
Tel	(02) 9911 5745	Fax	(02) 9911 2414
Email	Nicolette.Bearup@asic.gov.au		
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup		

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### Melissa BROWN

Rosemary Brown, aged 33 years, along with her daughter Melissa Brown (also known as Melissa Trussell), aged 15 years, and Rosemary's son, were residents of the Windsor Gardens...



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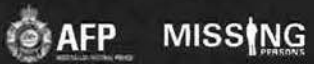
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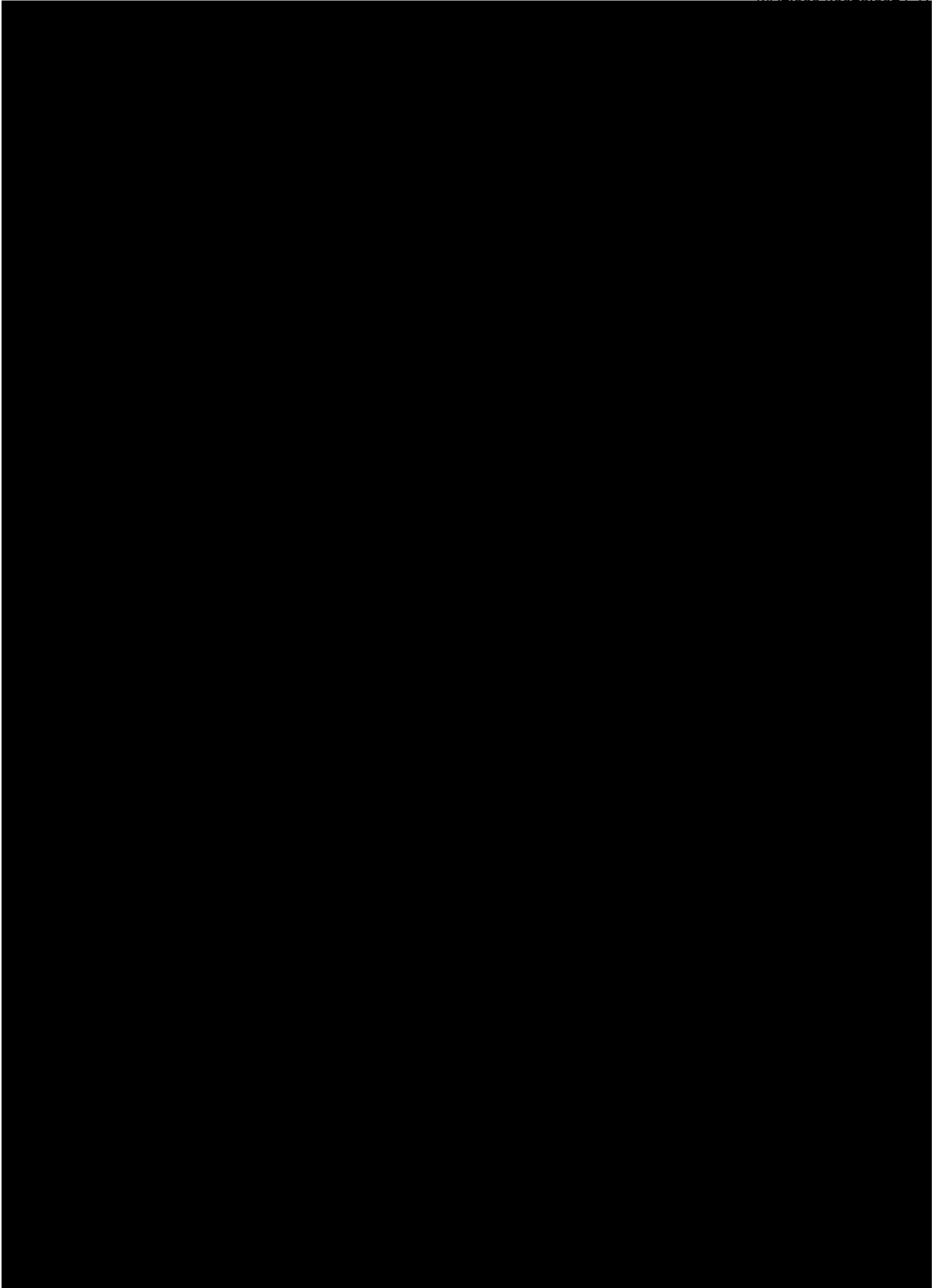








































































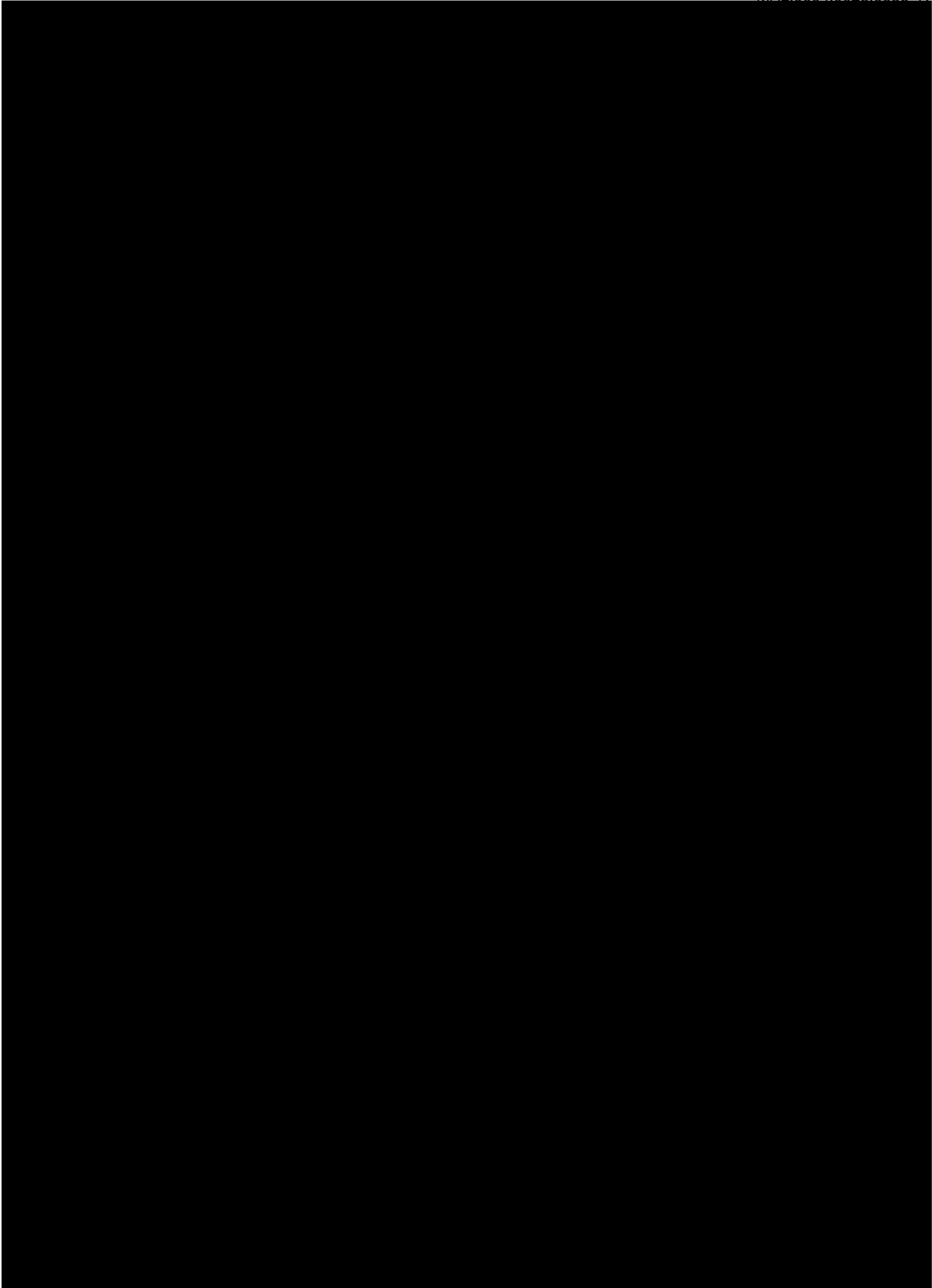
















Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-33**

This is the annexure marked "IA-33" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me: 

George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff		
Prepared by	Nicolette Bearup		
Tel	(02) 9911 5745	Fax	(02) 9911 2414
Email	Nicolette.Bearup@asic.gov.au		
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup		

Form 2  
 Queensland  
*Powers of Attorney Act 1998*  
 (Section 44(1))

Date: 15 10 91 2016  
 Principal: MELISSA LOUISE CADDICK  
 Attorney ADAM EDWARD GRIMLEY

## ENDURING POWER OF ATTORNEY

---

### Short Form

Use this document if you wish to appoint *the same* attorney/s for both financial matters and personal matters (including health care).

You may also use it to appoint an attorney (or attorneys) for financial matters **only** or for personal matters (including health care) **only**.

This document can be used by non-English speakers if a qualified interpreter/ translator reads it to the person in the person's own language and a signed Statement of Interpreter/Translator is attached.

I, JENNIFER LESLIE WILLIAMSON,  
 Solicitor certify this to be a true and  
 correct copy of the corresponding page  
 of the original, which I have sighted.

*JL*  
 15/10/2016

ver: 2 - 1/06/02



## **PART 1: For the person appointing an attorney**

By completing this document, you can give a **limited/lasting power of attorney** to make decisions on your behalf about:

- personal/health matters and/or
- financial matters.

Solicitor certify this to be a true and correct copy of the corresponding page of the original, which I have sighted.

15/11/2020

These pages explain, in question-and-answer form, what you need to know to complete the document properly.

Because you are the person principally concerned, you are referred to as 'the principal'.

### **What is enduring power of attorney?**

Power of attorney is the legal power to make decisions on someone else's behalf. 'Enduring' simply means that the power continues even if the person giving it loses the capacity to make decisions.

### **Why give someone enduring power of attorney?**

There are some circumstances in which you may be unable to make decisions about matters that concern you. For example, you may be overseas, or you may be too ill.

If you give someone a *general* power of attorney, for instance to sign documents for you in your absence, that power will come to an immediate end if for some reason you lose your capacity to make decisions. This could be very awkward if your attorney is in the process of conducting business affairs for you.

Giving someone *enduring* power means that he/she is able to continue to act for you if you lose capacity to act for yourself.

### **What types of decisions?**

You may give your attorney power to make decisions about:

- personal/health matters;
- financial matters.

Examples of personal/health matters are decisions about where and with whom you live, whether you work or undertake education or training, whether you apply for a licence or permit, day-to-day issues like diet and dress, and whether to consent, refuse to consent or withdraw consent to particular types of health care for you (such as an operation).

An example of a financial matter is deciding how your income should be invested.

#### **Note:**

You cannot give your attorney power to make decisions about:

- special personal matters such as a decision about your will, appointing someone as your attorney, voting at elections, or consenting to adoption or marriage;
- special health matters, such as donation of body tissue, sterilisation, pregnancy termination, research or experimental health care, or certain psychiatric or other health care as specified in the regulations.

Your attorney can consent to the withdrawing or withholding of life-sustaining medical treatment if, for instance, you become terminally ill or go into a state of permanent or persistent unconsciousness. You can give instructions about this type of decision if you make an Advance Health Directive.

These instructions will override any decision of your attorney.

### Can I limit my attorney's powers?

Yes, you can specify decisions that you do not want your attorney to make. You can also include particular instructions about what you would like your attorney to do. Your attorney must act in accordance with your instructions.

There are also limits set by legislation. For example, the Trust Act names the types of investment that a trustee (in this case your attorney) is authorised to make. If you lose the capacity to make financial decisions, the only investments your attorney can make on your behalf are those that are named in the Act, unless the consent of the Court is obtained.

### Can I appoint more than one attorney?

JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.  
15/11/2020

Yes. Several options are provided for in the Act. For example, you may appoint two or more attorneys to act jointly (together), or as a majority (simple, two-thirds, etc.), or severally (any one of your attorneys can sign), or successively (power is given to a particular attorney when the power given to another attorney ends, or when the other attorney is not available to make decisions).

If you choose two or more attorneys to make decisions jointly, they have equal authority and can act only with the agreement of them all. If one attorney dies, the remaining attorneys exercise the power.

It is important that your intentions be expressed clearly. There is space in this document to appoint up to three attorneys.

### Whom should I appoint as my attorney?

You should appoint someone you trust. Many people choose their spouse or an adult child, but you may prefer to appoint another family member or friend with expertise in the area, or the Adult Guardian for personal/health matters, or the Public Trustee or a trustee company for all matters. (The Adult Guardian is appointed by statute to look after the rights and interests of people with disabilities and, in certain situations, to give health-care consent.)

Your attorney must be over eighteen years of age, must not be your current paid carer or health-care provider (such as your nurse or your doctor), and (for financial matters) must not be bankrupt or insolvent.

**Note:**

*'Paid carer' does not mean someone receiving a carer's pension or similar benefit, so you are free to choose someone who is receiving such a benefit for looking after you.*

### Should I pay my attorney?

You do not need to pay your attorney for the power to be effective. Normally payment is not made unless a trust company is acting as attorney.

### When does the attorney's power begin?

With personal/health matters, your attorney's power to make decisions does not begin until (if ever) you are incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.

With financial matters, you may nominate when your attorney's power is to begin. If you do not name a date or an occasion, it begins immediately. On the other hand, if you lose the capacity to make such decisions before the date or occasion you name, the power begins at that point.

**Note:**

*Even if you give your attorney power immediately, you may also continue to make decisions yourself while you are able to do so.*

### How much control will my attorney have?

Once the power to make a decision begins, your attorney will have full control over that decision unless you have explicitly limited that power in this document.

**Note:** *It is better not to place too many restrictions on your attorney's power, as this may make it difficult for your attorney to make decisions on your behalf.*

### How long does the power continue?

For personal/health matters, it continues so long as you are incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.

With financial matters, it continues until it is revoked.

### How can I be sure that my attorney will act in my interests?

While (if ever) you are unable to oversee your attorney's decisions, the Adult Guardian and the Court have the power to protect your interests. Your attorney may be required to produce a summary of receipts and expenditure or more detailed accounts, and these may be audited. An attorney who does not adequately protect your interests can be removed or changed.

### Can I change or revoke this power of attorney?

Yes, you may change or revoke it at any time, so long as you are capable of understanding what you are doing. In other words, so long as you have the capacity to *make* an enduring power of attorney, you also have the capacity to *change or revoke* it.

If you do change or revoke this power, you must inform your attorney.

### Is there anything else that will end this power?

Yes, several other circumstances will bring this enduring power of attorney to an end:

- **If you get married.** If you marry, the power of attorney is revoked unless your new spouse is already your attorney. (If your new spouse is your attorney, the only power that is revoked is the power of any other attorney you may have.)
- **If you get divorced.** If you divorce, the power of attorney is revoked to the extent that it was given to your former spouse.
- **If you die.** If you die, the enduring power of attorney is revoked in its entirety.
- **If you make an inconsistent document.** This power is revoked to the extent of any inconsistency with any later document you complete, such as an Advance Health Directive or another enduring power of attorney.
- **If your attorney withdraws.** Your attorney may withdraw by giving you a signed notice or by getting the Court's leave to withdraw.
- **If your attorney becomes your paid carer or health-care provider.** If this happens, your attorney's power is revoked.
- **If your attorney becomes incapable.** Your attorney's power is revoked if he/she becomes incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

15/11/2020

- If your attorney becomes bankrupt or insolvent.
- If your attorney dies.

### Who is involved in completing this document?

At least three people:

- You, as principal, complete the section of Part 1 called *Appointing an Attorney* (clauses 1 to 8).

If you have a physical disability which prevents you from signing, you may instruct another person to sign for you, but you must give the instruction in front of the witness, and the signing must be done in your presence. This person must be eighteen years old or more, and must not be the witness or your attorney. He/she must complete the statement beside the place for his/her signature.

- The witness must sign Part 1 after clause 8 and must also complete the section of Part 2 called *The Witness's Certificate* (clause 9).

The witness must be a justice of the peace, commissioner for declarations, lawyer or notary public. The witness must not also sign for you and must not be your attorney, a relation of yours or of the person/s you appoint as attorney. If the power includes dealing with health matters, the witness must not be your current paid carer or health-care provider.

The witness must state that you appeared to understand what you were doing. If the witness is not sure that you understand the nature and effect of the appointment, he/she should refuse to sign the document.

- The attorney must complete the section in Part 3 called *Attorney's Acceptance* (clauses 10-12).

Your attorney must be at least eighteen years old and must not be your current paid carer or health-care provider.

### Where can I go for advice?

The Adult Guardian, the Public Trustee or a solicitor can advise you about the enduring power of attorney and how to complete this document.

If you are completing an enduring power of attorney for personal/health matters, it is strongly recommended that you notify your doctor.

### What happens to this document when it is completed?

You should leave the original in a safe place, such as with your bank, but it's important to keep a copy to refer to.

You should also give a copy to anyone else who may need to be involved, such as:

- your attorney;
- your doctor;
- your solicitor;
- your accountant;
- your stockbroker.

You may also wish to carry a card in your purse or wallet, stating that you have made an enduring power of attorney and giving details of that appointment.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.  
15/11/2020

If your attorney will be making decisions about buying or selling land, this document must be registered with the Land Titles Office.

**How do I register this document?**

It is not necessary to do so unless it is likely to be used in transactions relating to buying or selling land. If you register the document, you must take the original to the Land Titles Office and pay the fee.

If the power is revoked, you must deregister the document by lodging a revocation form in the Land Titles Office.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

*JL* 15/11/2020



**APPOINTING AN ATTORNEY**

1. I, **MELISSA LOUISE CADDICK** [REDACTED] [REDACTED] [REDACTED] New South Wales appoint: [REDACTED] [REDACTED] [REDACTED] in the State of New South Wales and if he is unable or unwilling to act as my Attorney THEN I APPOINT ANTHONY MARCUS RODO KOLETTI [REDACTED] [REDACTED] [REDACTED] in the state of New South Wales

of, Ph: (First Attorney)

as my attorney, under this enduring power of attorney for:

(Tick one box only)

- financial matters  
 personal/health matters  
 financial *and* personal/health matters.

2. Do you want to set any terms for the power given in clause 1 (i.e. give specific information about your wishes)?

- No → Go to 4.  
 Yes.

3. Write these terms here: (For example: "My attorney/s is not authorised to invest in ABC Pty Ltd shares" or "If I need nursing-home care, I want my attorney to try XYZ Nursing Home first".)

Note: These terms may limit your attorney in making decisions about financial matters.

4. Have you given your attorney/s power to make decisions about financial matters?

- No → Go to 6.  
 Yes.

5. When do you want the power of your attorney/s for financial matters to begin?

(Tick one box only)

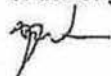
- Immediately.  
 On this date: \_\_\_\_\_  
 On this occasion: \_\_\_\_\_

(If you do not complete this clause the power begins immediately)

6. Are you appointing more than one attorney?

- No → Go to 8.  
 Yes.

I, JENNIFER LESLIE WILLIAMSON,  
 Solicitor certify this to be a true and  
 correct copy of the corresponding page  
 of the original, which I have sighted.

 15/11/2020

7. How do you prefer that they make their decisions? (Tick one box only)

- Severally (any one of them may decide)
- Jointly (unanimously)
- As a majority (if you are appointing more than three attorneys, please specify, e.g. 'Simple majority', 'Two-thirds majority')

Other\*  
 In Accordance with paragraph 1 hereof.

\*Note: The Powers of Attorney Act 1998 allows you to appoint successive attorney/s for a matter so that the power is given to a particular attorney only when power to a previous attorney ends. You can nominate the circumstances that a power will end (eg. if x is absent from the jurisdiction, y may act).

8. STATEMENT OF UNDERSTANDING

- (1) I fully understand that, by signing this document, I give power to the attorney/s mentioned in clause 1 to make decisions on my behalf about matters mentioned in the same clause.
- (2) I understand that I may specify or limit the attorney/s power, and instruct the attorney/s about the exercise of the power.
- (3) I understand that this gives the attorney/s power to do, for me, anything I could lawfully do myself in relation to these matters (except for special personal/health matters), subject to any terms mentioned in this form.
- (4) I understand that:
  - (a) the power of attorney for financial matters (if applicable) begins at the time stated in clause 5 and continues even if I lose capacity;
  - (b) the power of attorney for personal/health matters (if applicable) begins only if/when I lose capacity.
- (5) I understand that I may change or revoke this enduring power of attorney at any time so long as my power to make such a decision is not impaired - in other words, so long as I am capable of making another enduring power of attorney.

  
 .....  
 MELISSA LOUISE GADDICK

or

If you are signing for principal:

- (a) I am at least eighteen years old
- (b) I am not a witness for this enduring power of attorney or an attorney for the principal.

  
 .....

[Witness signs here]

15th September 2016  
 .....

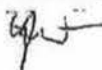
[Witness writes the date here]

.....  
[Person signing for the principal signs here]

.....  
[Person signing for the principal print your full name here]

.....  
[Write the date here]

I, JENNIFER LESLIE WILLIAMSON,  
 Solicitor certify this to be a true and  
 correct copy of the corresponding page  
 of the original, which I have sighted.

 15/11/2020

**PART 2: For the witness**

*Your role goes beyond ensuring that the signature of the principal (the person giving the power) is genuine. You certify that the principal appeared to understand the nature and effect of the document, including the matters stated in clause 8 (Statement of understanding). In the future, you may have to provide information about the principal's capacity to understand these matters when giving the power. If you are doubtful about the principal's capacity, you should make the appropriate inquiries, e.g. from the principal's doctor.*

*It is strongly recommended that, if you are in any doubt, you make a written record of the proceedings and of any questions you asked to determine the principal's capacity.*

**WITNESS'S CERTIFICATE**

9. **I, JENNIFER LESLIE WILLIAMSON 4 Kianga Street, Graceville, in the State of Queensland 4075** . state that -

- (a) I am a:
- justice of the peace
- commissioner for declarations
- lawyer
- notary public,

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

*agw* — 15/11/2020

- (b) I am not:
- an attorney for the principal
  - or a relation of the principal or of the principal's attorney

- (c) *(Tick one box only)*
- I am not a current paid carer or health provider for the principal
- I am a current paid carer or health provider for the principal, but this enduring power of attorney appoints an attorney/s for financial matters only.

**Note:** 'Paid carer' does not mean someone receiving a carer's pension or similar benefit.

- (d) *(Tick one box only)*
- the principal signed this enduring power of attorney in my presence
- in my presence, the principal instructed a person to sign this enduring power of attorney for the principal, and that person signed it in my presence and in the presence of the principal
- and**
- (e) at the time that this enduring power of attorney was signed, the principal appeared to me to understand the matters stated in Clause 8.

*agw*

.....  
[Witness signs here]

15th September 2016

.....  
[Witness writes the date here]

## PART 3: For the attorney

### IMPORTANT NOTICE

If you accept this power of attorney, you will be taking on serious responsibilities. If you fail to observe these responsibilities, you could be removed as attorney or even convicted of an offence and required to pay compensation.

Besides the particular responsibilities mentioned in Part 1 of this document, there are responsibilities imposed by the *Powers of Attorney Act 1998*.

### What are these responsibilities?

They are both general and specific.

#### General responsibilities (to guide you in decision-making)

You must exercise the power given to you honestly and with reasonable care. It is an offence not to do so, and you may also be required to compensate the principal.

You must comply with the terms of the enduring power of attorney, and any other Court requirement. In addition, you must abide by the general and health-care principles on which the Act is based.

#### General principles include:

- presuming that the principal has the capacity to make a particular decision until there is conclusive evidence that this is not the case;
- recognising his/her right to participate in decisions affecting his/her life to the maximum extent for which he/she has capacity;
- respecting the principal's human worth and dignity and equal claim to basic human rights, regardless of his/her capacity;
- recognising the principal's role as a valued member of society and encouraging his/her self-reliance and participation in community life;
- taking into account the importance of the principal's existing supportive relationships, values and cultural and linguistic environment;
- ensuring that your decisions are appropriate to the principal's characteristics and needs;
- recognising the principal's right to confidentiality of information.

#### The health-care principles are:

Any health-care decision you make for the principal must:

- maintain or promote the principal's health or well-being or is in all the circumstances, in the principal's best interests;
- be made in the way that is least restrictive of the principal's rights;
- where possible, take account of the principal's views and wishes, along with information given by the principal's health-care provider.

#### Financial decisions

Any investments you make on the principal's behalf while he/she lacks the capacity to make financial decisions must be those that are named in the Trusts Act as investments a trustee is authorised to make or are approved by the Court.

#### Note:

Court means either the Supreme Court or the Guardianship and Administration Tribunal.

I, JENNIFER LESLIE WILLIAMSON,

Solicitor certify this to be a true and correct copy of the corresponding page of the original, which I have sighted.

02/12/2020

*JL*

**For all decisions**

If the principal has other attorneys, you must consult with them regularly and make your decisions as directed in clause 7. If you are a joint attorney, for example, you and the other attorney/s must make your decisions unanimously.

**Specific responsibilities**

- **Duty to keep records.** If you have the power to make financial decisions, you must keep reasonable records of dealings and transactions made under the power. It is an offence not to do so, and the Court or Adult Guardian may require you to produce them.
- **Duty to keep property separate.** You must keep your property separate from the principal's property unless you and the principal own the property jointly.
- **Duty to present a management plan and get approval for unauthorised transactions.** If you make a financial decision, you must present a plan of management to the Court if the Court requires it.

If the principal's capacity to make decisions is impaired, you must also get approval from the Court for any transactions that have not been authorised in this document.

- **Duty to avoid transactions that involve conflict of interest.** You must not enter into transactions that could or do bring your interests (or those of your relation, business associate or close friend) into conflict with those of the principal. For example, you must not buy the principal's car unless you pay at least its market value.

However, you may enter into such a transaction if it has been authorised in this document or by the Court, or if the transaction provides for the needs of someone that the principal could reasonably be expected to provide for, such as his/her child.

- **Duty in relation to gifts.** You must not give away the principal's property except where the principal would be likely to do so, for example as a marriage gift to a relation of the principal or a donation to his/her favourite charity (so long as the size of the gift is reasonable in the circumstances).
- **Power to maintain the principal's dependants.** You may give reasonable maintenance to the principal's dependants.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

15/11/2020  
JLW

**How do I complete a document for the principal?**

If you have the power to execute (complete) a document for the principal, you do so in the ordinary way, but you must note on the document that you are executing it as the principal's attorney under enduring power of attorney (e.g. 'John Smith, by his duly appointed attorney, Mary Jones').

**When does my power to make decisions begin?**

It depends whether the power concerns personal/health matters or financial matters.

- **Personal/health matters.** Your power to make decisions for the principal about personal/health matters does not begin until (if ever) the principal is incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision. However, you must continue to allow, and assist, the principal to make decisions in so far as he/she is capable.

- **Financial matters.** The principal may nominate in this document when your power to make financial decisions begins. If the principal does not nominate a date, then your power begins immediately.

### When does my power end?

Though there is no time limit on enduring power of attorney, certain actions by you, the principal or the Court can bring your power to an end.

In personal/health matters, your power also ends if the principal regains the ability to make the decision in question.

#### Your actions

- **Your withdrawal.** So long as the principal is capable of using the power given to you, you can withdraw by giving him/her a signed notice or by getting the Court's leave to withdraw.
- **Becoming the principal's paid carer or health-care provider.** If this happens, your power is revoked.

#### Note:

*'Paid carer' does not mean someone receiving a carer's pension or similar benefit.*

- **Becoming incapable.** Your power is revoked if you become incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.
- **Becoming bankrupt or insolvent.** If this happens, your power is revoked.
- **Your death.**

#### The principal's actions

- **Revoking your power.** The principal may revoke your power at any time, so long as his/her capacity to make the decision is unimpaired. In other words, so long as the principal has the capacity to *make* an enduring power of attorney, he/she also has the capacity to *revoke* it.

If the principal revokes your power, he/she must inform you in writing.

- **Appointing a new attorney to have your powers.** If the principal completes a new document giving your powers to another attorney, your powers are revoked to that extent. Because the new document has a later date, it overrides the first.
- **Getting married.** If the principal marries, your power of attorney is revoked unless you are the principal's new spouse. (If you are the principal's new spouse, the only power that is revoked is the power of any other attorney.)
- **Getting divorced.** If the principal divorces and you were the principal's former spouse, your power of attorney is revoked.
- **The principal's death.** If the principal dies, your enduring power of attorney is revoked in its entirety.

#### Actions by the Court

Your power may also be changed or revoked by the Court if you have failed to act in the principal's interests.

### Can I be held liable?

Yes, you can be held liable if you use the enduring power of attorney knowing that it has been changed or revoked, or knowing of an event that effectively revokes it, or even if you have reason to believe that it has been revoked.

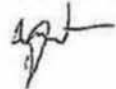
The Court and the Adult Guardian have the power to protect the principal's interests. You may be required to produce a summary of receipts and expenditure or more detailed accounts, and these may be audited. You may also be required to give evidence in relation to the exercise of your powers. If the Court or Adult Guardian believes that you have not adequately protected the principal's interests, you may be removed or your enduring power of attorney may be revoked, and you may be required to compensate the principal.

**Where can I go for advice?**

The Court, the Adult Guardian, the Public Trustee or a solicitor can advise you about this document and your power and responsibilities under it.

The Court can also make a declaration about the validity of this document or whether your power to make a decision for the principal has begun.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

 15/11/2020

**ATTORNEY'S ACCEPTANCE**

*As attorney, you complete the section of this form that applies to you by writing on the lines and ticking the boxes. If you are not able to tick all the boxes truthfully, then you must not accept this appointment as attorney.*

**(First attorney completes this section)**

10. I, [Redacted] state that:

- I am eighteen or over,
- I am not a current paid carer of the principal,
- I am not a current health-care provider for the principal,
- I have read Part 1, giving me enduring power of attorney,
- I understand that, by signing this document, I take on the responsibility of exercising the power I have been given in the document,
- I also understand that I must exercise the power in accordance with the *Powers of Attorney Act 1998* and the *Guardianship and Administration Act 2000*.

..... *[Signature]* ..... *15th September 2016*  
 [Sign here] ..... [Write the date here]

..... *[Signature]* ..... *19th November 2020*  
 [Sign here] ..... [Write the date here]

**(Second attorney, if any, completes this section)**

11. I, ANTHONY MARCUS RODO KOLETTI

- I am eighteen or over,
- I am not a current paid carer of the principal,
- I am not a current health-care provider for the principal,
- I have read Part 1, giving me enduring power of attorney,
- I understand that, by signing this document, I take on the responsibility of exercising the power I have been given in the document,
- I also understand that I must exercise the power in accordance with the *Powers of Attorney Act 1998* and the *Guardianship and Administration Act 2000*.

*R. Bartalesi* 19.11.2020  
 WITH **RICHARD BARTALESI**  
 Solicitor  
 Suite 4, 10 William Street  
 DOUBLE BAY NSW 2028  
 Tel: 02 9363 5413  
 Email: richard@bartalesi.com.au

..... *[Signature]* ..... *15 September 2016*  
 [Sign here] ..... [Write the date here]

QUEENSLAND GOVERNMENT  
June 2002

I, JENNIFER LESLIE WILLIAMSON,  
 Solicitor certify this to be a true and  
 correct copy of the corresponding page  
 of the original, which I have sighted.

*[Signature]* 15/11/2020



Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-34**

This is the annexure marked "IA-34" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me:.....

George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff		
Prepared by	Nicolette Bearup		
Tel (02) 9911 5745	Fax	(02) 9911 2414	
Email	Nicolette.Bearup@asic.gov.au		
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup		

Form Number 12 (version 1)  
 Queensland Civil and Administrative Tribunal Act 2009 (section 33)

## Application for miscellaneous matters – Guardianship and Administration Act 2000

1201 Application only	
Case number:	
Client number:	
Date:	
Registry:	
Sent to:	

### Applicants to complete:

#### Who is the application about? (the tribunal refers to this person as "the adult")

Melissa Louise

Adult's given name/s

Caddick

Surname/Family name

#### Who is filling out this form? (the tribunal will refer to you as "the applicant")

Adam Edward

Applicant's given name/s

Grimley

Surname/Family name

#### Your relationship to the adult?

Brother

#### What are you applying for? (you may tick more than one box)

- |   |  |
|---|--|
| <input type="checkbox"/> recognition of an order made under another law           | <input type="checkbox"/> adult evidence order  |
| <input type="checkbox"/> advice, directions or recommendations                    | <input type="checkbox"/> closure order   |
| <input type="checkbox"/> authorisation of a conflict transaction                  | <input checked="" type="checkbox"/> an order concerning the validity of an enduring document |
| <input type="checkbox"/> ratification of a decision by an informal decision-maker | <input type="checkbox"/> leave to withdraw as administrator or guardian                      |
| <input type="checkbox"/> confidentiality order                                    | <input type="checkbox"/> leave to resign as attorney   |
| <input type="checkbox"/> non-publication order                                    | <input type="checkbox"/> to be joined as an active party                                     |

Application for miscellaneous matters – Guardianship and Administration Act 2000 – page 1 of 18

For more information on QCAT: Call 1300 753 228 or visit [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

**IMPORTANT**

Please read each page carefully before completing the application:

- a) Attachments required are identified with the symbol "▶"
- b) You may not need to make this application
- c) If you do not understand terms used in this form, please refer to the glossary at the end.

**Confidentiality**

The principles of natural justice and procedural fairness require that parties be aware of all material upon which the tribunal will base its decision. Active parties are entitled to inspect the application and other documents directly relevant to an issue in the proceeding before the tribunal unless a confidentiality order has been made prohibiting or restricting access.

Each of the following persons is an active party:

- a) the adult
- b) if the adult is not the applicant – the applicant
- c) if the proceeding is for the appointment or the reappointment of a guardian, administrator or attorney for the adult – the person proposed for appointment or reappointment
- d) any current guardian, administrator or attorney for the adult
- e) the adult guardian
- f) the public trustee
- g) a person joined as a party to the proceeding by the tribunal.

In some proceedings the active parties might also include:

- h) the Chief Executive of Department of Communities
- i) the Director of Mental Health
- j) a service provider providing a disability service to the adult.

The tribunal can remove the right to inspect a document only by a confidentiality order. A confidentiality order will only be made if the tribunal is satisfied that it is necessary to avoid serious harm or injustice to a person.



**What are the adult's current contact details? (if different from above, e.g. hospital, respite)**

**Organisation (if applicable)** [ ]

**Full postal address**

Ms Caddick has been missing since 12 November 2020 and cannot be located

**Postcode**

**Telephone** ( )

Daytime phone

Mobile phone

( )

After hours number (if different)

**Fax** ( )

**Email**

**What language(s) does the adult speak at home?**

English

**What is the adult's cultural background?**

Australian

**Would the adult require an English interpreter at the tribunal hearing?**

Yes  No

**Have you informed the adult about this application?**

Yes – how did the adult respond?  
(please describe briefly)

No – why not? (please explain briefly)

See above. Ms Caddick has been missing since 12 November 2020 and cannot be located.

**In some cases, the tribunal will expect the adult to attend the hearing.**

**Who would be accompanying the adult to the hearing? (contact details must be provided)**

N/A

**Dr.**  
Title

Given name/s

Surname/Family name

**Telephone** ( )

Daytime phone

Mobile phone

( )

After hours number (if different)

**Will the adult require any special assistance for the hearing?**

wheelchair/mobility access

for speech impairment

for hearing impairment/loss

for vision impairment/loss

other

**Please attach a photocopy of a document to substantiate the adult's Identity**

(► e.g. passport, driver's licence, pension card, Medicare card).

The tribunal retains discretion to establish identity to its satisfaction. The tribunal may ask for additional evidence to substantiate the adult's identity. In accordance with the provisions of section 249 of the *Guardianship and Administration Act 2000* information collected under this part will remain confidential.

**DECISION-MAKING CAPACITY**

What is the cause of the adult's impaired capacity?  
(Please tick the appropriate box(es).)

acquired brain injury or cognitive disability (as a result of accident, illness or other causes)

dementia (mental confusion due to a condition such as Alzheimer's disease, senility or some other degenerative disease)

intellectual disability (a condition that has affected the person since birth or early childhood)

psychiatric disability/mental illness (a diagnosed condition such as schizophrenia or bi-polar affective disorder)

other (any other condition that reduces the ability to make decisions about personal or financial matters) (please specify)

N/A

### WHO IS THE ADMINISTRATOR OF THE ADULT?

An administrator is a person appointed by a court or a tribunal to make financial/legal decisions for the adult.

- there is no administrator
- there is an application with the tribunal to appoint an administrator
- the following people have been appointed as administrator

Photocopy this page as many times as you need to or provide the same information on a separate sheet of paper.

**Dr.**  
Title

**Given name/s**

**Surname/Family name**

**Address**

**Postcode**

**Telephone** ( )  
Daytime phone

**Mobile phone** ( )  
After hours number (if different)

**Fax** ( )

**Email**

**Relationship to adult:**

**Who appointed them?**

**When were they appointed?**

**In which state/country were they appointed?**

**What is their attitude to this application?**  support  do not support  unsure

*N/A*

## WHO IS THE GUARDIAN OF THE ADULT?

A guardian is a person appointed by a court or a tribunal to make personal/health decisions for the adult.

Tick one of the following:

- there is no guardian
- there is an application with the tribunal to appoint a guardian
- the following people have been appointed as guardian

Photocopy this page as many times as you need to or provide the same information on a separate sheet of paper.

~~Dr. Title Given name/s Surname/Family name~~

~~Address~~

~~Postcode~~

~~Telephone ( ) Daytime phone Mobile phone ( ) After hours number (if different)~~

~~Fax ( )~~

~~Email~~

~~Relationship to adult:~~

~~Who appointed them?~~

~~When were they appointed?~~

~~In which state/country were they appointed?~~

~~What is their attitude to this application? support  do not support  unsure~~



## WHO IS THE ATTORNEY OF THE ADULT?

An attorney is a person appointed by the adult under an enduring power of attorney.

Tick one of the following:

- there is no attorney
- there is an application with the tribunal concerning the attorney/s
- the following people are attorneys for the adult. Attach a copy of the enduring power of attorney if it has not already been provided to the tribunal.

Photocopy this page as many times as you need to or provide the same information on a separate sheet of paper.

Mr.

Title

Given name/s

Surname/Family name

Address

Postcode

Telephone

( )

Daytime phone

Mobile phone

( )

After hours number (if different)

Fax

( )

Email

Relationship to adult:

Who appointed them?

When were they appointed?

In which state/country were they appointed?

What decisions are they appointed for?

health

personal

financial

What is their attitude to this application?

support

disapprove

unsure

**ADULT'S PRIMARY CONTACTS**

**You must not withhold information from the tribunal about the names of people who may have an interest in this application.**

Tick one of the following:

there is nobody who may be interested in the application (e.g. siblings, children, service providers, advocates, etc)

the following people may have an interest in this application (include people already mentioned in this application)

**Photocopy this page as many times as you need to or provide the same information on a separate sheet of paper.**

Mr.	Anthony Marcus Rodo	Koletti
Title	Given name/s	Surname/Family name
<b>Address</b>		
[REDACTED]		
		Postcode 2030
Telephone	( ) N/A Daytime phone	[REDACTED] ( ) N/A After hours number (if different)
		Mobile phone
Fax	( ) N/A	
Email	[REDACTED]	
Relationship to adult:	Husband	

**Tick one of the following:**

- I have spoken to this person and they agree with this application.
- I believe they will agree to this application but I have not been able to speak with them.
- I have spoken to this person and they do not agree with this application.
- I believe they will not agree to this application but I have not been able to speak to them.

## WHAT ARE YOU SEEKING FROM THE TRIBUNAL?

### Recognition of an order made under another law

If you need to have an order that was made in another state or under a foreign jurisdiction recognised so it is effective in Queensland, an application can be lodged with the tribunal. The tribunal may recognise the order as long as it is similar to an order that may be made under Queensland's *Guardianship and Administration Act 2000* or the *Powers of Attorney Act 1998*. If you are unsure about this please contact the tribunal registry.

You must:

complete questions 7 and 8. *Please include details about possible addresses and dates and whether the adult will be living in Queensland permanently.*

attach report/s completed by medical, psychiatric or other professionals giving details of the adult's impaired decision-making capacity

attach a copy of the original order certified by the originating court or tribunal that you want recognised in Queensland and any other relevant material which the originating court or tribunal relied upon in making its decision

attach copies of any relevant forms, e.g. enduring power of attorney, advance health directive  
sign at the end of this application (see the heading "sign and date here")

N/A

### Advice, directions or recommendations

At the directions hearing the tribunal can give directions to guardians, administrators or attorneys on various issues. Parties may be required to attend directions hearings.

You must:

complete questions 7 and 8

sign at the end of this application (see the heading "sign and date here")

### Authorisation of a conflict transaction

A conflict transaction is a transaction where there may be conflict or which results in conflict between the duty of the administrator/attorney towards the adult and the interests or another duty of the administrator/attorney. A typical conflict transaction would be the purchase or sale of an adult's asset to family or friends.

Approval to enter into conflict transactions may be authorised by the tribunal. The tribunal may authorise one specific transaction, conflict transaction of a specific type or conflict transactions generally.

You must:

complete questions 7 and 8

attach copies of any relevant forms

sign at the end of this application (see the heading "sign and date here")

### Ratification of a decision made by an informal decision-maker

The tribunal may ratify a decision or a proposed decision of an informal decision maker for an adult except when it is a special personal matter, a health matter or a special health matter.

You must:

complete questions 7 and 8

sign at the end of this application (see the heading "sign and date here")

## WHAT ARE YOU SEEKING FROM THE TRIBUNAL? *(continued)*

### Confidentiality order

A confidentiality order allows the tribunal to withhold from an active party or other person a document, part of a document or other information that is before the tribunal. The tribunal may make a confidentiality order only if the tribunal is satisfied it is necessary to avoid serious harm or injustice to a person. Note that if the document or other information contains health information about a person, then 'serious harm' to a person includes 'significant health detriment' to the person. If a confidentiality order is made before the hearing the order is automatically vacated at the start of the hearing. If the applicant for the confidentiality order wishes to apply for a further confidentiality order over the relevant document or information they will need to advise the tribunal at the commencement of the hearing.

You must:

- complete questions 7 and 8
- sign at the end of this application (see the heading "sign and date here")

### Non-publication order

A non-publication order allows the tribunal to prohibit publication of information about a tribunal proceeding. The tribunal may make a non-publication order only if it is satisfied it is necessary to avoid serious harm or injustice to a person. Note that if the information to be published contains health information about a person, 'serious harm' to a person, then includes 'significant health detriment' to the person. If a non-publication order is made before the hearing the order is automatically vacated at the start of the hearing. If the applicant for the non-publication order wishes to apply for a further non-publication order over the relevant information they will need to advise the tribunal at the commencement of the hearing.

You must:

- complete questions 7 and 8
- sign at the end of this application (see the heading "sign and date here")

N/A

### Adult evidence order

An adult evidence order allows the tribunal to obtain relevant information from the adult without anyone else being present in the hearing room. The tribunal may make an adult evidence order only if the tribunal is satisfied it is necessary to avoid serious harm or injustice to a person or to obtain relevant information the tribunal would not otherwise receive. If the relevant information is health information about a person 'serious harm to a person' includes 'significant health detriment to the person'.

You must:

- complete questions 7 and 8
- sign at the end of this application (see the heading "sign and date here")

### Closure order

A closure order allows the tribunal to close a hearing or part of a hearing to all or some members of the public or a particular person, including an active party. The tribunal may make a closure order only if the tribunal is satisfied it is necessary to avoid serious harm or injustice to a person. If the hearing or part of the hearing concerns health information about a person 'serious harm to a person' includes 'significant health detriment to the person'.

You must:

- complete questions 7 and 8
- sign at the end of this application (see the heading "sign and date here")

### WHAT ARE YOU SEEKING FROM THE TRIBUNAL? *(continued)*

**An order concerning the validity of an enduring document**

An enduring document is an *enduring power of attorney* or an *advance health directive*.

**What is your opinion about the existing enduring document?**

- the enduring document is valid
- the principal who made the enduring document did not have capacity to do so. *Please do not complete this form. You require a different form called an Application for a declaration about capacity.*
- the document has been incorrectly signed by the principal
- the document has been incorrectly witnessed
- the acceptance of the attorney's appointment has been incorrectly executed
- the document has been incorrectly executed in some other way *(give details)*

**What order would you like the tribunal to make?**

- note the existence of a valid enduring document
- declare an enduring power of attorney for personal matters invalid
- declare an enduring power of attorney for health matters invalid
- declare an enduring power of attorney for financial matters invalid
- vary the enduring document in some other way *(give details)*

**You must:**

- complete questions 7 and 8 *(more detailed information about the above two questions may be included in your reply to question 8)*
- attach copies of all **known current and former enduring documents** (e.g. enduring power of attorney, advance health directive) or provide details of whether the tribunal can obtain them
- sign at the end of this application (see the heading "sign and date here")

**WHAT ARE YOU SEEKING FROM THE TRIBUNAL?** *(continued)***Leave to withdraw as guardian****Leave to withdraw as administrator**

The person filling out this form is also responsible for obtaining an updated *Report by Medical and Related Health Professionals* for the tribunal. **Note: The tribunal may be unable to have a hearing without this report.**

A copy of the form to be used for the current report is available:

- on the internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) and selecting "Publications"
- by calling the tribunal on 1300 753 228

The *Report by Medical and Related Health Professionals* should be completed by a health professional including a social worker, psychologist, psychiatrist, Director of Nursing, geriatrician, or general practitioner and should NOT be completed by the person filling out this application. If necessary, the health professional may send the form directly to the QCAT registry after you have submitted your application. Should you have other comprehensive and current medical information about the adult's decision-making capacity (e.g. ACAT assessments), please telephone the QCAT registry prior to the submission of the application.

**Why are you seeking leave to withdraw?** *(you may tick more than one box)*

the adult has regained capacity. *Then you must complete a different form. You must apply for a declaration of capacity.*

informal arrangements are working satisfactorily *(no. report on capacity required)*

there is conflict between decision-makers *(please complete question 8)*

for personal/health reasons I am unable to continue *(please complete question 8)*

there is already a guardianship/administration application lodged

a guardianship/administration application will be submitted by: *(please give details)*

N/A

Dr.

Title

Given name/s

Surname/Family name

Telephone

( )

Daytime phone

Mobile phone

( )

After hours number (if different)

You must:

complete questions 7 and 8

attach a report/s completed by medical, psychiatric or other professionals giving details of the adult's impaired decision-making capacity

sign at the end of this application (see the heading "sign and date here")

**WHAT ARE YOU SEEKING FROM THE TRIBUNAL?** *(continued)***Leave to resign as attorney**

The person filling out this form is responsible for also obtaining for the tribunal an updated *Report by Medical and Related Health Professionals*. **Note: The tribunal may be unable to have a hearing without this report.**

A copy of the form to be used for the current report is available:

- on the internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) and selecting "Publications"
- by calling the tribunal on 1300 753 228

This report should be completed by a health professional including a social worker, psychologist, psychiatrist, Director of Nursing, geriatrician, or general practitioner and should NOT be completed by the person filling out this application. If necessary, the health professional may send the form directly to the registry after you have submitted your application. Should you have other comprehensive and current medical information about the adult's decision-making capacity (e.g. ACAT assessments), please telephone the registry prior to the submission of the application.

N/A

**Why are you seeking leave to resign?**

there is conflict between decision-makers *(please complete question 8)*

for personal/health reasons I am unable to continue *(please complete question 8)*

there is already a guardianship/administration application lodged

a guardianship/administration application will be submitted by: *(please give details)*

Dr.			
Title	Given name/s	Surname/Family name	
Telephone	( )	( )	( )
	Daytime phone	Mobilephone	After hours number (if different)

**You must:**

- complete questions 7 and 8
- attach a copy of the *enduring power of attorney*
- attach (a) report/s completed by medical, psychiatric or other professionals giving details of the adult's impaired decision-making capacity
- attach a statement of the adult's current financial position
- sign at the end of this application (see the heading "sign and date here")

**WHAT ARE YOU SEEKING FROM THE TRIBUNAL?** *(continued)***To be joined as an active party**

The adult, the applicant, any current guardian, administrator or attorney for the adult and any person proposed as a guardian, administrator or attorney is automatically an active party. Anyone else must apply to be considered as an active party and the tribunal will make a decision whether to include a person as an active party. Active parties may present their case at a hearing, inspect documents, seek leave to be represented and be given a copy of the tribunal's decision and any written reasons for them.

N/A

You must:

complete questions 7 and 8

attach copies of any relevant forms, e.g. *enduring power of attorney, advance health directive, medical or other professional reports or financial statements*

sign at the end of this application (see the heading "sign and date here")

**PRIORITY**

No

Yes *(please explain being as specific as possible)*

Ms Caddick, the Applicant's sister, and the principal under the EPOA dated 15 September 2016, is a missing person. As such, the Applicant needs to make decisions on her behalf in Federal Court of Australia proceedings that ASIC has brought against her, and to instruct legal representatives. The Federal Court has directed Ms Caddick's legal representatives to inform ASIC of their view of the validity of the EPOA by 4 December 2020. ASIC has reserved its position on this matter.

If the EPOA is not valid, Mr Grimley could not properly apply to the Court on Ms Caddick's behalf for a variation to the asset preservation orders. This is of immediate concern to Mr Grimley because Ms Caddick's husband and son need access to further funds for living expenses, and Mr Grimley wishes to bring the appropriate application next week in the Federal Court. Mr Grimley explains this in his affidavit.

The Applicant would be grateful for a hearing as soon as the Tribunal can accommodate a hearing, and ideally on 4 or 7 December 2020.

**WHY ARE YOU SEEKING THIS ORDER?**

**8** Clearly explain your reasons for seeking the order.

The reasons why the order is sought are set out in section 7 of this form above, and in the document annexed at "A" to this form.



## THE APPLICANT

### Applicant's name

Mr. Adam Edward Grimley  
 Title Given name/s Surname/Family name

### Organisation (if applicable)

[REDACTED]

Postcode [REDACTED]

### Street address (if different)

Postcode [REDACTED]

### Telephone

( ) N/A

Daytime phone

[REDACTED] [REDACTED]  
 mobile phone

( ) N/A

After hours number (if different)

### Fax

( )

### Email

[REDACTED]

### Your relationship to the adult?

Brother and attorney named under enduring POA

### How long have you known the adult?

49 years

### What you need to know

- you are expected to bear your own costs in attending the hearing (*by telephone if necessary*)
- the tribunal will notify you if you are expected to make arrangements for the adult to attend the hearing
- you are expected to notify the tribunal if the adult moves, passes away or if there is a change in the adult's decision-making capacity
- you may seek to withdraw this application in writing (*stating your reasons*) but the tribunal may proceed if it sees fit

**Warning**

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – \$10,000.

The information in this application is true to the best of my knowledge.

  
Applicant's sign here

Subscribed 20/11/11

Date

If more than one applicant is named all must sign the application.

**Deliver to:**

Queensland Civil and  
Administrative Tribunal  
Floor 11, 259 Queen Street  
Brisbane Qld 4000  
or at any local  
Magistrates Court

**Mall to:**

Queensland Civil and  
Administrative Tribunal  
GPO Box 1639  
Brisbane Qld 4001

**Fax to:**

(07) 3221 9156

**Email to:**

applications@qcat.qld.gov.au

## GLOSSARY OF TERMS

**active party:** any of the following: the adult, the applicant, attorney, any current or proposed guardian and/or administrator, the Adult Guardian, the public trustee and any person joined as a party by the tribunal.

**administrator:** someone appointed under the *Guardianship and Administration Act 2000* to manage the financial affairs of a person with impaired decision-making capacity.

**Adult Guardian:** an independent statutory officer who is appointed to protect the rights and interests of adults with impaired decision-making capacity.

**advance health directive:** a legal document, under the *Powers of Attorney Act 1998*, that states the adult's wishes or directions regarding the adult's future health care for various medical conditions. It comes into effect only if the adult is unable to make their own decisions.

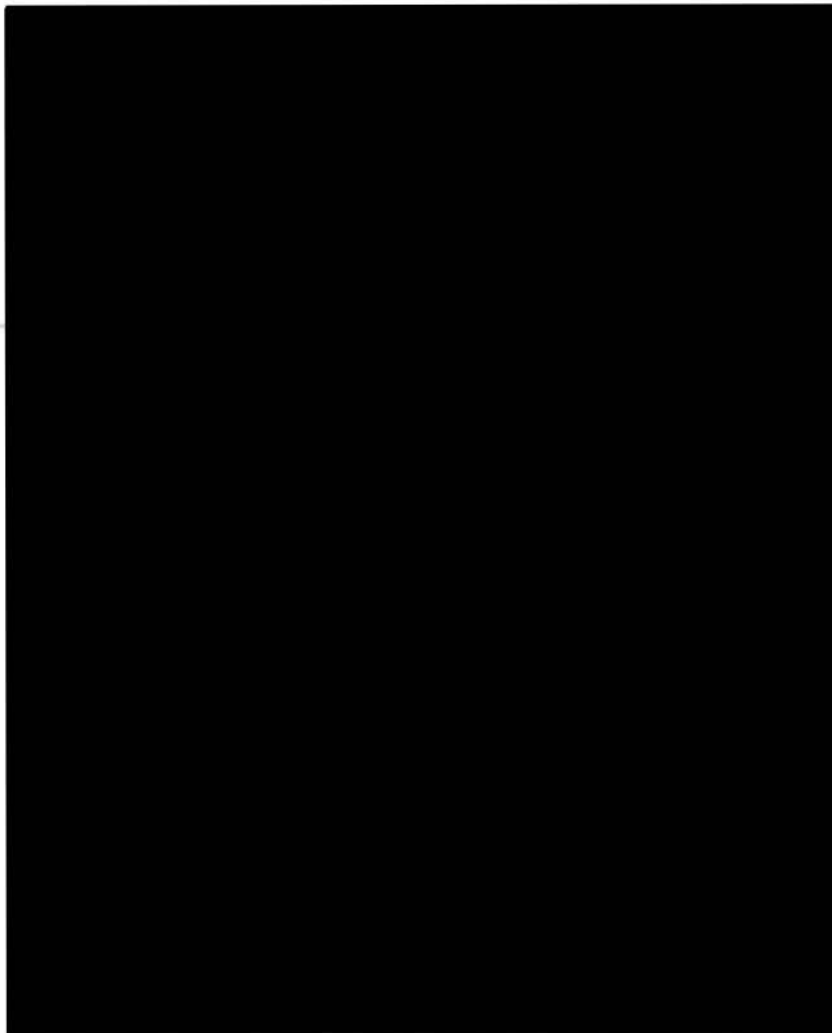
**capacity:** an adult is deemed to have capacity if they are capable of understanding the nature and effect of the decisions they are making and can freely and voluntarily make those decisions and can communicate those decisions in some way.

**enduring power of attorney:** a formal agreement giving someone else the power to make decisions on behalf of the adult even when they lose capacity.

**guardian:** someone appointed under the *Guardianship and Administration Act 2000* to make some or all personal and lifestyle decisions for an adult with impaired decision-making capacity.

**order:** a tribunal order advises the decision of the tribunal members. Each order is tailored to meet the needs of the adult in the least restrictive way.

*Ally*



**AFFIDAVIT****PART A: APPLICANT'S AND RESPONDENT'S DETAILS****Applicants**

Adam Edward Grimley

**Respondent**

Melissa Louise Caddick

**PART B: CASE NUMBER (if known)**

**PART C: DETAILS OF AFFIDAVIT**

I Adam Edward Grimley of [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] solemnly and sincerely swear:

1. I make this affidavit in support of an application that the power of attorney annexed at "A" to this affidavit (the **EPOA**) is valid. The EPOA is for both personal and financial matters. It commenced immediately for financial matters.
2. The matters stated in this affidavit are true and correct to the best of my knowledge and belief.
3. Ms Melissa Caddick is my sister. She is 49 years old.
4. Mr Anthony Koletti is her husband. They live together in Dover Heights, Sydney. I have spoken with Mr Koletti, and he agrees that this application should be brought.
5. Since 12 November 2020, Melissa has been missing. She has not been in communication with me, or to my knowledge, anyone else. A copy of a news article that appeared in the Sydney Morning Herald on the weekend is annexed at "B" to this affidavit.
6. The Australian Securities and Investments Commission (**ASIC**) has filed Federal Court in proceedings no. 1220/2020 naming Ms Caddick as a defendant. By orders made on 10 November 2020, the Federal Court has made asset preservation orders in relation to her personal assets. A copy of

*Adam Edward Grimley* 36 *AC*

the Court's orders of 10 November 2020 (**Asset Preservation Orders**) is annexed at "C."

7. On 27 November 2020, I observed a case management hearing in that case in the Federal Court via video on Microsoft Teams. In the orders it proposed, it sought the its applications to have a company Melissa controls put into provisional liquidation, and a receiver appointed over her personal assets, heard before the Court's Christmas break. It indicated that that timing was needed to protect investors.
8. Justice Jagot directed Ms Caddick's representatives to form a view of the validity of the EPOA, and to notify ASIC's representatives by 4 December 2020 (at latest). ASIC's representatives have currently reserved their position on the validity of the EPOA. A copy of the Court's orders of 27 November 2020 is annexed at "D."
9. The Federal Court proceedings have been re-listed for 8 December 2020 on which day, and subject to my standing to do so under the EPOA, at this stage I propose to make an application to the Court for an order varying order 11 of the Asset Preservation Orders to, inter alia, increase the amount of ordinary living expenses to be carved out of the frozen assets so that funds can be applied to the day to day living expenses of Melissa's household, including in relation to her teenage son. I estimate that, shortly after 8 December 2020, there will be insufficient funds available to cover any such living expenses without recourse to Melissa's frozen assets under the Asset Preservation Orders.

**Reasons why an urgent hearing is necessary**

10. Until the validity of the EPOA is ruled upon, I do not have confirmation that I have the power to act for Ms Caddick in the Federal Court proceedings. The solicitors I will need to instruct do not have that confirmation or certainty either. For this reason, and because ASIC is pressing for various applications to be dealt with before Christmas, and I need to make the application outlined in paragraph 9 of this affidavit, I respectfully ask the Tribunal if arrangements can be made to hear this application urgently, and this week if that can be accommodated.

  
2 

11. As I am unfamiliar with QCAT's processes and the relevant law, I have engaged a solicitor, Mr Scott Harris of Hogan Lovells in Sydney. If given leave, I hope the matter can be conducted by Mr Harris on my behalf with the assistance of Brisbane Counsel.

**PART D: SIGNATURE**

Sworn by:

Adam Edward Grimley

on

3 December 2020

at

Sydney

in the presence of:

*[Handwritten signature]*

Person making affidavit to sign

*[Handwritten signature]*

Person taking affidavit to sign

ADAM GRIMLEY

Print name

Solicitor

Commissioner for declarations/  
solicitor/justice of the peace.

This and the following 13 pages is the annexure marked "A" referred to in the affidavit of Adam Grimley sworn before me on 3 December 2020:

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Department of Justice and Attorney-General

Form 2  
Queensland  
*Powers of Attorney Act 1998*  
(Section 44(1))

Date: 15 10 91 2016  
Principal: MELISSA LOUISE CADDICK  
Attorney: ADAM EDWARD GRIMLEY

## ENDURING POWER OF ATTORNEY

### Short Form

Use this document if you wish to appoint *the same* attorney/s for both financial matters and personal matters (including health care).

You may also use it to appoint an attorney (or attorneys) for financial matters **only** or for personal matters (including health care) **only**.

This document can be used by non-English speakers if a qualified interpreter/ translator reads it to the person in the person's own language and a signed Statement of Interpreter/Translator is attached.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

*JL* 15/11/2020

ver: 2 - 1/06/02

Great state. Great opportunity.



*Adam Edward Grimley*  
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## PART 1: For the person appointing an attorney

By completing this document, you can give a ~~power of attorney~~ <sup>power</sup> to make decisions on your behalf about:

- personal/health matters and/or
- financial matters.

Solicitor certify this to be a true and correct copy of the corresponding page of the original, which I have sighted.

*[Signature]* 15/11/2020

These pages explain, in question-and-answer form, what you need to know to complete the document properly.

Because you are the person principally concerned, you are referred to as 'the principal'.

### What is enduring power of attorney?

Power of attorney is the legal power to make decisions on someone else's behalf. 'Enduring' simply means that the power continues even if the person giving it loses the capacity to make decisions.

### Why give someone enduring power of attorney?

There are some circumstances in which you may be unable to make decisions about matters that concern you. For example, you may be overseas, or you may be too ill.

If you give someone a *general* power of attorney, for instance to sign documents for you in your absence, that power will come to an immediate end if for some reason you lose your capacity to make decisions. This could be very awkward if your attorney is in the process of conducting business affairs for you.

Giving someone *enduring* power means that he/she is able to continue to act for you if you lose capacity to act for yourself.

### What types of decisions?

You may give your attorney power to make decisions about:

- personal/health matters;
- financial matters.

Examples of personal/health matters are decisions about where and with whom you live, whether you work or undertake education or training, whether you apply for a licence or permit, day-to-day issues like diet and dress, and whether to consent, refuse to consent or withdraw consent to particular types of health care for you (such as an operation).

An example of a financial matter is deciding how your income should be invested.

#### Note:

You cannot give your attorney power to make decisions about:

- special personal matters such as a decision about your will, appointing someone as your attorney, voting at elections, or consenting to adoption or marriage;
- special health matters, such as donation of body tissue, sterilisation, pregnancy termination, research or experimental health care, or certain psychiatric or other health care as specified in the regulations.

Your attorney can consent to the withdrawing or withholding of life-sustaining medical treatment if, for instance, you become terminally ill or go into a state of permanent or persistent unconsciousness. You can give instructions about this type of decision if you make an Advance Health Directive.

These instructions will override any decision of your attorney.

*[Signature]*<sup>2</sup> *[Signature]*  
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### Can I limit my attorney's powers?

Yes, you can specify decisions that you do not want your attorney to make. You can also include particular instructions about what you would like your attorney to do. Your attorney must act in accordance with your instructions.

There are also limits set by legislation. For example, the Trust Act names the types of investment that a trustee (in this case your attorney) is authorised to make. If you lose the capacity to make financial decisions, the only investments your attorney can make on your behalf are those that are named in the Act, unless the consent of the Court is obtained.

### Can I appoint more than one attorney?

JENNIFER LESLIE WILLIAMSON,  
solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

15/11/2020

Yes. Several options are provided for in the Act. For example, you may appoint two or more attorneys to act jointly (together), or as a majority (simple, two-thirds, etc.), or severally (any one of your attorneys can sign), or successively (power is given to a particular attorney when the power given to another attorney ends, or when the other attorney is not available to make decisions).

If you choose two or more attorneys to make decisions jointly, they have equal authority and can act only with the agreement of them all. If one attorney dies, the remaining attorneys exercise the power.

It is important that your intentions be expressed clearly. There is space in this document to appoint up to three attorneys.

### Whom should I appoint as my attorney?

You should appoint someone you trust. Many people choose their spouse or an adult child, but you may prefer to appoint another family member or friend with expertise in the area, or the Adult Guardian for personal/health matters, or the Public Trustee or a trustee company for all matters. (The Adult Guardian is appointed by statute to look after the rights and interests of people with disabilities and, in certain situations, to give health-care consent.)

Your attorney must be over eighteen years of age, must not be your current paid carer or health-care provider (such as your nurse or your doctor), and (for financial matters) must not be bankrupt or insolvent.

**Note:**

*'Paid carer' does not mean someone receiving a carer's pension or similar benefit, so you are free to choose someone who is receiving such a benefit for looking after you.*

### Should I pay my attorney?

You do not need to pay your attorney for the power to be effective. Normally payment is not made unless a trust company is acting as attorney.

### When does the attorney's power begin?

With personal/health matters, your attorney's power to make decisions does not begin until (if ever) you are incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.

With financial matters, you may nominate when your attorney's power is to begin. If you do not name a date or an occasion, it begins immediately. On the other hand, if you lose the capacity to make such decisions before the date or occasion you name, the power begins at that point.

**Note:**

*Even if you give your attorney power immediately, you may also continue to make decisions yourself while you are able to do so.*

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Aut 41 alg

**How much control will my attorney have?**

Once the power to make a decision begins, your attorney will have full control over that decision unless you have explicitly limited that power in this document.

**Note:** *It is better not to place too many restrictions on your attorney's power, as this may make it difficult for your attorney to make decisions on your behalf.*

**How long does the power continue?**

For personal/health matters, it continues so long as you are incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.

With financial matters, it continues until it is revoked.

**How can I be sure that my attorney will act in my interests?**

While (if ever) you are unable to oversee your attorney's decisions, the Adult Guardian and the Court have the power to protect your interests. Your attorney may be required to produce a summary of receipts and expenditure or more detailed accounts, and these may be audited. An attorney who does not adequately protect your interests can be removed or changed.

**Can I change or revoke this power of attorney?**

Yes, you may change or revoke it at any time, so long as you are capable of understanding what you are doing. In other words, so long as you have the capacity to *make* an enduring power of attorney, you also have the capacity to *change or revoke* it.

If you do change or revoke this power, you must inform your attorney.

**Is there anything else that will end this power?**

Yes, several other circumstances will bring this enduring power of attorney to an end:

- **If you get married.** If you marry, the power of attorney is revoked unless your new spouse is already your attorney. (If your new spouse is your attorney, the only power that is revoked is the power of any other attorney you may have.)
- **If you get divorced.** If you divorce, the power of attorney is revoked to the extent that it was given to your former spouse.
- **If you die.** If you die, the enduring power of attorney is revoked in its entirety.
- **If you make an inconsistent document.** This power is revoked to the extent of any inconsistency with any later document you complete, such as an Advance Health Directive or another enduring power of attorney.
- **If your attorney withdraws.** Your attorney may withdraw by giving you a signed notice or by getting the Court's leave to withdraw.
- **If your attorney becomes your paid carer or health-care provider.** If this happens, your attorney's power is revoked.
- **If your attorney becomes incapable.** Your attorney's power is revoked if he/she becomes incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

15/11/2020

*[Signature]*  
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- If your attorney becomes bankrupt or insolvent.
- If your attorney dies.

### Who is involved in completing this document?

At least three people:

- **You, as principal**, complete the section of Part 1 called *Appointing an Attorney* (clauses 1 to 8).

If you have a physical disability which prevents you from signing, you may instruct another person to sign for you, but you must give the instruction in front of the witness, and the signing must be done in your presence. This person must be eighteen years old or more, and must not be the witness or your attorney. He/she must complete the statement beside the place for his/her signature.

- **The witness** must sign Part 1 after clause 8 and must also complete the section of Part 2 called *The Witness's Certificate* (clause 9).

The witness must be a justice of the peace, commissioner for declarations, lawyer or notary public. The witness must not also sign for you and must not be your attorney, a relation of yours or of the person/s you appoint as attorney. If the power includes dealing with health matters, the witness must not be your current paid carer or health-care provider.

The witness must state that you appeared to understand what you were doing. If the witness is not sure that you understand the nature and effect of the appointment, he/she should refuse to sign the document.

- **The attorney** must complete the section in Part 3 called *Attorney's Acceptance* (clauses 10-12).

Your attorney must be at least eighteen years old and must not be your current paid carer or health-care provider.

### Where can I go for advice?

The Adult Guardian, the Public Trustee or a solicitor can advise you about the enduring power of attorney and how to complete this document.

If you are completing an enduring power of attorney for personal/health matters, it is strongly recommended that you notify your doctor.

### What happens to this document when it is completed?

You should leave the original in a safe place, such as with your bank, but it's important to keep a copy to refer to.

You should also give a copy to anyone else who may need to be involved, such as:

- your attorney;
- your doctor;
- your solicitor;
- your accountant;
- your stockbroker.

You may also wish to carry a card in your purse or wallet, stating that you have made an enduring power of attorney and giving details of that appointment.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

15/11/2020

5  
43

If your attorney will be making decisions about buying or selling land, this document must be registered with the Land Titles Office.

**How do I register this document?**

It is not necessary to do so unless it is likely to be used in transactions relating to buying or selling land. If you register the document, you must take the original to the Land Titles Office and pay the fee.

If the power is revoked, you must deregister the document by lodging a revocation form in the Land Titles Office.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

*JLW* 15/11/2020

*JLW*<sup>6</sup>  
44 *Ad*

**APPOINTING AN ATTORNEY**

1. I, **MELISSA LOUISE CADDICK** [REDACTED] appoint: **ADAM EDWARD GRIMLEY** [REDACTED] in the State of New South Wales and if he is unable or unwilling to act as my Attorney THEN I APPOINT **ANTHONY MARCUS RODO KOLETTI** [REDACTED] in the state of New South Wales

of, Ph: (First Attorney)

as my attorney, under this enduring power of attorney for:

(Tick one box only)

- financial matters
- personal/health matters
- financial *and* personal/health matters.
2. Do you want to set any terms for the power given in clause 1 (i.e. give specific information about your wishes)?
- No → Go to 4.
- Yes.
3. Write these terms here: (For example: "My attorney/s is not authorised to invest in ABC Pty Ltd shares" or "If I need nursing-home care, I want my attorney to try XYZ Nursing Home first".)

Note: These terms may limit your attorney in making decisions about financial matters.

4. Have you given your attorney/s power to make decisions about financial matters?
- No → Go to 6.
- Yes.

5. When do you want the power of your attorney/s for financial matters to begin?

(Tick one box only)

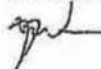
- Immediately.
- On this date: \_\_\_\_\_
- On this occasion: \_\_\_\_\_

(If you do not complete this clause the power begins immediately)

6. Are you appointing more than one attorney?

- No → Go to 8.
- Yes.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

 15/11/2020

7. How do you prefer that they make their decisions? (Tick one box only)

- Severally (any one of them may decide)
- Jointly (unanimously)
- As a majority (if you are appointing more than three attorneys, please specify, e.g. 'Simple majority', 'Two-thirds majority')

Other\*

In Accordance with paragraph 1 hereof.

\*Note: The Powers of Attorney Act 1998 allows you to appoint successive attorney/s for a matter so that the power is given to a particular attorney only when power to a previous attorney ends. You can nominate the circumstances that a power will end (eg. if x is absent from the jurisdiction, y may act).

8. STATEMENT OF UNDERSTANDING

- (1) I fully understand that, by signing this document, I give power to the attorney/s mentioned in clause 1 to make decisions on my behalf about matters mentioned in the same clause.
- (2) I understand that I may specify or limit the attorney/s power, and instruct the attorney/s about the exercise of the power.
- (3) I understand that this gives the attorney/s power to do, for me, anything I could lawfully do myself in relation to these matters (except for special personal/health matters), subject to any terms mentioned in this form.
- (4) I understand that:
  - (a) the power of attorney for financial matters (if applicable) begins at the time stated in clause 5 and continues even if I lose capacity;
  - (b) the power of attorney for personal/health matters (if applicable) begins only if/when I lose capacity.
- (5) I understand that I may change or revoke this enduring power of attorney at any time so long as my power to make such a decision is not impaired - in other words, so long as I am capable of making another enduring power of attorney.

  
.....  
MELISSA LOUISE CADDICK

or

If you are signing for principal:

- (a) I am at least eighteen years old
- (b) I am not a witness for this enduring power of attorney or an attorney for the principal.



.....  
[Witness signs here]

15th Sept 2016

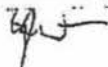
.....  
[Witness writes the date here]

.....  
[Person signing for the principal signs here]

.....  
[Person signing for the principal print your full name here]

.....  
[Write the date here]

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and correct copy of the corresponding page of the original, which I have sighted.

 15/09/2020



**PART 2: For the witness**

Your role goes beyond ensuring that the signature of the principal (the person giving the power) is genuine. You certify that the principal appeared to understand the nature and effect of the document, including the matters stated in clause 8 (Statement of understanding). In the future, you may have to provide information about the principal's capacity to understand these matters when giving the power. If you are doubtful about the principal's capacity, you should make the appropriate inquiries, e.g. from the principal's doctor.

It is strongly recommended that, if you are in any doubt, you make a written record of the proceedings and of any questions you asked to determine the principal's capacity.

**WITNESS'S CERTIFICATE**

9. I, **JENNIFER LESLIE WILLIAMSON** 4 Kianga Street, Graceville, in the State of Queensland 4075 . state that -

- (a) I am a:
- justice of the peace
- commissioner for declarations
- lawyer
- notary public,

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

*JLW* — 15/11/2020

- (b) I am not:
- an attorney for the principal
  - or a relation of the principal or of the principal's attorney

(c) (Tick one box only)

- I am not a current paid carer or health provider for the principal
- I am a current paid carer or health provider for the principal, but this enduring power of attorney appoints an attorney/s for financial matters only.

Note: 'Paid carer' does not mean someone receiving a carer's pension or similar benefit.

(d) (Tick one box only)

- the principal signed this enduring power of attorney in my presence
- in my presence, the principal instructed a person to sign this enduring power of attorney for the principal, and that person signed it in my presence and in the presence of the principal

and

- (e) at the time that this enduring power of attorney was signed, the principal appeared to me to understand the matters stated in Clause 8.

*JLW*

.....  
[Witness signs here]

15th September 2016  
.....  
[Witness writes the date here]



## PART 3: For the attorney

### IMPORTANT NOTICE

If you accept this power of attorney, you will be taking on serious responsibilities. If you fail to observe these responsibilities, you could be removed as attorney or even convicted of an offence and required to pay compensation.

Besides the particular responsibilities mentioned in Part 1 of this document, there are responsibilities imposed by the *Powers of Attorney Act 1998*.

### What are these responsibilities?

They are both general and specific.

#### General responsibilities (to guide you in decision-making)

You must exercise the power given to you honestly and with reasonable care. It is an offence not to do so, and you may also be required to compensate the principal.

You must comply with the terms of the enduring power of attorney, and any other Court requirement. In addition, you must abide by the general and health-care principles on which the Act is based.

#### General principles include:

- presuming that the principal has the capacity to make a particular decision until there is conclusive evidence that this is not the case;
- recognising his/her right to participate in decisions affecting his/her life to the maximum extent for which he/she has capacity;
- respecting the principal's human worth and dignity and equal claim to basic human rights, regardless of his/her capacity;
- recognising the principal's role as a valued member of society and encouraging his/her self-reliance and participation in community life;
- taking into account the importance of the principal's existing supportive relationships, values and cultural and linguistic environment;
- ensuring that your decisions are appropriate to the principal's characteristics and needs;
- recognising the principal's right to confidentiality of information.

#### The health-care principles are:

Any health-care decision you make for the principal must:

- maintain or promote the principal's health or well-being or is in all the circumstances, in the principal's best interests;
- be made in the way that is least restrictive of the principal's rights;
- where possible, take account of the principal's views and wishes, along with information given by the principal's health-care provider.

#### Financial decisions

Any investments you make on the principal's behalf while he/she lacks the capacity to make financial decisions must be those that are named in the Trusts Act as investments a trustee is authorised to make or are approved by the Court.

**Note:**

*Court means either the Supreme Court or the Guardianship and Administration Tribunal.*

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

02/02/13/51

*JLW*

*JLW* *AL*

**For all decisions**

If the principal has other attorneys, you must consult with them regularly and make your decisions as directed in clause 7. If you are a joint attorney, for example, you and the other attorney/s must make your decisions unanimously.

**Specific responsibilities**

- **Duty to keep records.** If you have the power to make financial decisions, you must keep reasonable records of dealings and transactions made under the power. It is an offence not to do so, and the Court or Adult Guardian may require you to produce them.
- **Duty to keep property separate.** You must keep your property separate from the principal's property unless you and the principal own the property jointly.
- **Duty to present a management plan and get approval for unauthorised transactions.** If you make a financial decision, you must present a plan of management to the Court if the Court requires it.

If the principal's capacity to make decisions is impaired, you must also get approval from the Court for any transactions that have not been authorised in this document.

- **Duty to avoid transactions that involve conflict of interest.** You must not enter into transactions that could or do bring your interests (or those of your relation, business associate or close friend) into conflict with those of the principal. For example, you must not buy the principal's car unless you pay at least its market value.

However, you may enter into such a transaction if it has been authorised in this document or by the Court, or if the transaction provides for the needs of someone that the principal could reasonably be expected to provide for, such as his/her child.

- **Duty in relation to gifts.** You must not give away the principal's property except where the principal would be likely to do so, for example as a marriage gift to a relation of the principal or a donation to his/her favourite charity (so long as the size of the gift is reasonable in the circumstances).
- **Power to maintain the principal's dependants.** You may give reasonable maintenance to the principal's dependants.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

15/11/2020  
JLW

**How do I complete a document for the principal?**

If you have the power to execute (complete) a document for the principal, you do so in the ordinary way, but you must note on the document that you are executing it as the principal's attorney under enduring power of attorney (e.g. 'John Smith, by his duly appointed attorney, Mary Jones').

**When does my power to make decisions begin?**

It depends whether the power concerns personal/health matters or financial matters.

- **Personal/health matters.** Your power to make decisions for the principal about personal/health matters does not begin until (if ever) the principal is incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision. However, you must continue to allow, and assist, the principal to make decisions in so far as he/she is capable.

11  
49

- **Financial matters.** The principal may nominate in this document when your power to make financial decisions begins. If the principal does not nominate a date, then your power begins immediately.

**When does my power end?**

Though there is no time limit on enduring power of attorney, certain actions by you, the principal or the Court can bring your power to an end.

In personal/health matters, your power also ends if the principal regains the ability to make the decision in question.

**Your actions**

- **Your withdrawal.** So long as the principal is capable of using the power given to you, you can withdraw by giving him/her a signed notice or by getting the Court's leave to withdraw.
- **Becoming the principal's paid carer or health-care provider.** If this happens, your power is revoked.

**Note:**

*'Paid carer' does not mean someone receiving a carer's pension or similar benefit.*

- **Becoming incapable.** Your power is revoked if you become incapable of understanding the nature and foreseeing the effects of a decision, and of communicating that decision.
- **Becoming bankrupt or insolvent.** If this happens, your power is revoked.
- **Your death.**

**The principal's actions**

- **Revoking your power.** The principal may revoke your power at any time, so long as his/her capacity to make the decision is unimpaired. In other words, so long as the principal has the capacity to *make* an enduring power of attorney, he/she also has the capacity to *revoke* it.

If the principal revokes your power, he/she must inform you in writing.

- **Appointing a new attorney to have your powers.** If the principal completes a new document giving your powers to another attorney, your powers are revoked to that extent. Because the new document has a later date, it overrides the first.
- **Getting married.** If the principal marries, your power of attorney is revoked unless you are the principal's new spouse. (If you are the principal's new spouse, the only power that is revoked is the power of any other attorney.)
- **Getting divorced.** If the principal divorces and you were the principal's former spouse, your power of attorney is revoked.
- **The principal's death.** If the principal dies, your enduring power of attorney is revoked in its entirety.

**Actions by the Court**

Your power may also be changed or revoked by the Court if you have failed to act in the principal's interests.

**Can I be held liable?**

Yes, you can be held liable if you use the enduring power of attorney knowing that it has been changed or revoked, or knowing of an event that effectively revokes it, or even if you have reason to believe that it has been revoked.

I, the undersigned, being of legal age and sound mind, do hereby certify that the above is a true and correct copy of the original document as it appears in my possession.

02/02/11/51  
 [Signature]

[Signature] <sup>12</sup>  
 50

The Court and the Adult Guardian have the power to protect the principal's interests. You may be required to produce a summary of receipts and expenditure or more detailed accounts, and these may be audited. You may also be required to give evidence in relation to the exercise of your powers. If the Court or Adult Guardian believes that you have not adequately protected the principal's interests, you may be removed or your enduring power of attorney may be revoked, and you may be required to compensate the principal.

#### Where can I go for advice?

The Court, the Adult Guardian, the Public Trustee or a solicitor can advise you about this document and your power and responsibilities under it.

The Court can also make a declaration about the validity of this document or whether your power to make a decision for the principal has begun.

I, JENNIFER LESLIE WILLIAMSON,  
Solicitor certify this to be a true and  
correct copy of the corresponding page  
of the original, which I have sighted.

*JL* 15/11/2020

*JL* 13  
51

**ATTORNEY'S ACCEPTANCE**


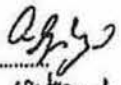
*As attorney, you complete the section of this form that applies to you by writing on the lines and ticking the boxes. If you are not able to tick all the boxes truthfully, then you must not accept this appointment as attorney.*

**(First attorney completes this section)**

10. I, **ADAM EDWARD GRIMLEY**

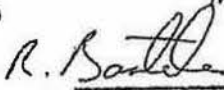
state that:

- I am eighteen or over,
- I am not a current paid carer of the principal,
- I am not a current health-care provider for the principal,
- I have read Part 1, giving me enduring power of attorney,
- I understand that, by signing this document, I take on the responsibility of exercising the power I have been given in the document,
- I also understand that I must exercise the power in accordance with the *Powers of Attorney Act 1998* and the *Guardianship and Administration Act 2000*.



15th September 2016  
 [Sign here] 19th November 2020 [Write the date here]

**(Second attorney, if any, completes this section)**

11. I, **ANTHONY MARCUS RODO KOLETTI**

 19.11.2020  
 WITH **RICHARD BARTALESI**


- I am eighteen or over,
- I am not a current paid carer of the principal,
- I am not a current health-care provider for the principal,
- I have read Part 1, giving me enduring power of attorney,
- I understand that, by signing this document, I take on the responsibility of exercising the power I have been given in the document,
- I also understand that I must exercise the power in accordance with the *Powers of Attorney Act 1998* and the *Guardianship and Administration Act 2000*.

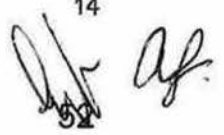
**RICHARD BARTALESI**  
 Solicitor  
 Suite 4, 10 William Street  
 DOUBLE BAY NSW 2028  
 Tel: 02 9363 5413  
 Email: richard@bartalesi.com.au


15 September 2016  
 [Sign here] [Write the date here]

QUEENSLAND GOVERNMENT  
June 2002

I, JENNIFER LESLIE WILLIAMSON,  
 Solicitor certify this to be a true and  
 correct copy of the corresponding page  
 of the original, which I have sighted.

 15/11/2020



This and the following 4 pages is the annexure marked "B" referred to in the affidavit of Adam Grimley sworn before me on 3 December 2020:

National NSW Crime

# Missing Dover Heights woman Melissa Caddick alleged to have stolen millions from friends

By Kate McClymont

November 28, 2020 – 5.15am



Save Share A A A

It's been just over two weeks since Melissa Caddick, who is alleged to have misappropriated millions of dollars from friends and associates, left her Dover Heights home with nothing, not even her phone, and vanished without a trace.

On Friday her barrister told the Federal Court that the matter was "now a murder investigation". However, this was disputed by NSW Police who insist Ms Caddick's disappearance is still being treated as a missing person case.



*Handwritten signature/initials*

Police have quashed suggestions made in court that missing Sydney woman Melissa Caddick has been murdered.

Ms Caddick, 49, was last seen by her husband in the early hours of Thursday, November 12. Her teenage son told the police that he heard what he thought was his mother leaving the house around 5.30am.

The previous two days had been a nightmare for Ms Caddick. On Tuesday, November 10, the corporate watchdog ASIC obtained orders in the Federal Court freezing Ms Caddick's bank accounts and properties and preventing her from leaving the county.

The following day Australian Federal Police arrived at her [REDACTED] house to execute a search warrant on behalf of ASIC. Ms Caddick is alleged to have defrauded friends and associates who invested millions of dollars in an unlicensed investment scheme Ms Caddick was operating via her personal company Maliver.

ASIC has suggested that Maliver was using the financial services licence of another company without its authorisation.

Ms Caddick missed the 4pm deadline on Thursday to attend the registry to hand over her passport or any airline tickets. It wasn't until midday Friday, November 13, that her husband of seven years, Anthony Koletti, 38, reported his wife's disappearance to police.

Mr Koletti, a DJ who runs a music production company called Paws Off Productions, told police that his wife regularly went for a run and that her running gear – a black singlet, leggings and silver Nike runners – appeared to be missing.

He also said that she never left the house without her phone. "In this case, this is the only time since I have known her that she didn't have her phone with her."

Establishing exactly when she disappeared is proving difficult as the hard drive for the [REDACTED] Road CCTV system had been taken by police executing the search warrant.



Melissa Caddick is alleged to have misappropriated millions of dollars. NSW POLICE



*[Handwritten signature]*



Anthony Koletti took more than a day to report the disappearance of his wife Melissa Caddick.

Ms Caddick's older brother Adam Grimley has urged his sister to come home. "She's a loving person, a lovely mother, she's a great sister to me," he said.

Detective Inspector Gretchen Atkins said Ms Caddick's disappearance was being treated as suspicious because there was no trace of her.

"She hasn't been in touch with her family. She hasn't been in touch with her friends," she said.

"We don't have any locations that we know that she's been. She hasn't attended appointments that she had, which is why we're really concerned. She doesn't have a phone, doesn't have any access to bank accounts."

On Friday, just over a fortnight since her disappearance, the Federal Court heard that Ms Caddick's disappearance was creating headaches for her legal team. Prior to her disappearance Ms Caddick appeared to have entrusted her affairs to a small law firm in the Brisbane suburb of Graceville.

"There are two scenarios – she may return or she may not return," said her Queensland barrister Jane Muir.

Ms Muir also raised difficulties as to who would be responsible for Ms Caddick's affairs. Incomplete paperwork was causing headaches about the legitimacy of the power-of-attorney Ms Caddick had granted to her brother Adam or her husband.



*Ryly Af*





Melissa Caddick hasn't been seen since November 12.

Ms Caddick was also using a suburban Brisbane accountant. Nicolas Morales, who runs his business from his Hendra home, declined to discuss how Ms Caddick had come to use his services.

It is not suggested Mr Morales, Mr Koletti or Mr Grimley have been involved in any wrongdoing.

Ms Caddick, who was formerly married to corporate lawyer Anthony Caddick, was a former Miss Australia Fundraiser. She started her career as a money market dealer at NRMA Investments and set up her own business Maliver in 2013.



Melissa Caddick with husband Anthony Koletti. FACEBOOK

In April 2014 she purchased her Dover Heights house for \$6.2 million. Title deeds show that she owns 99 per cent of the house and her brother Adam owns 1 per cent.

Two years later she splashed out \$2.55 million for an apartment in [REDACTED] [REDACTED]

ASIC has moved to appoint a provisional liquidator to Maliver and has set up a special email [maliver.investor@asic.gov.au](mailto:maliver.investor@asic.gov.au) for concerned investors of Ms Caddick's.

The matter will return to court on December 8, 2020.

*Additional reporting by Pallavi Singhal*

**Start your day informed**

Our Morning Edition newsletter is a curated guide to the most important and interesting stories, analysis and insights. Sign up to *The Sydney Morning Herald's* newsletter [here](#), *The Age's* [here](#), *Brisbane Times'* [here](#), and *WAtoday's* [here](#).

**Kate McClymont**

Kate McClymont is an investigative journalist at The Sydney Morning Herald.

A handwritten signature in black ink, appearing to read 'Kate McClymont'.

This and the following 9 pages is the annexure marked "C" referred to in the affidavit of Adam Grimley sworn before me on 3 December 2020:

114



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

No: NSD1220/2020

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**  
 Plaintiff

**MELISSA LOUISE CADDICK** and another named in the schedule  
 First Defendant

**ORDER**

**JUDGE:** JUSTICE JAGOT  
**DATE OF ORDER:** 10 November 2020  
**WHERE MADE:** Sydney

**PENAL NOTICE**

**TO: MELISSA LOUISE CADDICK**  
**MALIVER PTY LTD (ACN 164 334 918)**  
**IF YOU:**

- (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 TO ABSTAIN FROM DOING,

**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.**

*[Handwritten signature]*  
 58



**TO: MELISSA LOUISE CADDICK**  
**MALIVER PTY LTD (ACN 164 334 918)**

This is an order made against you on 10 November 2020 by Justice Jagot at a hearing without notice to you after the Court read the affidavit of Isabella Lucy Allen affirmed on 9 November 2020 (**Main Allen Affidavit**) and the affidavit of Isabella Lucy Allen affirmed on 9 November 2020 (**Suppression Allen Affidavit**).

In this order:

- (a) **"Property"** means all real or personal property, assets or interests in property of any kind, within or outside Australia including, by virtue of subsection 1323(2A) of the *Corporations Act 2001* (Cth) (**Act**), any property held otherwise than as sole beneficial owner;
- (a) **"Third Party"** means a person other than the First or Second Defendant or the Plaintiff.

**THE COURT ORDERS THAT:**

**INTRODUCTION**

1. Leave to file the Originating Process in Court.
2. In the first instance, service of the Originating Process be dispensed with, and the Originating Process be returnable immediately.
3. Time for service of the Originating Process and supporting affidavits be abridged to 5pm Wednesday 11 November 2020.
4. That the Originating Process be returnable on 13 November 2020 at 9.45am for a further hearing in respect of the orders sought by the Plaintiff.
5. Anyone served with or notified of these orders may apply to the Court to vary or discharge them or so much of them as affects the person served and notified, on the giving of reasonable notice.
6. Subject to order 7 below, an order pursuant to sections 37AF(1)(a) and (b) and 37AG(1)(a) of the *Federal Court of Australia Act 1974* (Cth) (**FCA Act**) that the publication or disclosure of these orders, the Originating Process, the Main Allen Affidavit (including the exhibits to that affidavit), the Suppression Allen Affidavit and any written submissions advanced by the Plaintiff in support of obtaining these ex-parte

A handwritten signature in black ink, appearing to read 'E. Jagot' or similar, written over the page number.



orders is prohibited until 5pm Wednesday 11 November 2020, except to enable the Plaintiff to serve the Defendants or provide copies of these orders to the entities set out in paragraph 16 for the purpose of enforcing the orders.

7. An order pursuant to s.37AF(1)(a) and (b) and 37AG(1)(a) of the FCA Act, that until further order, the publication or disclosure (except to the parties and their legal representatives) of:
- (a) the Main Allen Affidavit in so far as it identifies the names identified in Annexure IA-4 to the Suppression Allen Affidavit;
  - (b) the Suppression Allen Affidavit in so far as it identifies the names or words identified in Annexure IA-4 to the Suppression Allen Affidavit;
  - (c) ASIC's written submissions filed in support of its application for the orders set out in this Originating Process in so far as it identifies the names or words identified in Annexure IA-4 to the Suppression Allen Affidavit;
  - (d) the whole of Exhibit IA-1, IA-2 and IA-3 to the Main Allen Affidavit;
- be prohibited.

#### PROVISION OF INFORMATION

8. Subject to paragraph 9, pursuant to s 1323(1) of the Act and s 23 of the FCA Act, by 5pm on 16 November 2020, the First and Second Defendant swear and serve upon the Plaintiff an affidavit, in the case of the First Defendant deposing in detail to the matters set out in 8. (a) – (h) below, and in the case of the Second Defendant deposing in detail to the matters set out in 8. (a) – (i) below:
- (a) the name and address of any bank, building society or other financial institution at which there is an account in the name of or under the control of the relevant Defendant, together with the number of such account, the name of such account and the balance of that account;
  - (b) the name and address of any person indebted to the relevant Defendant and the amount and nature of the indebtedness;
  - (c) an itemised inventory of all Property owned or controlled by the relevant Defendant or in which that Defendant has any legal or beneficial interest giving each item's value, location and the extent of the relevant Defendant's interest in

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- the property;
- (d) the names and address of any person to whom the relevant Defendant is indebted and the amount and nature of the indebtedness, including amounts owed to any person who has deposited funds with the relevant Defendant for investment (**Investor**);
  - (e) in respect of any of the Property of the relevant Defendant which has been given as security for any debt, the details of that Property and the nature of the security and the nature and amount of the debt;
  - (f) the sources and amount of any income, wages, earnings or other payments received by the relevant Defendant in the last 12 months and expected to be received by the relevant Defendant in the next 12 months;
  - (g) the name, physical address, email address and phone number of each person who currently has funds deposited with the relevant Defendant for investment at the date of these orders, or on whose behalf the Defendant holds shares or other Property, and the amount of, location and nature of those funds and/ or the Property;
  - (h) for the period from 1 January 2020 to 31 October 2020, details regarding:
    - (i) each amount deposited with the relevant Defendant by an Investor, the date of each deposit and the name and address of the Relevant Investor;
    - (ii) each amount paid to an Investor and the date of the payment;
  - (i) the Second Defendant's financial statements and accounts for the year ended 30 June 2020 or 31 December 2019 (as the case may be depending upon its particular financial year), whether or not audited and whether or not in the form of management accounts only.
9. If:
- (a) the First Defendant wishes to object to complying with paragraph 8 on the grounds that some or all of the information required to be disclosed may tend to prove that:
    - (i) she has committed an offence against or arising under Australian law or a law of a foreign country; or
    - (ii) is liable to a civil penalty,

*[Handwritten signature]*



- (b) all of the persons who are able to comply with paragraph 8 on behalf of the Second Defendant and with whom it has been able to communicate, wish to object to the Second Defendant complying with paragraph 8 on the grounds that some or all of the information required to be disclosed may tend to prove that they:
- (i) have committed an offence against or arising under Australian law or a law of a foreign country; or
  - (ii) are liable to a civil penalty,

the First Defendant or Second Defendant must:

- ol
- (c) disclose so much of the information required to be disclosed to which no objection is taken; and
  - (d) 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
  - (e) file and serve on each other party a separate affidavit setting out the basis of the objection.

#### ASSET RESTRAINT

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10. Pursuant to sections 1323(1) and 1323(3) of the Act and/or section 23 of the FCA Act that until further order, the Defendants, by themselves and their servants, agents and employees or any other person on their behalf, must not:

- (a) remove, or cause or permit to be removed from Australia any of their Property, including, but not limited to, funds in bank accounts held by the Defendants;
- (b) sell, charge, mortgage or otherwise deal with, dispose of and/or diminish the value of any of their Property;
- (c) without limiting the terms of sub-paragraphs (a) and (b) above, incur new liabilities, including, without limitation, liabilities incurred either directly or indirectly, through the use of a credit card, a credit facility, a drawdown facility or a re-draw facility;
- (d) cause or permit to be sold, charged, mortgaged or otherwise dealt with, disposed of, or diminished in value, any of their Property; and



- (e) without limiting the terms of sub-paragraphs (a) to (d) above, withdraw, transfer or otherwise dispose of or deal with, any monies available in any account with any bank, building society or other financial institution in which the First or Second Defendants have any legal or equitable interest, including without limitation the bank accounts listed in Annexure A.
11. The order sought in paragraph 10 above, shall not prevent:
- (a) any of the Defendants from paying or otherwise incurring a liability for costs reasonably incurred in these proceedings and any criminal proceedings arising from the Plaintiff's investigation into the affairs of each of the Defendants; and
- (b) any bank, building society or financial institution from exercising any right of set-off which it may have in respect of a facility afforded by it to any of the Defendants prior to the date of this order;
- (c) the First Defendant from:
- (i) paying ordinary living expenses not exceeding \$800 per week;
- (ii) dealing with or disposing of her Property in the discharge of obligations bona fide and properly incurred under any contract entered into by the First Defendant before these orders were made, following a request in writing to the Plaintiff including details and documentary evidence of the obligation and receipt of the Plaintiff's approval;
- (d) the Second Defendant from:
- (i) paying trade creditors bona fide and properly incurred not exceeding \$800 weekly;
- (ii) paying other business expenses bona fide and properly incurred, or dealing with or disposing of its Property in the discharge of obligations bona fide and properly incurred under any contract entered into by the Second Defendant before these orders were made, following a request in writing to the Plaintiff including details and documentary evidence of the expense or obligation and receipt of the Plaintiff's approval.

#### TRAVEL RESTRICTION

12. Pursuant to ss 1323(1)(j) and 1323(3) of the Act, the First Defendant deliver up all passports in her name which are in her possession, custody or control, and any tickets

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for international travel by her, to the Sydney Registry of this Court by 4.00 pm Australian Eastern Daylight Time on 12 November 2020 to be retained by the Court until further order.

13. Pursuant to ss 1323(1)(k) and 1323(3) of the Act, the First Defendant be restrained from leaving Australia without the consent of the Court until further order.
14. Pursuant to s 23 of the FCA Act, in the event that the First Defendant cannot locate any passport within one day of the making of these orders, she file an affidavit stating that fact and exhibiting a copy of a written notification sent by her to the Department of Home Affairs or the Australian Passport Office / Information Service informing them of the same.
15. Pursuant to s 23 of the FCA Act, the First Defendant may not apply for the issue of any passport until further order.

#### FURTHER ORDERS

16. Pursuant to s 23 of the FCA Act, the Plaintiff have leave, to the extent necessary, to give notice of any orders made, to:
  - (a) any relevant authorities that record, control and regulate the ownership of real property, motor vehicles and maritime vessels; and
  - (b) any bank, building society or other financial institution with which, to the best of the Plaintiff's belief, any of the Defendants may operate any account; and
  - (c) any securities broking firm, foreign exchange broking or trading firm or futures broking firm with which, to the best of the Plaintiff's belief, any of the Defendants may operate any account; and
  - (d) any other person or entity, holding or controlling property, which, to the best of the Plaintiff's belief, may belong to any of the Defendants;
  - (e) the Australian Border Force or the Australian Federal Police;
 by giving a copy of a minute of the order to a person apparently in the employ of that entity or person.

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17. Liberty to apply on 48 hours' notice.

Date that entry is stamped: 10 November 2020

*Sia Lagos*  
Registrar

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## ANNEXURE A – BANK ACCOUNTS

Account Name	BSB	Account Number	Bank
Melissa Caddick		Card ending 44005	AMEX
Melissa L Caddick		Card ending 71008	AMEX
ML Caddick	[REDACTED]	[REDACTED]	NAB
Maliver Pty Ltd	[REDACTED]	[REDACTED]	NAB
Maliver Pty Ltd	[REDACTED]	[REDACTED]	CBA
Melissa Caddick	[REDACTED]	[REDACTED]	CBA
Maliver Pty Ltd	[REDACTED]	[REDACTED]	CommSec
Maliver Pty Ltd	[REDACTED]	[REDACTED]	CommSec
Melissa Caddick	[REDACTED]	[REDACTED]	CommSec
Mrs Melissa Louise Caddick	[REDACTED]	[REDACTED]	CommSec
Caddick - US Dollar Account	[REDACTED]	[REDACTED]	NAB
Melissa Caddick & Adam Grimley - Home loan	[REDACTED]	[REDACTED]	NAB
Melissa Caddick & Adam Grimley	[REDACTED]	[REDACTED]	NAB
Melissa Caddick - Home loan	[REDACTED]	[REDACTED]	NAB
Melissa Caddick	[REDACTED]	[REDACTED]	NAB
Melissa Caddick	[REDACTED]	[REDACTED]	NAB
Melissa Caddick	[REDACTED]	[REDACTED]	NAB



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**Schedule**

No: NSD1220/2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Defendant      MALIVER PTY LTD

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This and the following 1 page is the annexure marked "D" referred to in the affidavit of Adam Grimley sworn before me on 3 December 2020:



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

No: NSD1220/2020

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**  
 Plaintiff

**MELISSA LOUISE CADDICK** and another named in the schedule  
 First Defendant

**ORDER**

**JUDGE:** JUSTICE JAGOT  
**DATE OF ORDER:** 27 November 2020  
**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. Jennifer Williamson, lawyer, notify the plaintiff and the Court whether she considers she is able to appear on behalf of the first defendant by 4.00pm on 4 December 2020.
2. The matter be listed for a further Case Management Hearing before the Corporations and Commercial Duty Judge at 9.30am on 8 December 2020.
3. Liberty to restore on 24 hours' notice.

Date that entry is stamped: 27 November 2020

*Sia Lagos*  
 Registrar

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**Schedule**

No: NSD1220/2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Defendant      MALIVER PTY LTD

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"A"

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*Annexure "A" to QCAT Application – Why are you seeking this order?*

***Application by Mr Adam Grimley (Queensland Civil and Administrative Tribunal)***

**Urgent hearing requested**

**Application for declaration of validity of enduring power of attorney: Outline for Mr Adam Grimley (first attorney named in the EPOA of Ms Melissa Caddick signed 15 September 2016)**

**Urgency**

1. The Applicant seeks a hearing as soon as the Tribunal can accommodate one, and as soon as Friday 4 December, if that were possible.
2. Ms Caddick, the principal, is currently a missing person. She is a defendant in proceedings Australian Securities & Investments Commission (ASIC) have recently brought proceedings in the Federal Court of Australia. Until there is a ruling on the validity of her enduring power of attorney dated 15 September 2016 (the EPOA), the attorney, Mr Grimley, does not have confirmation that that instrument is operative. Nor do any legal representatives who have been instructed by him as Ms Caddick's attorney.
3. There is urgency too from the ASIC's perspective, as it seeks to place Ms Caddick's company in provisional liquidation, and to appoint a receiver to her personal assets. The matter is next before the Federal Court on 8 December 2020.
4. As ASIC has made asset preservation orders in respect of Ms Caddick's bank accounts, an immediate priority for Ms Caddick's family is the need to have funds released for living and legal expenses. This exercise requires Mr Grimley as Ms Caddick's attorney to instruct lawyers to bring the appropriate application in the Federal Court, and underlines the need for an urgent hearing as to the validity of the EPOA.
5. With a view to assisting the Tribunal, the Applicant has taken the liberty of including with his Form 12 this written outline.

**Overview**

6. The appointment in the EPOA is for all matters (financial *and* personal/health matters). The power for financial matters began immediately.
7. Until she went missing on 12 November 2020, Ms Caddick was living in Dover Heights, New South Wales. Dover Heights is near Bondi Beach in Sydney.
8. Mr Adam Grimley is Ms Caddick's brother. He is the first mentioned attorney in the EPOA and lives in Sydney.

*Annexure "A" to QCAT Application – Why are you seeking this order?*

9. Mr Anthony Koletti is Ms Caddick's husband, and the person identified in the appointment as a substitute attorney for Mr Grimley. He also lives in Sydney.
10. The EPOA is a standard, Queensland Form 2 EPOA. The evidence is that it was signed by the principal, and witnessed, in Queensland by a Queensland solicitor, Ms Jennifer Williamson of Williamson & Associates in Graceville.
11. On 10 November 2020, ASIC filed proceedings in the Federal Court of Australia, Sydney Registry, in which Ms Caddick is named as a defendant, *Australian Securities & Investments Commission v Melissa Caddick & Anor* (NSD 1220/2020). It secured *ex parte* freezing orders over her personal assets, and those of a company that she controlled.
12. At the Federal Court case management hearing on 27 November 2020, Jagot J granted leave to Ms Caddick's legal representatives to appear on a provisional basis, and directed them to notify ASIC of their view of the power of attorney's validity by 4 December 2020 at latest.

**Application for leave to be legally represented**

13. The Applicant will file an application for leave to be represented in this matter by Hogan Lovells, Sydney based solicitors, and Brisbane Counsel.

**Relief sought**

14. Mr Grimley and Mr Koletti seek declarations that:
  - (a) pursuant to s. 113(1) *Powers of Attorney Act 1998 (Q)*, the Enduring Power of Attorney for Melissa Louise Caddick dated 15 September 2016 is valid; and
  - (b) pursuant to s. 115(b) *Powers of Attorney Act 1998 (Q)*, the powers given to the attorney, Mr Adam Edward Grimley, under the Enduring Power of Attorney for Melissa Louise Caddick dated 15 September 2020 have begun; and
  - (c) in the alternative to orders (a) and (b) above, that pursuant to s. 113(3) *Powers of Attorney Act 1998 (Q)*, the Tribunal appoints Mr Adam Edward Grimley as attorney for Melissa Louise Caddick, and if he is unable or unwilling to act as her attorney, then Anthony Marcus Rodo Koletti is appointed as her attorney.

**Applicant's material**

15. The Applicants relies on:
  - (a) an affidavit of Ms Jennifer Williamson (a Queensland solicitor, and witness to the principal's signature of the POA); and



*Annexure "A" to QCAT Application – Why are you seeking this order?*

- (b) an affidavit of Adam Edward Grimley (named as attorney in the EPOA, and the principal's brother).

**Capacity is not in issue**

16. The formalities that apply to EPOAs are more onerous than the ones that apply to general, or non-enduring, powers of attorney. There are at least two policy reasons why this is so. An EPOA is often made at a time when the principal expects the onset of mental incapacity, and may therefore be particularly vulnerable to the attorney's influence. And, when the principal loses capacity there is less scope for monitoring and reviewing the attorney's exercise of authority: *CXP* [2017] NSWCATGD 33 at [22], citing Dal Pont, "Powers of Attorney."
17. As there has been no suggestion that Ms Caddick's capacity was in any way lacking or impaired when she signed the EPOA, this is not a capacity case. The Witness's Certificate in Ms Caddick's EPOA document required the witness to the principal's signature to attest to capacity simply by signing and dating the certificate. That was done (see page 9 of the EPOA).

**The EPOA should be declared valid**

18. The relevant provisions are ss. 44 (in particular, s. 44(4)), 109A and 113 of the Act, and ss. 14A and 48A of the *Acts Interpretation Act 1954* (Q).
19. The question of validity turns on what effect - if any - the inadvertent omission by the principal's witness to tick the boxes on the Witness's Certificate had.
20. Section 44 of the Act specifies formal requirements for an "enduring power of attorney."
21. Sections 44(1), 44(3)(a) and 44(3)(b) were complied with in the EPOA.
22. Section 44(4) of the Act provides:
- "If an enduring document is signed by the principal, it must include a certificate signed by the witness stating the principal –
- (a) signed the enduring document in the witness's presence; and
- (b) at the same time, appeared to the witness to have the capacity necessary to make the enduring document." [emphasis added]
23. By signing and dating the Witness's Certificate, s. 44(b) was complied with. The witness, Ms Williamson, has deposed in her affidavit to having formed the view at the time she witnessing Ms Caddick's signature of it that she had the necessary capacity.
24. As no tick was placed in the first box under Item (d) in the Witness's Certificate, s. 44(4)(a)

*Annexure "A" to QCAT Application – Why are you seeking this order?*

of the Act was not complied with.

25. Two other items, Item (a) (which deals with the witness's qualification as a lawyer, etc) and Item (c) (which states the witness is not a paid carer or health provider), also did not contain ticks in their boxes for. The Act, though, does not require that the witness state those matters in the Witness's Certificate.
- 
26. An EPOA will be void where the principal lacks capacity: *McLaughlin v Daily Telegraph Newspaper Co Ltd (No. 2)* (1904) 1 CLR 243. In cases where the principal's capacity to give the EPOA has been successfully challenged, the EPOA is invariably held to be invalid: see eg. *re SRC* [2016] QCAT 444 at [22], [31]. No concern about the principal's capacity has been expressed in this case.
27. There is no common law principle, or provision in the Act, that makes an EPOA automatically invalid or void where a relevant statutory provision was not complied with, or where formal requirements were not attended to.
28. In *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355 at 392, the High Court identified the correct question as whether the intention of the legislature was that the non-compliance under consideration, ie. the act that was done in breach of the statute, should be invalid. The majority stated:
- "Courts have always accepted that it is unlikely that it was a purpose of the legislation that an act done in breach of a statute should be invalid if public inconvenience would be a result of the invalidity of the act."
29. That the Queensland legislature did not intend an EPOA to be automatically invalid may be gauged by the different language it could have chosen, if it had intended that result. It could, for instance, have used the language the New South Wales Parliament chose for 19(1) *Powers of Attorney Act 2003* (NSW), which provides that "an instrument that creates a power of attorney creates an enduring power of attorney for the purposes of this Act if" the requirements set out in ss 19(1)(a) to 19(1)(c) are met. New South Wales tribunals have interpreted s. 19(1) to mean that if the specified requirements are not met, an enduring document is not created (i.e. it does not come into existence at all), with the result that the tribunal does not have jurisdiction to review such a document: see eg. *WBN* [2015] NSWCATGD 9 at [33]-[34].
- 
30. That intention may also be gleaned from the powers the Act confers on the Court. The Court may - not "must" - declare an EPOA invalid if satisfied that "it does not comply with the other requirements of this Act" (that is, requirements other than capacity): s. 113(2)(b).

*Annexure "A" to QCAT Application – Why are you seeking this order?*

31. Where there has not been full compliance with the requirements of the Act, the discretion available to QCAT or the Supreme Court to declare the documents invalid is enlivened. As Member Allen noted in *In the Matter of CAA* [2003] QGAAT 31 at [34], "... this is a discretion and therefore the Tribunal may decide not to exercise its power to declare the documents invalid." [emphasis added]
32. Section 48A(1) *Acts Interpretation Act* 1954 (Q) (previously s. 49(2) of that Act, and counterpart of s. 80(2) *Interpretations Act* 1987 (NSW)) provides the substantial compliance with a form is sufficient. Section 48A(2) qualifies s. 48A(1), but it does not mandate automatic invalidity where the form has not been properly completed:
- "48A Compliance with forms**
- (1) If a form is prescribed or approved under an Act, strict compliance with the form is not necessary and substantial compliance is sufficient.
- (2) If a form prescribed or approved under an Act requires—
- (a) the form to be completed in a specified way; or
- (b) specified information or documents to be included in, attached to or given with the form; or
- (c) the form, or information or documents included in, attached to or given with the form, to be verified in a specified way;
- the form is not properly completed unless the requirement is complied with.
- ..." [emphasis added]
33. In *Re AC* [2003] QGAAT 18, *Re CAA* [2003] QGAAT 31, and *Re PAC* [2009] QGAAT 33, the Tribunal considered the effect of formal deficiencies in EPOAs. In two of the cases, the Witness's Certificate was completed, but the person who witnessed the principal's signature did not sign where indicated in section 8 on page 8 of the form. In the third case, *Re PAC*, the principal's witness did not write the date where indicated on page 8 of the form. In each, the Court declared the EPOA to be valid.
34. President Ann Lyons (now Lyons J on the Supreme Court) was one of the Tribunal members in *Re AC* and *Re CAA*.
35. Here, the EPOA indicates on its face, relevantly, that:
- (a) it was signed by the principal, Ms Caddick, in clause 8 of the EPOA;
- (b) in clause 8, the witness, Ms Williamson, also signed and wrote the date "15<sup>th</sup> September 2016;"
- (c) in clause 9, the witness, Ms Williamson, signed and dated the Witness's Certificate; and
- (d) the first and second attorneys, Mr Grimley and Mr Koletti, signed the Attorney's

*Annexure "A" to QCAT Application – Why are you seeking this order?*

Acceptances in clauses 10 and 11 of the EPOA.

36. Ms Williamson deposes to:
- (a) having watched Ms Caddick sign the EPOA in her office in Brisbane;
  - (b) having signed her own name, and thereby having witnessed Ms Caddick's signature immediately after Ms Caddick signed the document;
  - (c) having not ticked the boxes for items 9 (a), (c) and (d) of the Witness's Certificate because she did not notice when she printed off the form, that it did not already contain the ticks to indicate that: she was a lawyer, she was not a current paid carer or health provider for the principal, and that the principal had signed the enduring power of attorney in her presence; and
  - (d) the fact that when she signed, witnessed and dated the EPOA, she was in fact a lawyer, was not a current paid carer or health provider for Ms Caddick, and that Ms Caddick signed the EPOA in her presence.
37. Ms Williamson is an experienced solicitor. Her evidence should be accepted, and the Tribunal should make the findings set out in paragraphs 32 and 33 above.
38. The purpose of ss. 44(3)(b) and s. 44(4) of the Act is to provide safeguards and protection for persons in the execution of enduring documents, and if s. 44(4) has not been observed because the witness's certificate in clause 9 is not "completed and dated," that fundamental purpose would be frustrated: *Re AC* at [21].
39. The missing ticks do not in this instance remove any safeguards or protections for the principal. Here, the Witness's Certificate was actually signed and dated, as was clause 8 on page 8. Being a solicitor, Ms Williamson witnesses documents in the course of her professional duties, and may be taken to have been acutely conscious at all times when witnessing documents that the requirements for witnessing a document require a witness who attests a signature by a party to be present at the signing and to have seen what passes, and who shall, when required, bear witness to the facts: *Brott v The Queen* (1992) 173 CLR 426, cited in *Re AC* [2003] QGAAT 18 at [38]. Her evidence is that is what happened.
40. As the Tribunal stated in *Re AC* [2003] QGAAT 18 at [22]:

"In terms of the legislation, the important factors are that the principal signs the document, that the document is signed in the presence of a witness who is satisfied that the principal understand the matters stated in clause 8, and finally that the attorney signs the document to accept the appointment."

*Annexure "A" to QCAT Application – Why are you seeking this order?*

41. See also *Re CAA* [2003] QGAAT 31 to similar effect at [24]. Given the content of the EPOA itself, and the evidence of Ms Williamson, the Tribunal should be satisfied of each of those matters.

**The EPOA's substantial compliance with Form 2**

42. Items (a), (c) and (d) on the Witness's Certificate represent only part of a three page form. The certificate was signed and dated by a solicitor. There is nothing missing, or incorrect, about the balance of the form. The EPOA is in the approved form, Form 2. Taken together, this amounts to substantial compliance with the form under s. 48A(1) of the Act.
43. Even if the inclusion of ticks in various boxes in the certificate was a "requirement" that the certificate be "completed in a specified way" for the purposes of s. 48A(2)(a) of the Act (and that is not a necessary conclusion) the fact that a form is not properly completed for the purposes of s. 48A(2) does not automatically render it invalid. In *Bobolas v Waverley Council* (2016) 92 NSWLR 406 at [98]f, McColl JA considered the application of s. 80(2) of the NSW *Interpretation Act* to a Court form (an affidavit).
44. Her Honour's statement of principle regarding the effect of non-compliance with a form where an analogue of s. 48A(2) applies warrants setting out in full:

"[99] ... Accordingly the Fahim affidavit was not duly completed for the purposes of s 80(2) as it was not completed in the manner specified in Form 41. It also did not comply with CPA, s 17(3) as it was not 'in [the] form' of Form 41.

[100] What are the consequences? When taken in context with s 80(1), *prima facie*, s 80(2) suggests that strict compliance with a prescribed or approved form is mandatory, that is to say that, failing compliance, the document will be a nullity. Section 17(3) of the CPA also appears mandatory.

[101] For the reasons that follow, however, I am of the view that neither provision has that consequence insofar as the Fahim affidavit is concerned.

[102] The question whether it was a purpose of s 80(2) that any form which was not 'duly completed' should be a nullity must be determined by having regard to the language of the relevant provision and the scope and object of the whole statute [citing *Project Blue Sky Inc* (1998) 194 CLR 355 at [93]]. The determination of the proper construction of s 17(3) and, in particular, the consequences of a form not being 'in that form' also falls for determination by having regard to the same matters.

[103] I have referred to the text and immediate context of s 80. However, s 80(2) appears in the context that, pursuant to s 5(2), the *Interpretation Act* applies to an Act or instrument except insofar as the contrary intention appears, relevantly, in the Act or instrument concerned. It is appropriate, therefore, to determine whether anything in the CPA or the UCPR qualifies the apparently mandatory requirement of s 80(2). Insofar as CPA, s 17(3) is concerned, the question of its proper construction turns, of course, not only on the text, but also upon its statutory context." [emphasis added]

45. In that case it was held that the deficiency in the affidavit (the omission of the place it was sworn, and the witness' address) did not invalidate the affidavit (at [114]-[115]).

*Annexure "A" to QCAT Application – Why are you seeking this order?*

46. Here, there is a striking feature of the statutory context that indicates invalidity does not necessarily follow from non-compliance with formal requirements. That is the discretion the legislature chose to confer on the Court in s. 113 of the Act to declare the document invalid – or not – where formal requirements are not met. On this set of facts, the discretion ought to be exercised in favour of declaring the document valid. Given the balance of the form was correctly completed, and the evidence is it was properly witnessed by an eligible person, the type of error made does not give rise to concerns about whether a vulnerable person is being preyed upon. Recognising, as the Tribunal did in *Re PAC* at [18] that that a liberal interpretation best achieves the purpose of the Act, in accordance with s. 14A *Acts Interpretation Act* 1954 (Q), and what is now s. 48A of that Act, that interpretation would not deny the principal the benefits and protections of having an attorney because of three missing ticks in the certificate.

**The grant of power in the EPOA appointment clause is valid**

47. Mr Grimley and Mr Koletti draw to the Tribunal's attention to the framing of the power at paragraph 1 on p. 7 of the EPOA:

“I, **MELISSA LOUISE CADDICK** ... appoint: ADAM EDWARD GRIMLEY ... and if he is unable or unwilling to act as my Attorney THEN I APPOINT ANTHONY MARCUS RODO KOLETTI ... as my attorney, under this enduring power of attorney ...”

48. The words “unwilling or unable to act” raise a question of interpretation that may need to be resolved in particular cases, but they do not invalidate the instrument. In this regard, see Hallen J's discussion of a POA that stated: “should my said wife be unwilling or unable to act, I appoint my daughter to be my attorney” in *Anderson v Anderson* (2016) 18 BPR 36,253; [2016] NSWSC 1204 at [303]-[320], and Dal Pont, “Powers of Attorney,” 2020 at [4.56].
49. Here, Mr Grimley is not seeking to relinquish his appointment. The question of interpretation does not arise.

**Alternative relief sought should Tribunal not declare the EPOA valid**

50. For the reasons explained above, the missing ticks do not invalidate the EPOA, and the Tribunal ought to exercise its discretion to make a declaration that it is valid. Should the Court decline to make that declaration, the Applicant seeks to have the Tribunal make the appointment in the terms set out in section 1 on p. 7 of the EPOA, namely that Ms Caddick appoint Mr Grimley, and if he is unable or unwilling to act as her Attorney, then she appoints Mr Koletti as her attorney.

*Annexure "A" to QCAT Application – Why are you seeking this order?*

51. Under s. 113(3) of the Act, if the Court declares the document invalid, it may, at the same time, appoint one or more attorneys for the principal: s. 113(3) of the Act.
52. There are no discretionary considerations that would militate against this course, and every reason why it should be done. Without an attorney, there will be no one authorised to deal with Ms Caddick's financial matters. This is not in her interests, and would be an outcome out of step with her intentions. Having executed an enduring document back in 2016, and secured Mr Grimley and Mr Koletti's acceptance of their appointments, she plainly wanted the benefits and protections of an enduring power of attorney granted to persons she trusted.

**The extent of the attorney's powers under the EPOA**

53. As the attorney is granted power for all purposes, and the grant of power for "financial matters" commenced immediately on signing by the principal, it is not necessary to consider the scope of the concept of "financial matters" that is referred to in s. 32(a)(1) of the Act, and defined in s. 1 in Schedule 2 to the Act. If the EPOA is valid, Mr Grimley will have power for all purposes to do any thing that the principal could otherwise do.

*Outline prepared by Jane Muir, Counsel for Mr Grimley in the QCAT matter, instructed by Hogan Lovells (should leave be granted for legal representation)*

3 December 2020

Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-35**

This is the annexure marked "IA-35" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me:.....



George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff		
Prepared by	Nicolette Bearup		
Tel	(02) 9911 5745	Fax	(02) 9911 2414
Email	Nicolette.Bearup@asic.gov.au		
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup		



**From:** [Alec Cassidy](#)  
**To:** [Marina Kofman](#)  
**Subject:** FW: ASIC v Caddick - Federal Court Proceedings no. 1220/2020 [GDL-1.201237.JONPAR]  
 [SEC=OFFICIAL:Sensitive]  
**Date:** Monday, 21 December 2020 2:37:20 PM  
**Attachments:** [image001.gif](#)  
[image002.jpg](#)  
[image003.jpg](#)

---

FYI

**Alec Cassidy**

Senior Manager, Financial Services Enforcement  
 Office of Enforcement

**Australian Securities and Investments Commission**

Level 5, 100 Market Street, Sydney, 2000  
 Tel: +61 2 9911 2535 | Mob: +61 478 548 297  
[Alec.Cassidy@asic.gov.au](mailto:Alec.Cassidy@asic.gov.au)

ASIC logo




---

**From:** Harris, Scott <scott.harris@hoganlovells.com>  
**Sent:** Monday, 21 December 2020 2:31 PM  
**To:** Michael Hayter <mkh@gdlaw.com.au>; Nicolette Bearup <Nicolette.Bearup@asic.gov.au>  
**Cc:** Bruce Gleeson <bgleeson@jonespartners.net.au>; Daniel Soire  
 <dsoire@jonespartners.net.au>; Alec Cassidy <Alec.Cassidy@asic.gov.au>; Wiggins, Evy  
 <evy.wiggins@hoganlovells.com>  
**Subject:** RE: ASIC v Caddick - Federal Court Proceedings no. 1220/2020 [GDL-1.201237.JONPAR]  
 [SEC=OFFICIAL:Sensitive]

Dear Michael and Nicolette,

**Orders of 17 December 2020 – legal expenses**

We refer to Michael's email below and the further discussions and email correspondence on this issue this morning, and thank Ms Bearup for ASIC's confirmation as to the effect of the order 11(a)(i) of the orders made on 17 December 2020.

For completeness and the receivers' further comfort, our note of the hearing on 17 December 2020 refers to the following submissions in relation to the basis upon which the proposed order 11(a)(i) contained reference to the invoices being provided to the Receivers (which note we expect will be supported by the transcript of the hearing):

**Mr Sulan:**

*If your Honour could now take up the schedule, 11(a)(i) is payment of legal expenses by the Receivers. There isn't opposition including as to the amount. We have provided the invoices to ASIC that your Honour requested on the last occasion. The Order is framed in a manner which requires our client to*

provide the invoices to the receiver but do not wish that the receivers have a discretion as to the invoices. If that's not the correct understanding, we invite our leaned friend to explain, but that is how we understand that order.

**Ms Fendekian:** *That is our position as well.*

### QCAT application

For the information of the Receivers and ASIC, we advise that, earlier today, Mr Grimley's application to the Queensland Civil Administrative Tribunal was heard in relation to the validity of the Enduring Power of Attorney dated 15 September 2016 ("EPOA"). The Tribunal made a finding confirming that the EPOA was valid.

Please let us know if you have any queries.

Regards

#### Scott Harris

Partner

---

#### Hogan Lovells

Level 17  
20 Martin Place  
Sydney NSW 2000

Direct: +61 2 9093 3510  
Tel: +61 2 9093 3500  
Fax: +61 2 9093 3559  
Mobile: +61 415 172 162  
Email: [scott.harris@hoganlovells.com](mailto:scott.harris@hoganlovells.com)  
[www.hoganlovells.com](http://www.hoganlovells.com)

---



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**From:** Michael Hayter [<mailto:mkh@gdlaw.com.au>]  
**Sent:** 21 December 2020 14:14  
**To:** Nicolette Bearup  
**Cc:** Harris, Scott; Bruce Gleeson; Daniel Soire; Alec Cassidy  
**Subject:** RE: ASIC v Caddick - Federal Court Proceedings no. 1220/2020 [GDL-1.201237.JONPAR] [SEC=OFFICIAL:Sensitive]

Ms Bearup.

Thanks for clarifying. Payment is subject to how quickly the banks respond but our client will keep you and Mr Harris informed of their progress on that issue.

#### Michael Hayter

Partner



#### Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000  
Direct: +61 2 9394 1133  
Tel: +61 2 9394 1144 | Fax: +61 2 9394 1100  
[mkh@gdlaw.com.au](mailto:mkh@gdlaw.com.au) | [www.gdlaw.com.au](http://www.gdlaw.com.au)

---

**From:** Nicolette Bearup <[Nicolette.Bearup@asic.gov.au](mailto:Nicolette.Bearup@asic.gov.au)>  
**Sent:** Monday, 21 December 2020 1:41 PM  
**To:** Michael Hayter <[mkh@gdlaw.com.au](mailto:mkh@gdlaw.com.au)>

**Cc:** [scott.harris@hoganlovells.com](mailto:scott.harris@hoganlovells.com); Bruce Gleeson <[bgleeson@jonespartners.net.au](mailto:bgleeson@jonespartners.net.au)>; Daniel Soire <[dsoire@jonespartners.net.au](mailto:dsoire@jonespartners.net.au)>; Alec Cassidy <[Alec.Cassidy@asic.gov.au](mailto:Alec.Cassidy@asic.gov.au)>  
**Subject:** RE: ASIC v Caddick - Federal Court Proceedings no. 1220/2020 [GDL-1.201237.JONPAR] [SEC=OFFICIAL:Sensitive]

Dear Mr Hayter

I refer to your letter dated 21 December 2020.

It is ASIC's understanding from the terms of the orders, and the Court proceedings on Tuesday 15 December and Thursday 17 December 2020, that upon the first defendant's solicitors providing invoices to the Receivers that are invoices for legal costs that meet the description provided for in paragraph 11(a)(i) of the "carve-out" to the freezing orders, that those legal costs would be paid directly to the relevant legal practitioners to whom those fees are payable, up to an amount of \$66,000, without further consideration from the Receivers regarding those amounts.

Yours sincerely

**Nicolette Bearup**

Litigation Counsel, Chief Legal Office

**Australian Securities and Investments Commission**

Level 5, 100 Market Street, Sydney, 2000  
 Tel: +61 2 9911 5745 | Mob: +61 0478 325 087  
[nicolette.bearup@asic.gov.au](mailto:nicolette.bearup@asic.gov.au)

ASIC logo



**From:** Michael Hayter <[mkh@gdlaw.com.au](mailto:mkh@gdlaw.com.au)>

**Sent:** Monday, 21 December 2020 12:20 PM

**To:** Nicolette Bearup <[Nicolette.Bearup@asic.gov.au](mailto:Nicolette.Bearup@asic.gov.au)>

**Cc:** [scott.harris@hoganlovells.com](mailto:scott.harris@hoganlovells.com); Bruce Gleeson <[bgleeson@jonespartners.net.au](mailto:bgleeson@jonespartners.net.au)>; Daniel Soire <[dsoire@jonespartners.net.au](mailto:dsoire@jonespartners.net.au)>

**Subject:** ASIC v Caddick - Federal Court Proceedings no. 1220/2020 [GDL-1.201237.JONPAR]

**EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.**

Please see attached.

**Donna Cudmore**

Administrative Assistant



**Gillis Delaney Lawyers**

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: +61 2 9394 1131

Tel: +61 2 9394 1144 | Fax: +61 2 9394 1100

[drc@gdlaw.com.au](mailto:drc@gdlaw.com.au) | [www.gdlaw.com.au](http://www.gdlaw.com.au)

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If you would like to know more about how we are managing the impact of the COVID-19 pandemic on our firm then take a look at our brief [Q&A](#). If you would like to know more about how to handle the COVID-19 issues facing your business then take a look at our [information hub](#).

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Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-36**

This is the annexure marked "IA-36" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me: 

George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff		
Prepared by	Nicolette Bearup		
Tel (02) 9911 5745	Fax	(02) 9911 2414	
Email	Nicolette.Bearup@asic.gov.au		
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000		
	Attention: Nicolette Bearup		

**NOTICE OF FILING**

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 17/11/2020 5:14:08 PM AEDT 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: Notice of Acting - Appointment of Lawyer - Form 4 - Rule 4.03  
File Number: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



Dated: 18/11/2020 11:53:23 AM AEDT

Registrar

*Sia Lagos*

**Important Information**

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

Form 4  
Rule 4.03



## Notice of acting – appointment of lawyer

143

No. NSD 1220of 2020

Federal Court of Australia  
District Registry: NSW  
Division: Commercial and Corporations

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

### MELISSA LOUISE CADDICK and others named in the Schedule

Defendant

ADAM GRIMLEY as Attorney for Melissa Louise Caddick under Enduring Power has appointed, JENNIFER LESLIE WILLIAMSON of Williamson and Associates Solicitors to represent the Defendant Melissa Louse Caddick and others named in the Schedule in the proceeding.

The address for service of the defendant is:

Place: Williamson and Associates

4 Rakeevan Road,  
Graceville in the State of Queensland 4075

Email: williamson@jlw.com.au

Date: 17<sup>th</sup> November 2020

Signed by Jennifer Leslie Williamson  
Lawyer for the defendant and others named  
in the Schedule

Filed on behalf of (name & role of party)	Defendant and others named in the Schedule
Prepared by (name of person/lawyer)	Jennifer Williamson
Law firm (if applicable)	Williamson and Associates
Tel	07 32782109
Fax	
Email	williamson@jlw.com.au
Address for service (include state and postcode)	4 Rakeevan Road, Graceville, Brisbane, Queensland 4075

[Form approved 01/08/2011]



Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff


**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-37**

This is the annexure marked "IA-37" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me:.....

  
 George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff		
Prepared by	Nicolette Bearup		
Tel (02) 9911 5745	Fax	(02) 9911 2414	
Email	Nicolette.Bearup@asic.gov.au		
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000 Attention: Nicolette Bearup		

**NOTICE OF FILING**

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**Details of Filing**

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
File Number: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



Dated: 27/11/2020 11:19:59 AM AEDT

Registrar

*Sia Lagos*

**Important Information**

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



Form 59  
Rule 29.02(1)

**AFFIDAVIT**

**146**

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

No: NSD1220/2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**  
Plaintiff

**MELISSA LOUISE CADDICK and others named in the Schedule**  
Defendant

Affidavit of: Jennifer Leslie Williamson  
Address: 4 Rakeevan Road, Graceville, Brisbane, Queensland 4075  
Occupation: Solicitor  
Date: 26 November 2020

Page 1

Signed:

Handwritten signature of Jennifer Leslie Williamson.

Taken by:

Handwritten signature of Jennifer Leslie Williamson.

**AFFIDAVIT**  
Filed on behalf of Melissa Louise Caddick

**WILLIAMSON & ASSOCIATES**  
4 Rakeevan Road  
Graceville QLD 4075  
Tel: 07 3278 2109  
Fax: 07 3278 5957  
Email: williamson@jlw.com.au  
Ref: JLW:SM:20-13302

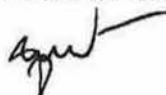
Document number	Details	Paragraph	Page
1.	Affidavit of Jennifer Leslie Williamson	-	1-5
2	Exhibit certificate for "JW-1" being a bundle of documents that contains copies of the following:	-	6
3	Melissa Louise Caddick's Power of Attorney dated 15 September 2016	7	7-20
4	ABC News article updated 25 November 2020 7.26 am	18	21-23
5	Copy of ASIC search for Maliver Pty Ltd	20	24-26
6	Letter to ASIC from Williamson & Associates dated 25 November 2020	22	27-28
7	Copy of Property Movement Reports	27	29-37
8	Email from ASIC to Williamson & Associates dated 26 November 2020	23	38-39
9	Email from Williamson & Associates to ASIC dated 26 November 2020	24	40

I, Jennifer Leslie Williamson, of 4 Rakeevan Road, Graceville, Brisbane in the State of Queensland 4075 state as follows:

#### **Preliminary**

1. I am the principal of Williamson & Associates, a Brisbane law firm. I was admitted as a solicitor of the Supreme Court of Queensland in 1991.
2. I receive instructions from Mr Adam Grimley, the brother of the first defendant, Ms Caddick. He is instructing me on behalf of Ms Caddick.
3. I am advising Mr Grimley and Mr Anthony Koletti, Ms Caddick's husband, in relation to their interests, certain bank accounts in their names having been frozen by the Australian Securities and Investment Commission (**ASIC**), along with bank accounts in Ms Caddick's name, from which they derive financial support.
4. I do not act for Maliver Pty Ltd.

Signed:



Taken by:



5. A copy of the documents to which I refer in this affidavit are contained in a paginated bundle being Exhibit JW-1.

**Power of attorney granted by Ms Caddick to Mr Grimley**

6. On or about 15 September 2016, Ms Melisa Caddick granted an Enduring Power of Attorney in relation to both health matters and financial matters to Mr Grimley. A copy of the Power of Attorney is at pages 7 to 20 of Exhibit JW-1. I am informed by Mr Grimley, and I believe, that no Power of Attorney granted by Maliver Pty Ltd to any other person could be located.
7. I am informed by Mr Grimley, and I believe, the matters set out in paragraphs 9 to 17 below:
8. Shortly before 6 am on 11 November 2020, ASIC and Australian Federal Police officers attended Ms Caddick's home and business address at [REDACTED], [REDACTED] New South Wales 2030, and that they left the premises shortly before 7 pm (the ASIC Raid).
9. Ms Caddick shares the [REDACTED] home with her husband Mr Koletti, and her son, [REDACTED] who is 15 years old.
10. Ms Caddick, Mr Koletti and Ms Caddick's son [REDACTED] were home during the raid.
11. During the raid, no lawyer was present for Ms Caddick or Maliver Pty Ltd.
12. Ms Caddick also operated her business from the [REDACTED] home.
13. During the ASIC Raid, ASIC seized original documents, electronic records and personal possessions.
14. No copies of the hard copy documents or the electronic material that was seized were left at the Dover Heights home after the raid. I am informed by Mr Koletti and I believe that the devices that ASIC left behind at the property after its raid did not contain material, or at least any accessible material, relating to Maliver Pty Ltd, or Ms Caddick's assets.
15. Since 5.30 am on 12 November 2020, Ms Caddick has been missing, and has not made any contact with members of her family, or, to his knowledge, her friends or anyone else.
16. Since about 25 November 2020, the homicide arm of the New South Wales police has been investigating the possibility that her disappearance is due to her homicide.

Signed:



Taken by:



17. Since Ms Caddick was reported missing, there has been media reports of her disappearance. A copy of an ABC News article that appeared on the ABC's website is at pages **21 to 23** of Exhibit JW-1.

**Request for an extension of time to comply with Order 8**

18. The fact that Ms Caddick is a missing person has given rise to complications with legal representation, in that it has been necessary to try to locate powers of attorney and ascertain any basis on which lawyers could or could not act for Maliver Pty Ltd. Ms Caddick is the sole director and shareholder of that company. A copy of an ASIC search is at **pages 24-26** of Exhibit JW-1. These issues have taken several days to resolve.
19. As I set out in my letter to ASIC sent at 5pm on 25 November 2020, a copy of which is at **pages 27 to 28** of Exhibit JW-1, owing to these extraordinary, and unfortunate circumstances, it is not possible to prepare the affidavit required by Order 8 made on 10 November 2020 within a short time frame. This is because the company's sole director and shareholder, Ms Caddick, is missing, Mr Grimley's time is currently taken up with dealing with the police and his family regarding Ms Caddick's disappearance, and in any event ASIC currently holds Ms Caddick's and Maliver Pty Ltd's documents. I am instructed by Mr Grimley and I believe, that Maliver Pty Ltd did not have any employees that could meaningfully assist with the process required by Order 8.
20. For these reasons, further time is needed, and on the basis that ASIC can provide Mr Grimley with the necessary documents and access, I expect Mr Grimley will need at least another three weeks to prepare the affidavit.

**My correspondence with ASIC on 25 and 26 November 2020**

21. On 25 November at about 6.00 p.m. Sydney time, I sent a letter to ASIC. A copy of the cover email and letter are **pages 27 – 28** of Exhibit JW-1.
22. On 26 November at 12.01 p.m. I received an email from ASIC that attached a proposed amended Originating Process, and an affidavit of Ms Allen that was affirmed 25 November 2020. A copy of ASIC's cover email and letter are at **pages 38-39** of Exhibit JW-1.
23. On 26 November at 1.20 p.m., I sent an email to ASIC, asking for the exhibits to Ms Allen's main affidavit affirmed 9 November 2020, a copy of the affidavit of a Mr

Signed:



Taken by:



Conner to which Ms Allen refers in her 25 November 2020 Affidavit, and for ASIC's proposed orders for the hearing for the 27<sup>th</sup> November is **page 40** of Exhibit JW-1.

**ASIC's proposal that the court fix a timetable for the hearing of its applications in the proposed amended Originating Process provided today**

24. I do not consider it is necessary or desirable for the applications ASIC wishes to bring to be heard urgently, or before the Court vacation.
25. Ms Caddick has been missing for only two weeks. ASIC is only two weeks in to an investigation that it foreshadowed in its material could take 20 weeks. I expect that due to the need to deal with matters relating to the homicide investigation, allowing Mr Koletti and Mr Grimley some time to spend with Ms Caddick's son, and assisting Ms Caddick's parents, Mr Grimley and Mr Koletti will struggle to provide the information needed for Ms Caddick's representatives to deal with the tight and pressured timetable that will be required if the applications are to be heard before the Court vacation.

**Incomplete records of records of possessions taken after the ASIC raid**

26. ASIC has provided a property movement record (blank) that contains a list of what it took from the property. A copy is at **pages 29 to 37** of Exhibit JW-1. That record does not contain an itemised list of what was taken during the ASIC Raid. I am instructed that, in particular, Ms Caddick's jewellery collection was not described by reference to each separate item, or by serial number or make. Copies have been requested from ASIC.
27. I am informed by Mr Grimley and I believe that the Australian Federal Police videotaped the ASIC Raid and that each AFP officer wore a video camera.
28. An extension is also desirable to give the parties time to discuss, and hopefully agree on, arrangements for:
- (a) the unfreezing of bank accounts, or at least, the release of more funds for the purpose of providing for: living expenses for Mr Koletti, Ms Caddick's son [REDACTED] the upkeep and outgoings on the [REDACTED] [REDACTED] property, the release of funds for the payment of a mortgage on an Edgecliff property in which Ms Caddick's parents live;
  - (b) provision of a detailed and complete list of all material taken from the [REDACTED] [REDACTED] premises;

Signed:

Taken by:

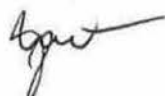
- (c) return of the files related to [REDACTED] family law matter, which I am informed by Mr Grimley and I believe, were taken in the raid;
- (d) the files relating to Paws Off Productions Pty Ltd, a company controlled by Mr Koletti; which I am informed by Mr Grimley and I believe, were taken in the raid;
- (e) the CCTV recorder and media service for the [REDACTED] [REDACTED] premises. I am informed by Mr Grimley and I believe that ASIC took the hard drive to the CCTV camera thereby disabling the recording of the CCTV;
- (f) proper storage of Ms Caddick's valuables so that their value is not diminished while they are held by ASIC/the AFP.

**Material needed to estimate household and living expenses for Ms Caddick's family**

29. I am informed by Mr Grimley and I believe that he currently does not have access to bank records that would enable him to identify all of the regular payments made from any of the frozen bank accounts, and that he needs this information to estimate the amount of living expenses for Mr Koletti, and Ms Caddick's son [REDACTED] and the ongoing running costs of Ms Caddick's home. I am instructed that the main payments are:

- HCF
- Dover Heights mortgage
- Dover Heights Council rates (Waverley)
- Dover Heights Electricity (AGL)
- Dover Heights Water (Sydney Water)
- Edgecliff mortgage
- Edgecliff Electricity
- Edgecliff McCormacks Strata Management
- Any insurance payments to Suncorp (2 cars, House & Contents, Pet)
- Any payments to any other insurance company
- Telstra Mobile Phone – Melissa Caddick
- Telstra Mobile Phone – [REDACTED]

Signed:



Taken by:





- Telstra Mobile Phone – Anthony Koletti
- Isagenix

30. I am informed by Mr Grimley and I believe that:

- (a) Ms Caddicks's personal accounts contain limited funds \$7,202.13 with a debit in one account of \$1,225.42;
- (b) An account with NAB in the name of Caddick Services Trust in US Dollars \$33,350.57;
- (c) NAB are not authorised to provide disclosure to Mr Grimley of accounts and statements in the name of Maliver Pty Ltd;
- (d) Mr Grimley will need ASIC to authorise NAB to provide him with the information about the amounts currently deposited in the Maliver Pty Ltd accounts.

**Ms Caddick's passport**

31. In relation to Orders 12 and 14 made on 10 November, I am informed by Mr Grimley and I believe that Ms Caddick's passport is currently held by the Bondi police station.
32. All the facts and circumstances above deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my affidavit.

**AFFIRMED** by Jennifer Leslie Williamson on: 26<sup>th</sup> November 2020  
at Brisbane

in the presence of: Shekufeh Moradian

*Jennifer Leslie Williamson*



Deponent  
\*Delete whichever is inapplicable

Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**


Plaintiff

**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-38**

This is the annexure marked "IA-38" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me: 

George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff	
Prepared by	Nicolette Bearup	
Tel (02) 9911 5745	Fax	(02) 9911 2414
Email	Nicolette.Bearup@asic.gov.au	
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000	
	Attention: Nicolette Bearup	

**NOTICE OF FILING**

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/12/2020 4:29:49 PM AEDT 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: Notice of Acting - Change of Lawyer - Form 5 - Rule 4.04(1)  
File Number: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



*Sia Lagos*

Dated: 2/12/2020 11:56:37 AM 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.

Form 5  
Rule 4.04(1)



## Notice of acting – change of lawyer

155

No. NSD1220 of 2020

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

### AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

**MELISSA LOUISE CADDICK** and another named in the schedule

First Defendant

Melissa Louise Caddick, the First Defendant has appointed Scott Harris, Hogan Lovells to represent the First Defendant in the proceeding in the place of Jennifer Williamson, Williamson & Associates.

The address for service of the First Defendant is:

Place: Hogan Lovells, Level 17, 20 Martin Place, Sydney NSW 2000

Email: [scott.harris@hoganlovells.com](mailto:scott.harris@hoganlovells.com)

Date: 1 December 2020

Signed by Scott Harris  
Lawyer for the First Defendant

Filed on behalf of (name & role of party)	Melissa Louise Caddick, First Defendant		
Prepared by (name of person/lawyer)	Scott Harris		
Law firm (if applicable)	Hogan Lovells		
Tel	+61 2 9093 3510	Fax	+61 2 9221 9541
Email	<a href="mailto:scott.harris@hoganlovells.com">scott.harris@hoganlovells.com</a>		
<b>Address for service</b> (include state and postcode)	Hogan Lovells, Level 17, 20 Martin Place Sydney NSW 2000		

[Form approved 01/08/2011]

**Schedule**

No. NSD1220 of 2020

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

Second Defendant MALIVER PTY LTD

**NOTICE OF FILING**

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 19/02/2021 12:01:27 PM AEDT 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: Notice of Ceasing to Act - Form 8 - Rule 4.05(1)(b) 4.04(3)  
File Number: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



*Sia Lagos*

Dated: 1/03/2021 10:25:48 AM 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.

Form 8  
Rules 4.04(3)

## Notice of ceasing to act



No. 1220 of 2020 **158**

Federal Court of Australia  
District Registry: NSW  
Division: General

### AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

**MELISSA LOUISE CADDICK** and another

First Defendant

Scott Harris, Hogan Lovells, has ceased to act as lawyer for Melissa Louise Caddick, the First Defendant, in the proceeding.

The last known residential or business address of Melissa Louise Caddick, the First Defendant, is [REDACTED].

Date: 19 February 2021

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Signed by Scott Harris  
Lawyer

Filed on behalf of	Melissa Louise Caddick, First Defendant		
Prepared by	Scott Harris		
Law firm	Hogan Lovells		
Tel	02 9093 3500	Fax	02 9221 9541
Email	scott.harris@hoganlovells.com		
Address for service	[REDACTED]		

Federal Court of Australia  
 District Registry: New South Wales  
 Division: Commercial and Corporations

No. NSD 1220 of 2020

**IN THE MATTER OF MALIVER PTY LTD (ACN 164 334 918)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff


**MELISSA LOUISE CADDICK and another**

Defendants

**Annexure IA-39**

This is the annexure marked "IA-39" referred to in the affidavit of Isabella Allen affirmed on 17 May 2021.

Before me:.....

  
 George Biankin  
 Solicitor of the Supreme Court of New South Wales

Filed on behalf of	Australian Securities and Investments Commission, Plaintiff	
Prepared by	Nicolette Bearup	
Tel (02) 9911 5745	Fax	(02) 9911 2414
Email	Nicolette.Bearup@asic.gov.au	
<b>Address for service</b>	Email address above and Level 5, 100 Market Street, Sydney NSW 2000	
	Attention: Nicolette Bearup	



**NOTICE OF FILING**

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 15/12/2020 10:31:55 AM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

**Details of Filing**

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
File Number: NSD1220/2020  
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v  
MELISSA LOUISE CADDICK & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF  
AUSTRALIA



*Sia Lagos*

Dated: 15/12/2020 10:31:59 AM 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.



Form 59  
Rule 29.02(1)

## Affidavit

161

No. NSD1220 of 2020

Federal Court of Australia

District Registry: NSW

Division: General

### AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

**MELISSA LOUISE CADDICK and another named in the schedule**

First Defendant

Affidavit of: **Scott Harris**

Address: Level 17, 20 Martin Place, Sydney NSW 2000

Occupation: Solicitor

Date: 15 December 2020

I Scott Harris of Level 17, 20 Martin Place, Sydney NSW 2000, Solicitor, on oath:

1. I am a partner of Hogan Lovells, the solicitors for Mr Adam Grimley ("**Representative**") who is the attorney of the First Defendant acting under an enduring power of attorney granted by the First Defendant on 15 September 2016 ("**EPOA**"), and I have the care and conduct of this proceeding on behalf of the Representative.
2. I make this affidavit in relation to the application by the First Defendant, acting by her Representative, for orders to vary the orders made by the Honourable Justice Jagot on 10 November 2020 by which, inter alia, the First Defendant's assets became the subject of asset preservation orders made under sections 1323(1) and (3) of the *Corporations Act (Cth) 2001*.
3. I make this affidavit from my own knowledge except where otherwise stated.

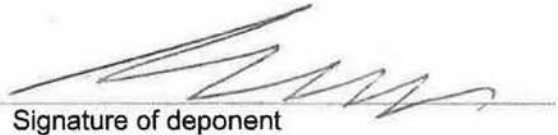
Filed on behalf of	Melissa Louise Caddick, First Defendant		
Prepared by	Scott Harris		
Law firm	Hogan Lovells		
Tel	+61 2 9093 3500	Fax	+61 2 9221 9541
Email	Scott.harris@hoganlovells.com		
<b>Address for service</b>	scott.harris@hoganlovells.com and Level 17, 20 Martin Place, Sydney NSW 2000		

[Version 3 form approved 02/05/2019]

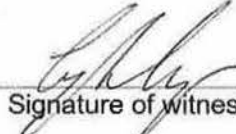
4. I refer to the affidavit sworn by the Representative on 8 December 2020 ("**Representative's Affidavit**") and, in particular, paragraphs 21 to 26 of the Representative's Affidavit which refers to the legal costs incurred by the Representative on behalf of the First Defendant.
5. The estimate of the legal fees at paragraph 25(b) of the Representative's Affidavit is an estimate I provided the Representative for the period in which my firm has been retained and is based on my review of the current work in progress up to 8 December 2020 and my estimate of the work that was to be undertaken in the period from 9 December to 15 December 2020. I have reviewed the current work in progress amount as of 14 December 2020 and note that it exceeds the amount of legal costs which is estimated at paragraph 25(b) of the Representative's Affidavit.
6. The estimated amount of the legal costs referred to in paragraph 25(b) of the Representative's Affidavit, and I am informed by Mr Grimley in relation to the estimate at paragraph 25(a) of the Representative's Affidavit, does not include the costs that have been incurred, or may be incurred, in relation to the work referred to in the Representative's Affidavit at:
  - (a) paragraph 24(g) (advising in relation to the EPOA); and
  - (b) paragraph 24(h) (preparing and filing the QCAT application).

Sworn by the deponent  
 at Sydney  
 in NSW  
 on 15 December 2020  
 Before me:

)  
)  
)  
)  
)



Signature of deponent



Signature of witness  
 Evy Wiggins, Solicitor

**Schedule**

No. NSD1220 of 2020

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

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Second Defendant MALIVER PTY LTD