

From: [Lauren Hatton](#)
To: [Donna Spinks](#)
Cc: [RL Legal](#); [Grant Whatley](#); [Gavin Francis](#)
Subject: RE: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [SEC=OFFICIAL] [HWLE-Matter.C0190225.1065821]
Date: Tuesday, 24 May 2022 8:48:29 AM
Attachments: [image004.jpg](#)
[image001.png](#)
[Remittance.png](#)
[Letter to ASIC_18.03.2022.PDF](#)

Dear Colleagues,

We refer to our letter of 18 March 2022, a further copy of which is **attached** for your reference.

We confirm that payment of the relevant filing fee was attended to on or about 13 April 2022. We **attach** a copy of the remittance for your reference.

Would you please confirm if there is anything further that ASIC requires to consider our client's application to be an eligible application for the purposes of Division 1 of Part 5.9 of the Corporations Act 2001 (Cth).

If you would like to discuss, please do not hesitate to call.

We look forward to receiving your reply.

Kind regards,

Lauren Hatton
Solicitor



Level 14, Australia Square 264-278 George Street | Sydney NSW 2000
Phone +61 2 9334 8996
lhatten@hwle.com.au | www.hwlebsworth.com.au

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From: Donna Spinks <Donna.Spinks@asic.gov.au>
Sent: Monday, 21 March 2022 3:34 PM
To: Gavin Francis <gfrancis@hwle.com.au>
Cc: Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatten@hwle.com.au>; RL Legal <RL.Legal@asic.gov.au>
Subject: FW: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]

Dear Mr Francis

To consider your client's request to be authorised by ASIC as an eligible applicant so that your client can undertake public examinations under Part 5.9 of the *Corporations Act 2001* (**Act**) please provide the following information:

1. documents confirming your client's relationship with the company. Given you have stated that your client is a creditor, please provide a copy of the proof of debt lodged with the liquidator, and documents to show that it was accepted by the liquidator;
2. the reasons for the proposed public examination;
3. the persons you wish to examine, their relationship to the company and why you think they can provide information about the Company's examinable affairs;
4. why the proposed public examination is for the benefit of the corporation, its creditors or contributories (*Wainter Pty Ltd, in the matter of New Tel Ltd* (in liq) ACN 009 068 955 [2005] FCAFC 114 at [248]);
5. why the proposed public examination will not be an abuse of process;
6. confirmation that your client does not have a conflict of interest in conducting the proposed public examinations;
7. where relevant, details of any current or anticipated court proceedings against any officers or related entities of the Company; and
8. why the matters your client proposes to examine fall within the examinable affairs of the Company (please see section 9 and 53 of the Act).

You may wish to read the following judgements regarding the authorisation of eligible applicant by ASIC:

- *Re Excel Finance Corporation Ltd John Frederick Worthley v Richard Anthony Fountayne England* [1994] FCA 1251 (paragraphs 40 - 47 may be of interest to you) available at: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/1994/1251.html>
- *Wainter Pty Ltd, in the matter of New Tel Ltd* (in liq) ACN 009 068 955 [2005] FCAFC 114 available at: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2005/114.html>

Yours sincerely
Donna Spinks

Donna Spinks

Lawyer

Registered Liquidators Team

Australian Securities and Investments Commission

Level 7, 120 Collins Street, Melbourne, 3000

Tel: +61 3 9280 4732

donna.spinks@asic.gov.au

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Note: I work Monday, Tuesday and Thursday, Friday

From: Gavin Francis <gfrancis@hwle.com.au>

Sent: Monday, 21 March 2022 12:24 PM

To: Donna Spinks <Donna.Spinks@asic.gov.au>

Cc: Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatten@hwle.com.au>; RL Legal <RL.Legal@asic.gov.au>

Subject: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [SEC=OFFICIAL] [HWLE-Matter.C0190225.1065821]

Dear Ms Spinks

Thank you for your email.

We would like to pay the filing fee by credit card.

Can you please provide an invoice addressed to:

HWL Ebsworth Lawyers
Level 14
264-278 George Street
Sydney, NSW, 2000

Upon receipt of the invoice we will organise payment today.

Thank you

Gavin Francis
Senior Associate

HWLE



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NSW 2000
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gfrancis@hwle.com.au | www.hwlebsworth.com.au

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From: Donna Spinks <Donna.Spinks@asic.gov.au>

Sent: Monday, 21 March 2022 9:29 AM

To: Gavin Francis <gfrancis@hwle.com.au>

Cc: Grant Whatley <gwhatley@hwle.com.au>; Lauren Hatton <lhatten@hwle.com.au>; RL Legal <RL.Legal@asic.gov.au>

Subject: FW: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821] [SEC=OFFICIAL]

Dear Mr Francis,

Thank you for your email and the documents.

There is an application fee of \$468 for this type of application. I have attached below the ASIC document setting out the fee. Please refer to page 196 'Eligible Applicant Requests'.

(See attached file: cris-asic-industry-funding-model-2020-21-published-11-november-2021.pdf)

There is no statutory timeframe for ASIC to make a decision in relation to an eligible applicant request.

Please respond in writing advising whether you intend to pay the fee.

Next steps:

1. If you do not intend to pay the fee ASIC will not undertake any further steps regarding your application.
2. If you do intend to pay the fee:
 - a. Please also provide your postal/residential address to assist us in preparing an invoice.
 - b. We'll then issue an invoice to you for payment.
 - c. ASIC will commence reviewing your application including advising, whether we require any further information from you.

Yours sincerely
Donna Spinks

Donna Spinks

Lawyer

Registered Liquidators Team

Australian Securities and Investments Commission

Level 7, 120 Collins Street, Melbourne, 3000

Tel: +61 3 9280 4732

donna.spinks@asic.gov.au

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From: Gavin Francis <gfrancis@hwle.com.au>
Sent: Monday, 21 March 2022 8:41 AM
To: RL Legal <RL.Legal@asic.gov.au>
Cc: 'Grant Whatley' <grant.whatley@me.com>; Lauren Hatton <lhatten@hwle.com.au>
Subject: AGS Commercial Pty Limited - Application to become Eligible Applicant for Public Examination [HWLE-Matter.C0190225.1065821]

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Dear Sir / Madam

We act for AGS Commercial Pty Limited (AGS).

We find attached our letter in which AGS makes its application to become an eligible applicant for the public examination of relevant officers pursuant to s.596A of the *Corporations Act 2001*.

The following link contains the Annexures that are referred to within our attached letter;

<https://docdrop.hwlebsworth.com.au/message/ZicJp5aJMqQZaC11bjRc2P>

If you have any questions, please contact our office.

We await your reply.

Regards,

Gavin Francis
Senior Associate

HWLE



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