



Form 59
Rule 29.02(1)

Affidavit

No. NSD642 of 2021

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

Societe Generale (ABN 71 092 516 286)

Applicant

Forum Finance Pty Limited (ACN 152 301 172) (In Liquidation) and others named in the Schedule

Respondents

Affidavit of: **GREGORY THONG**

Address: Level 25, 1 Bligh Street, Sydney NSW 2000

Occupation: Head of Corporate Coverage — Australia & New Zealand

Date: 14 December 2021

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1.	Affidavit of Gregory Thong in support of the statement of claim filed on 2 August 2021 Exhibit "GT-39", being a copy of an email dated 3 March 2021 responding to an email from EQWE dated 3 March 2021, and copying in the SSL group and attaching the First Offer Notice, the First Payment Schedule and the First Certificate of Acceptance of Delivery	8	2
2.	Exhibit "GT-40", being a copy of an email dated 9 March 2021 forwarding an email from EQWE dated 9 March 2021	8	3


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Filed on behalf of (name & role of party) Societe Generale (ABN 71 092 516 286), Applicant
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[Version 3 form approved 02/05/2019]

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	to the SSL group and attaching the First PPS Verification Statement		
3.	Exhibit "GT-41", being a copy of an email dated 12 March 2021 forwarding an email from EQWE dated 12 March 2021 attaching the First Notice of Assignment	8	3
4.	Exhibit "GT-42", being a copy of an email dated 3 May 2021 responding to an email from EQWE dated 3 May 2021, and copying the SSL group and attaching the Second Offer Notice, the Second Payment Schedule and the Second Certificate of Acceptance of Delivery	8	3
5.	Exhibit "GT-43", being a copy of an email dated 18 May 2021 responding to an email from EQWE dated 18 May 2021, and copying in the SSL group and attaching the Third Offer Notice	8	3
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7.	Exhibit "GT-45", being a copy of a letter of demand from SG to Forum Finance dated 26 July 2021	32	8


I, Gregory Thong of Level 25, 1 Bligh Street, Sydney in the State of New South Wales, Head of Corporate Coverage — Australia & New Zealand, say on oath:

1. I am the Head of Corporate Coverage – Australia & New Zealand at Societe Generale, Sydney Branch (ABN 71 092 516 286) (SG) and I am authorised to make this affidavit on SG's behalf.
2. I swore an affidavit in this proceeding on 30 June 2021 (my 30 June affidavit).
3. Capitalised terms in this affidavit has the same meaning as in my 30 June affidavit except as otherwise stated.

My Role

4. The commercial activities that SG entered into with Forum Finance and EQWE as described in my 30 June Affidavit were a joint initiative between SG's Corporate Coverage and Structured Solutions & Leasing (SSL) groups.
5. As the Head of Corporate Coverage – Australia and New Zealand, I was ultimately responsible for those commercial activities. In that respect, among other things, I took a lead role in dealing with EQWE and Forum Finance directly. By this I mean that I was the primary contact on behalf of SG in its dealings with EQWE and Forum Finance, and in the negotiations with them as to the terms of the Master Agreement and the Servicing


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Guidelines. Members of the SSL group were also involved in the negotiations as to the terms of the Master Agreement and the EQWE Specific Servicing Guidelines.

6. I expected that if Mr Dumont or others within the SSL group identified any issues or concerns, then they would be raised with me, and I could then seek to address them with EQWE (and to the extent necessary, Forum Finance).
7. After the Master Agreement had been entered, I remained the primary point of contact for SG. I reviewed documents received from EQWE in the way described below. I also sent them to the SSL group (and in particular, Mr Nicolas Dumont in that group) if they had not been copied to the email I received from EQWE (as set out below), or otherwise left it to the SSL group if they had been copied to the email, to review the material received from EQWE in more detail and to progress matters internally (including, in due course, making the administrative arrangements to make payments to Forum Finance)..
8. As set out above, where EQWE sent me an email with the transaction documents that did not include Mr Dumont, I subsequently forwarded that email to him. In that respect:
 - (a) on 3 March 2021, I responded to EQWE's 3 March email copying in, among others, members of the SSL group including Mr Dumont and also attached the same attachments that were attached to EQWE's 3 March email (being the First Offer Notice, the First Payment Schedule and the first Certificate of Acceptance of Delivery), a copy of which is exhibited and marked **GT-39**;
 - (b) on 9 March 2021, I forwarded a copy of EQWE's 9 March email attaching the First PPS Verification Statement to, among others, members of the SSL group including Mr Dumont, a copy of which is exhibited and marked **GT-40**;
 - (c) on 12 March 2021, I forwarded a copy of EQWE's 12 March email attaching the First Notice of Assignment to, among others, members of the SSL group including Mr Dumont, a copy of which is exhibited and marked **GT-41**;
 - (d) on 3 May 2021, I responded to EQWE's 3 May email copying in the SSL group including Mr Dumont and also attached the same attachments that were attached to EQWE's 3 May email (being the Second Offer Notice, the Second Payment Schedule and the Second Certificate of Acceptance of Delivery), a copy of which is exhibited and marked **GT-42**; and
 - (e) on 18 May 2021, I responded to EQWE's 18 May email copying in the SSL group including Mr Dumont and also attached the same attachments that were attached to



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EQWE's 18 May email (being the Third Offer Notice), a copy of which is exhibited and marked **GT-43**.

9. I discuss these matters further below.
10. At the time of reading and reviewing those documents I was familiar with the terms of the Master Agreement and the Servicing Guidelines. I was familiar with both because I had read them and earlier iterations of them prior to reading and reviewing the documents described below, and I was involved in the negotiations and drafting of them (although the primary drafting was conducted by SG's legal team).
11. As a result of my knowledge of the Master Agreement and the Servicing Guidelines, at the time of carrying out my review of the transaction documents referred to below I believed that each of Forum Finance and EQWE were making representations including that the transaction documents were legal, valid and binding, and that all information provided to SG was true and not misleading or inaccurate. I also held the view that EQWE was required to take (and when I was reviewing the documents as described below, I believed that EQWE had taken) various steps in relation to the transaction documents and the waste digesters, such as preparing and reviewing the transaction documents, arranging for execution of the transaction documents by Forum and Veolia, confirming that the waste digesters had been delivered to and accepted by Veolia, inspecting some of the waste digesters, meeting with Veolia from time to time, and making sure the waste digesters were insured. These matters were important to me and I relied on them in carrying out the activities discussed in my affidavits.

The Master Agreement

12. In paragraphs 9 and 10 of my 30 June affidavit I refer to the Master Agreement that was entered into between SG, Forum Finance and EQWE.
13. SG engaged Dentons to act for it in connection with preparation, execution and completion of the Master Agreement. Exhibited and marked **GT-44** is a copy of the invoices issued by Dentons and Ashurst Australia to SG totalling the sum of \$49,267.09 plus GST (being \$54,193.80 inclusive of GST), which have been paid by SG.

The transaction documents

Introduction

14. In paragraphs 11 to 41 of my 30 June affidavit I set out the commercial arrangements and dealings between SG and Forum Finance (including through EQWE).

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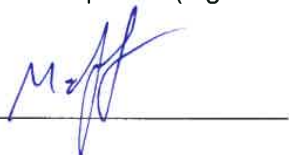


15. In my 30 June affidavit the "product price" (exclusive of GST) stated in:
- (a) paragraph 11(b) in respect of the First Contract should state \$5,040,000 instead of \$4,989,600;
 - (b) paragraph 21(b) in respect of the Second Contract should state \$2,808,000 instead of \$2,779,920; and
 - (c) paragraph 33 in respect of the Third Contract should state \$3,132,000 instead of \$3,100,680.
16. The dealings and correspondence set out in that part of my affidavit comprise all the dealings and correspondence that I had with Forum Finance and EQWE at the time those transactions were entered into (i.e. in respect of the "First Contract", between 3 March 2021 and 12 March 2021; in respect of the "Second Contract", between 3 May 2021 and 6 May 2021; and in respect of the "Third Contract", between 18 May 2021 and 24 May 2021).

Reviewing of documents

17. When I received each of the First Offer Notice, the Second Offer Notice, and the Third Offer Notice, I read them. By that I do not mean that I read every word of those documents (although for the First Offer Notice, I did skim read through the whole document). In particular, I looked at each document and read them to:
- (a) ascertain the amount of the Offered Receivables in paragraph 3(b) of each Offer Notice;
 - (b) note each of the bold headings referred to in paragraph 5 of each Offer Notice and the relevant subject matter that was being addressed. For example, in respect of subparagraph (d), I noted that bold heading was "no default", which I understood to mean that Forum Finance had acknowledged, agreed and confirmed that they have not defaulted under the Master Agreement;
 - (c) identify that there was a signature of Mr Papas on page 3. I did not seek to compare that signature with any particular samples. I took it in good faith that it was in fact signed by Mr Papas; and
 - (d) review the schedule on page 5 to identify the relevant payments that were due to be paid by Veolia, and the dates they were to be received, the receivables of which SG was to purchase (that is, the particular commercial arrangement that SG was purchasing). I believe I also performed a calculation of the total amount of repayments expected (e.g. in respect of the First Offer Notice, a calculation of 84,000 times 60).

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18. In addition, although I did not specifically go back and check as against the Master Agreement each time, I also took comfort from the fact that the documents appeared consistent with the templates that were contained in the Master Agreement.
19. When I received each of the First Contract, the Second Contract and the Third Contract, I read them. By that I do not mean that I read every word of those documents. Rather, I looked at each document and read them to:
- (a) ensure that the customer name in "Customer Details" was Veolia, which was the entity that SG was taking the ultimate credit risk on;
 - (b) see if the address in "Customer Details" married up with the address I understood to be Veolia's;
 - (c) check that the date of the relevant contract predated the corresponding offer notice;
 - (d) make sure that the instalment amounts in the table "Product Price and Payment Terms" reflected the schedule in the corresponding offer notice;
 - (e) see that there was a signature of Ms Brar (for Veolia, and as its CFO) and Mr Papas (for Forum Finance) on page 2. I did not seek to compare those signatures with particular samples. Rather, I assumed that the document was in fact signed by Ms Brar and Mr Papas. I made this assumption because of my understanding as to the Master Agreement and the Servicing Guidelines that EQWE had liaised with each of Forum Finance and Veolia and obtained those signatures from each of Mr Papas and Ms Brar;
 - (f) see that Annexure A of the schedule was signed for and on behalf of Veolia by Ms Brar. In that respect, similar to the above, I did not seek to compare those signatures with particular samples. Rather, I assumed that Ms Brar (for Veolia, and as its CFO) had in fact signed it. I made this assumption because of my understanding as to the Master Agreement and the Servicing Guidelines that EQWE was to liaise, and I assumed had liaised, with Veolia (and in particular Ms Brar).
20. I also read through Annexure A of the schedule of each contract, by generally scrolling through the list of goods to ensure they each had serial numbers and a location address. As each of the goods had a serial number and a location address, I believed that they were real.

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21. I also read the certificates of acceptance of delivery. However, by that I do not mean that I read every word of those documents. Rather, I looked at each document to:
- (a) see that Forum Finance was listed as the supplier under "Supplier Details", and the corresponding address married up with the address I understood to be Forum Finance's address;
 - (b) see that Veolia was listed as the Customer under "Customer Details", and the corresponding address married up with the address I understood to be Veolia's head office address;
 - (c) check that the date of the payment schedule and the date of acceptance of delivery were consistent with the corresponding offer notice and payment schedule; and
 - (d) see that the document was signed by Ms Brar (for Veolia, and as its CFO), and witnessed by Mr Papas. In that respect, similar to the above, I did not seek to compare those signatures with particular samples. Rather, I assumed that Ms Brar had in fact signed it, and that Mr Papas had in fact witnessed it. I made this assumption because of my understanding as to the Master Agreement and the Servicing Guidelines that EQWE was to liaise, and I assumed had liaised, with Veolia (and in particular, Ms Brar) as to the delivery and acceptance of the waste digesters.
22. In respect of each of the PPSR Verification Statements, I looked at them but I did not pay a lot of attention to their content. I mainly just looked at them to confirm that these documents existed and that they suggested that there had been a registration made with a government department as reflected by the "Australian Government", "Australian Financial Security Authority" and Commonwealth crest on the top left hand of the document. Based on that and because they came from EQWE, I believed that the transactions were real and genuine.
23. In respect of the First Notice of Assignment, the Second Notice of Assignment and the Third Notice of Assignment, I also read them. By that I do not mean that I read every word of those documents. Rather I looked at each document to:
- (a) ensure that each was addressed to Veolia, and was from Forum Finance;
 - (b) check the date of the document and in particular, to check that they were consistent with the corresponding offer notices and payment schedules; and
 - (c) check that the documents had been signed by Ms Brar (for Veolia, and as its CFO) and Mr Papas (for Forum Finance) on page 2. In that respect, similar to the above, I did not seek to compare those signatures with particular samples. Rather, I assumed



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that Ms Brar (for Veolia, and as its CFO) had in fact signed it. I made this assumption because of my understanding as to the Master Agreement and the Servicing Guidelines that EQWE had liaised with, and obtained the signature from, Veolia (and in particular, Ms Brar).

24. In addition, although I did not specifically go back and check as against the Master Agreement each time, it appeared to me that this document was a completed version of the template document contained in the Master Agreement. Accordingly, as I knew that SG had input on those template documents, I took comfort that the document was in a form and had the necessary standard wording to protect SG's interests.
25. At the times that I reviewed each of the documents mentioned above, following my review I believed that those documents, and the relevant goods, receivables and security interests the subject of those documents, were genuine and that the representations within those documents were true and accurate, and binding on Veolia. In particular:
- (a) where I saw Ms Brar's signature on documents (and in particular, on the Notices of Assignment, the Payment Schedules and the Certificates of Acceptance), I believed (as set out above) that those signatures were made by Ms Brar, and when those signatures were said to have been witnessed by Mr Papas (as was the case for the Certificates of Acceptance), I believed that they had been witnessed by Mr Papas;
 - (b) the goods referred to in those documents had in fact been purchased by, delivered to, and accepted by, Veolia, and that the receivables referred to in those documents were in fact payable by Veolia to Forum Finance;
 - (c) EQWE had performed its obligations under the Servicing Guidelines in obtaining those documents and providing them to SG (including as set out above).
26. As a result of the belief I held above, and because no one at EQWE had told me that there were any issues with the documents (and none were apparent to me based on my reviews as set out above), I left it to Mr Dumont and the SSL team to perform their own reviews (as discussed above).
27. If there was anything on the face of the documents described in paragraphs 17 to 24 above that caused me concern (including for example if the document was not signed), or if EQWE raised any concerns with me, then I would have not forwarded the documents to Mr Dumont (or if Mr Dumont already had the document, told him to pause his review) and would have gone back to EQWE (and as necessary, Forum Finance) to have my concerns addressed. Further, I would not have allowed the matter to be progressed further within SG and, if my concern was serious enough, I would have taken steps to escalate the



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matters internally so that SG could consider its legal options (as I did when I later had those concerns, as set out in Part D of my 30 June affidavit, which included involving SG's Head of Legal – Australia in the matter).

28. In that regard, the First Notice of Assignment and the first PPSR verification certificate were not received in the first tranche of materials for the First Contract. Due to this, on or about 9 March 2021, I had a telephone discussion with Luke Price at EQWE (and I cannot now recall whether Katrina Constable at EQWE was also on that call) and raised this issue with him. In that telephone discussion I said words to the effect: *"We need to have an Assignment Notice that is signed by Veolia and a PPS certificate. We don't have that material."* In response, either Luke Price or Katrina Constable (I cannot now recall) said to me words to the effect: *"I am getting Preet's signature, it is coming through within days."* I also had further conversations with Mr Price and/or Ms Constable at EQWE in the days that followed in respect of the First Notice of Assignment.
29. At this point, there was an internal discussion whether to wait for the document or rely on the assurance that it would be forthcoming from EQWE. It was decided to initiate the drawdown process because SSL had locked in funding arrangements, including the rate setting process and the interest rate being locked in, on the basis that payment would be made on 9 March 2021. As set out in my 30 June affidavit, EQWE ultimately provided these documents to me later on 9 March 2021 (in the case of the PPSR verification certificate) and on 12 March 2021 (in the case of the First Notice of Assignment), which I reviewed in the manner set out above.
30. Similarly, if Mr Dumont raised any concerns with me then I would have asked EQWE to resolve those concerns and I would not have allowed the matter to be progressed further within SG. I also would have taken steps to escalate the matters internally, if I considered the issue serious enough, so that SG could consider its legal options (as I did when I later had those concerns, as set out in Part D of my 30 June affidavit, which included involving SG's Head of Legal – Australia in the matter).
31. In respect of the Third Contract, it did not come to my attention until after the fraud was discovered (as set out in Part D of my 30 June affidavit) that a certificate of acceptance of delivery had not been received in respect of the waste digesters the subject of that contract. This was inadvertently missed. I nevertheless had assumed and understood that EQWE was to liaise, and I assumed had liaised, with Veolia as to the delivery and acceptance of the goods (as set out in paragraph 11 above), and that if EQWE had identified that the waste digesters had not in fact been delivered or accepted, they would have been told that to me.



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Demand issued to Forum Finance

32. On 26 July 2021, SG, through its solicitors Ashurst Australia, sent a letter of demand to Forum Finance (**Letter of Demand**), a copy of which is exhibited and marked "GT-45". The Letter of Demand demanded immediate payment of:
- (a) an amount of \$10,278,999, being the Forum Finance Payments;
 - (b) an amount of \$63,319, for the swap breakage fees in respect of the Swaps; and
 - (c) an amount of \$49,267.09 for legal fees SG incurred in connection with the preparation, execution and completion of the Master Agreement as set out in paragraph 13 above.
33. Forum Finance has failed to comply with the Letter of Demand.

SWORN by the deponent
 at SYDNEY
 in New South Wales
 on 14 December 2021
 Before me:

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)
)
)

 Signature of deponent

 Signature of witness

Matthew Youssef
 Solicitor
 Level 11, 5 Martin Place, Sydney NSW 2000

Schedule

First Respondent	FORUM FINANCE PTY LIMITED (ACN 152 301 172) (IN LIQUIDATION)
Second Respondent	BASILE PAPADIMITRIOU
Third Respondent	FORUM GROUP FINANCIAL SERVICES PTY LTD (ACN 623 033 705) (IN LIQUIDATION)

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 6:47:24 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: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD642/2021
File Title: SOCIETE GENERALE (ABN 71 092 516 286) v FORUM FINANCE PTY LIMITED (ACN 152 301 172) & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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

Dated: 4/02/2022 6:53:39 PM AEDT

Registrar

Important Information

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

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