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Form 59
Rule 29.02(1)

Affidavit

No. NSD 681 of 2021

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

SMBC Leasing and Finance, Inc. ARBN 602 309 366

Applicant

Forum Enviro (Aust) Pty Ltd ABN 78 607 484 364 and others

Respondents

Affidavit of: **Michael Timpany**
Address: Level 35, Chifley Tower, 2 Chifley Square NSW 2000
Occupation: Director, SMBC Leasing and Finance, Inc. Sydney Branch
Date: 4 February 2022

I Michael Timpany, Director, Level 35, Chifley Tower, 2 Chifley Square NSW 2000, say on oath:

1. I am employed by the Applicant, SMBC Leasing and Finance, Inc. Sydney Branch (**SMBC L&F**), and my job title is "Director". I am authorised to make this affidavit on behalf of the Applicant.
2. This is the second affidavit I have sworn in this proceeding.
3. I have read the affidavits of Roger Dobson sworn on 13 July 2021 (**the First Dobson Affidavit**) and 14 July 2021 (**the Second Dobson Affidavit**) and the documents in the accompanying **Exhibit RD1** and **Annexures RD2, RD3, RD4** and **RD5** and make reference to the content of the First and Second Dobson Affidavits and the accompanying **Exhibit RD1** and **Annexures RD2 – RD5** in this affidavit.

Filed on behalf of (name & role of party)	SMBC Leasing and Finance, Inc. ARBN 602 309 366
Prepared by (name of person/lawyer)	Maria Yiasemides
Law firm (if applicable)	Jones Day
Tel	(02) 8272 0500
Fax	(02) 8272 0599
Email	myiasemides@jonesday.com
Address for service (include state and postcode)	L41 Aurora Place, 88 Phillip Street, Sydney, NSW 2000

[Version 3 form approved 02/05/2019]

4. In this affidavit I make reference to certain "Offer Letters" received by SMBC L&F and adopt the definitions used in the First Dobson Affidavit in respect of those Offer Letters.
5. I swear this affidavit to be true and correct to the best of my own knowledge. Where indicated otherwise, I depose to matters on the basis of information contained in the books and records of SMBC L&F which are exhibited to this affidavit and in the belief that the source of my information is true and correct.

Background to the 2018 Arrangement

6. SMBC L&F is in the business of providing financing for our clients' leasing arrangements in Australia. My role as a Director of SMBC L&F included introducing and managing these transactions.
7. Through my former role as a Director of Structured Asset Finance at Australian and New Zealand Banking Group, I was acquainted with Alex Colbert, who was Head of Managed Services at Flexirent Capital Pty Ltd (**Flexirent**). In early 2018, Mr Colbert and I were in discussions about SMBC L&F funding one of Flexirent's leasing arrangements. Mr Colbert told me that he had a longstanding relationship with Basile Papadimitriou (also known as "Bill Papas") (**Mr Papas**), who was the chief executive officer of the Forum Group of companies (**Forum Group**).
8. The proposed funding structure that Mr Colbert, Mr Papas and I discussed was for SMBC L&F to provide finance via Flexirent for the Forum Group's leasing arrangements with Veolia Environmental Services Australia Pty Ltd (**Veolia**). I understood that the funding was to be provided on an undisclosed basis, meaning that SMBC L&F's role in providing the funding to Flexirent would not be disclosed to Veolia. I understood that this was to be the arrangement because Flexirent could not fund substantial leasing arrangements as cost competitively as SMBC L&F and wanted to partner with SMBC L&F to provide funding for their customers' leasing arrangements without disclosing this to Veolia.
9. The **2018 Arrangement** consisted of:
 - (a) **SMB.001.001.0718** a Principal and Agency Agreement between Flexirent and FEA dated 13 June 2018 (exhibited at ~~pages 99-127 of Exhibit RD1~~);
 - (b) **SMB.001.001.0469** a Master Receivables and Acquisition Servicing Agreement between SMBC L&F and Flexirent dated 2 August 2018 (the **2018 MRASA**) and a Supplemental Deed **SMB.001.001.0615** (the **2018 Supplemental Deed**) (exhibited at ~~pages 128-179 of Exhibit RD1~~);




SMB.001.001.0739 (c) an Agent Side Letter between SMBC L&F, Flexirent and FEA dated 2 August 2018 (exhibited at ~~pages 180-188 of Exhibit RD1~~); and

SMB.001.001.0802 (d) a Title Perfection Power of Attorney executed by Flexirent dated 2 August 2018, (exhibited at ~~pages 189-192 of Exhibit RD1~~).

10. In relation to the 2018 Arrangement, Ashurst acted for SMBC L&F and I understood that King & Wood Mallesons (**KWM**) acted for Flexirent.

The first drawdown under the 2018 Arrangement

SMB.001.103.6897; **SMB.001.001.0614**; **SMB.001.001.0613** 11. On 3 August 2018, I received an email from Jenny Choi (senior associate at Ashurst) attaching two Designation Notices. Exhibited at ~~pages 15-21 of Exhibit MT2~~ is a copy of the email from Ms Choi and the attached Designation Notices.

SMB.001.162.6829; **MIN.5000.0006.1727** **Section 50**
Summary of
Fraudulent
Documents
CB F.II.66 p.F.II.12
Ln 1-3 12. On 7 August 2019, I received an email from Mr Colbert attaching the First 2018 Offer Letter, which specified a settlement amount of \$14,411,503.49, and annexed two documents which appeared to be Technology Licence Agreements between FEA and Veolia. Exhibited at ~~pages 22-45 of Exhibit MT2~~ is a copy of the email from Mr Colbert and the attached First 2018 Offer Letter and Technology Licence Agreements.

MIN.5000.0006.1716 13. On 8 August 2018, SMBC L&F made the first drawdown under the 2018 Arrangement by transferring \$14,411,503.49 to Flexirent. ~~Annexure RD2~~ is a SWIFT Payment Confirmation for this payment.

Section 50
Summary of
Payments to
Flexirent and FE
CB F.II.63 p.F.II.1
Ln 1

The second drawdown under the 2018 Arrangement

SMB.001.103.9014; **MIN.5000.0006.1727** **Section 50**
Summary of
Fraudulent
Documents
CB F.II.66 p.F.II.13
Ln 5 14. On 26 September 2018, I received an email from Andrew Maynes (partner at KWM) attaching, amongst other things, a document which appeared to be an executed Technology Licence Agreement between FEA and Veolia. Exhibited at ~~pages 46-55 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Technology Licence Agreement.

SMB.001.069.0283; **SMB.001.001.0644**; **SMB.001.001.0804** 15. On 27 September 2018, I received an email from Mr Maynes attaching, amongst other things, two Designation Notices. Exhibited at ~~pages 56-64 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Designation Notices.

SMB.001.069.0313; **MIN.5000.0006.1727** **7**
Section 50
Summary of
Fraudulent
Documents
CB F.II.66 p.F.II.12
Ln 4 16. Later on 27 September 2018, I received an email from Mr Maynes attaching, amongst other things, the Second 2018 Offer Letter which specified a settlement amount of \$3,829,312.30. Exhibited at ~~pages 65-81 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Second 2018 Offer Letter.




- MIN.5000.0006.1716** 17. On 2 October 2018, SMBC L&F made the second drawdown under the 2018 Arrangement by transferring \$3,829,312.30 to Flexirent. ~~Annexure RD3~~ is a SWIFT Payment Confirmation for this payment.

Section 50 Summary of Payments to Flexirent and FE
CB F.II.63 p.F.II.2
Ln 2

The third drawdown under the 2018 Arrangement

- MIN.5000.0006.172** 18. On 22 October 2018, I received an email from Mr Maynes attaching, amongst other things, a document which appeared to be an executed Technology Licence Agreement between FEA and Veolia. Exhibited at ~~pages 82-91 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Technology Licence Agreement.

Section 50 Summary of Fraudulent Documents
SMB.001.069.0351
CB F.II.66 p.F.II.13
Ln 7

19. Later on 22 October 2018, I received an email from Bianca Spata (Head of Group Funding at Flexirent) on 22 October 2018 attaching two Designation Notices and the Third 2018 Offer Letter identifying a settlement amount of \$5,728,041. Exhibited at ~~pages 92-102 of Exhibit MT2~~ is a copy of the email from Ms Spata and the attached Designation Notices and Third 2018 Offer Letter.

SMB.001.260.1029;
SMB.001.001.0693;
SMB.001.001.0694;
MIN.5000.0006.1727 Section 50 Summary of Fraudulent Documents CB F.II.66 p.F.II.13 Ln 6

- MIN.5000.0006.1716** 20. On 24 October 2018, SMBC L&F made the third drawdown under the 2018 Arrangement by transferring \$5,728,041 to Flexirent. ~~Annexure RD4~~ is a SWIFT Payment Confirmation for this payment.

Section 50 Summary of Payments to Flexirent and FE
CB F.II.63 p.F.II.2
Ln 3

The fourth drawdown under the 2018 Arrangement

- SMB.001.069.0484;** 21. On 18 December 2018, I received an email from Mr Maynes attaching a document which appeared to be an executed Technology Licence Agreement between FEA and Veolia. Exhibited at ~~pages 103-114 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Technology Licence Agreement.

MIN.5000.0006.172
7 Section 50 Summary of Fraudulent Documents
CB F.II.66 p.F.II.13
Ln 9

22. On 19 December 2018, I received an email from Mr Maynes attaching two Designation Notices and the Fourth 2018 Offer Letter which specified a settlement amount of \$5,740,857.35. Exhibited at ~~pages 115-135 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Designation Notices and the Fourth 2018 Offer Letter.

SMB.001.069.0512;
SMB.001.001.0736;
SMB.001.001.0737;
CB F.II.66 p.F.II.13
Ln 8

- MIN.5000.0006.1716** 23. On 20 December 2018, SMBC L&F made the fourth drawdown under the 2018 Arrangement by transferring \$5,740,857.35 to Flexirent. ~~Annexure RD5~~ is a SWIFT Payment Confirmation for this payment.

Section 50 Summary of Payments to Flexirent and FE
CB F.II.63 p.F.II.2
Ln 4

Background to the 2020 Arrangement

24. Based on discussions with Mr Colbert throughout 2019 and early 2020, I understood that Flexirent were winding back their managed services business unit which Mr Colbert headed up.
25. In July 2019, I left SMBC L&F to work at Quintet Partners.
26. In April 2020, I re-joined SMBC L&F. At the time, I was still in contact with Mr Colbert, who had recently resigned from Flexirent. Mr Colbert said that he had maintained contact with Mr Papas and wanted to arrange a meeting with me and Mr Papas.
27. On 29 April 2020, I attended a videoconference with Mr Papas and Mr Colbert, in which we discussed, amongst other things, the possibility of a new funding arrangement between SMBC L&F and the Forum Group (without involvement from Flexirent). Under the proposed arrangement that we discussed, SMBC L&F would purchase receivables directly from FEA which arose under contracts between FEA and Veolia. During that meeting it also became apparent to me that Mr Colbert intended to take on a part-time consulting role to assist Forum Group with this arrangement.
28. The **2020 Arrangement** consisted of:
- (a) a Master Receivables and Acquisition Servicing Agreement between SMBC L&F and FEA dated 17 July 2020 (the **2020 MRASA**) (exhibited at ~~pages 238-270 of Exhibit RD1~~); and
- (b) a Supplemental Deed between SMBC L&F and FEA dated 17 July 2020 (the **2020 Supplemental Deed**) (exhibited at pages 271-283 of **Exhibit RD1**).
29. In relation to the 2020 Arrangement, Ashurst acted for SMBC L&F and I understood that KWM acted for FEA.

SMB.001.001.2280

SMB.001.001.1597

The first drawdown under the 2020 Arrangement

30. On 27 July 2020, I received an email from Alex Stevens (solicitor at KWM) attaching documents which appeared to be executed copies of:
- (a) a Master Technology Licence Agreement – Waste Management between FEA and Veolia (**2020 Waste Management MTLA**);
- (b) a Master Technology Licence Agreement – Health Management between FEA and Veolia (**2020 Health Management MTLA**); and
- (c) two Technology Licence Schedules (**TLA Schedules**) between FEA and Veolia.




SMB.001.075.0321;
MIN.5000.0006.172
7 Section 50
Summary of
Fraudulent
Documents
CB F.II.66 p.F.II.13
Ln 10-11, 14-17

Exhibited at ~~pages 136-172 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached 2020 Waste Management MTLA, 2020 Health Management MTLA and TLA Schedules.

31. Later on 27 July 2020, I received an email from Aiofe Mulford (senior associate at Ashurst) attaching, amongst other things, the First and Second 2020 Offer Letters which specified settlement amounts of \$8,444,416.05 and \$1,550,450.13, respectively.

SMB.001.069.3382;
CB F.II.66 p.F.II.14
Lns 12-13

Exhibited at ~~pages 173-180 of Exhibit MT2~~ is a copy of the email from Ms Mulford and the attached First and Second 2020 Offer Letters.

MIN.5000.0006.1718
Section 50 Summary
of Payments to FEA
CB F.II.64 p.F.II.3 Ln 1

32. On 30 July 2020, SMBC L&F made the first drawdown under the 2020 Arrangement by transferring \$9,994,866.18 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 293 of Exhibit RD1~~.

33. Later on 30 July 2020, I received an email from Mr Papas which appeared to be a forward of an email chain and attached signed and dated copies of two Notices of Assignment in respect of the first drawdown. The email chain was purportedly between Mr Papas and Laurie Kozlovic (who was described as the Chief Strategic Development and Innovation Officer at Veolia) and appeared to show Mr Papas forwarding Mr Kozlovic copies of the Notices of Assignment and Mr Kozlovic replying: "All good Bill, got it". Exhibited at ~~pages 181-185 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notices of Assignment.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.14 Ln
18

The second drawdown under the 2020 Arrangement

34. On 21 August 2020, I received an email from Ms Stevens attaching, amongst other things, two documents which appeared to be executed TLA Schedules between FEA and Veolia. Exhibited at ~~pages 186-193 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached TLA Schedules.

SMB.001.069.3716;
CB F.II.66
p.F.II.15 Lns 21-24

35. On 24 August 2020, I received an email from Ms Stevens attaching, amongst other things, the Third and Fourth 2020 Offer Letters which specified settlement amounts of \$6,576,383.83 and \$2,479,983.13, respectively. Exhibited at ~~pages 194-200 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached Third and Fourth Offer Letters.

SMB.001.069.3784;
CB F.II.66 p.F.II.14
Lns 19-20

36. On 26 August 2020, SMBC L&F made the second drawdown under the 2020 Arrangement by transferring \$9,056,366.96 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 298 of Exhibit RD1~~.

MIN.5000.0006.1718
Section 50 Summary
of Payments to FEA
CB F.II.64 p.F.II.4 Ln 2




37. Later on 26 August 2020, I received an email from Mr Papas which appeared to be a forward of an email chain and attached signed and dated copies of two Notices of Assignment in respect of the second drawdown. The email chain was purportedly between Mr Papas and Mr Kozlovic and appeared to show Mr Papas forwarding Mr Kozlovic copies of the Notices of Assignment and Mr Kozlovic replying: "Received and acknowledged". Exhibited at ~~pages 201-204 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notices of Assignment.

MIN.5000.0006.1727
Section 50 Summary of
Fraudulent Documents
CB F.II.66 p.F.II.15 Ln 25

The third drawdown under the 2020 Arrangement

38. On 28 September 2020, I received an email from Mr Maynes attaching, amongst other things, a document which appeared to be an executed TLA Schedule between FEA and Veolia. Exhibited at ~~pages 205-208 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached TLA Schedules.
39. Later on 28 September 2020, I received an email from Mr Maynes attaching, amongst other things, the Fifth 2020 Offer Letter which specified a settlement amount of \$3,256,278.09. Exhibited at ~~pages 209-213 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached Fifth 2020 Offer Letter.

SMB.001.069.3908;
CB F.II.66 p.F.II.15
Lns 27-28

SMB.001.069.4003;
CB F.II.66 p.F.II.15
Ln 26

40. On 30 September 2020, SMBC L&F made the third drawdown under the 2020 Arrangement by transferring \$3,256,278.09 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 301 of Exhibit RD1~~.

MIN.5000.0006.1718
Section 50 Summary
of Payments to
FEA
CB F.II.64 p.F.II.4 Ln 3

41. Later on 30 September 2020, I received an email from Mr Papas which appeared to be a forward of an email chain and attached a signed and dated copy of a Notice of Assignment in respect of the third drawdown. The email chain was purportedly between Mr Papas and Preet Brar (CFO at Veolia) and appeared to show Mr Papas forwarding Ms Brar a copy of the Notice of Assignment and Ms Brar replying: "LK sent me copies of the agreement so no issue and I confirm receipt of the letter". Exhibited at ~~pages 214-216 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notice of Assignment.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.16 Ln
29

42. I understand that Laurie Kozlovic, who was designated as an authorised signatory under the 2020 Waste Management MTLA and 2020 Health Management MTLA, resigned from his position at Veolia in around September 2020.

The fourth drawdown under the 2020 Arrangement

43. On 11 November 2020, I received an email from Ms Stevens attaching, amongst other things, two documents which appeared to be executed TLA Schedules between FEA

and Veolia and a document on Veolia letterhead dated 6 November 2020 which purported to provide notice that Veolia's authorised signatories under the 2020 Arrangement were Ms Brar and Marc Churchin. Exhibited at ~~pages 217-237 of Exhibit MT2~~ is a copy of the email from Mr Maynes and the attached TLA Schedules and authorised signatories notice.

SMB.001.069.4128;
CB F.II.66 p.F.II.16 Lns
32-36

44. On 13 November 2020, I received an email from Ms Stevens attaching, amongst other things, the Sixth and Seventh 2020 Offer Letters which specified settlement amounts of \$8,712,386.32 and \$2,478,189.82, respectively. Exhibited at ~~pages 238-246 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached Sixth and Seventh 2020 Offer Letters.

SMB.001.069.4248; CB
F.II.66 p.F.II.16 Lns
30-31

45. On 17 November 2020, SMBC L&F made the fourth drawdown under the 2020 Arrangement by transferring \$11,190,576.14 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 306 of Exhibit RD1~~.

MIN.5000.0006.1718
Section 50 Summary
of Payments to
FEA
CB F.II.64 p.F.II.4 Ln 4

46. Later on 17 November 2020, I received an email from Mr Papas which appeared to be a forward of an email chain and attached signed and dated copies of the Notices of Assignment in respect of the fourth drawdown. The email chain was purportedly between Mr Papas and Ms Brar and appeared to show Mr Papas forwarding Ms Brar copies of the Notices of Assignment and Ms Brar replying: "*No problem, received with thanks*". Exhibited at ~~pages 247-250 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notices of Assignment.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.17 Ln 37

The fifth drawdown under the 2020 Arrangement

47. On 20 December 2020, I received an email from Mr Colbert attaching, amongst other things, two documents which appeared to be executed TLA Schedules between FEA and Veolia. Exhibited at ~~pages 251-260 of Exhibit MT2~~ is a copy of the email from Mr Colbert and the attached TLA Schedules.

SMB.001.069.4369;
CB F.II.66 p.F.II.17
Lns 40-43

48. On 21 December 2020, I received an email from Ms Stevens attaching Eighth and Ninth 2020 Offer Letters which specified settlement amounts of \$9,297,734.49 and \$1,770,997.06, respectively. Exhibited at ~~pages 261-266 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached Eighth and Ninth 2020 Offer Letters.

SMB.001.099.2117
CB F.II.66 p.F.II.17
Lns 38-39

49. On 23 December 2020, SMBC L&F made the fifth drawdown under the 2020 Arrangement by transferring \$11,068,731.55 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 311 of Exhibit RD1~~.

MIN.5000.0006.1718
Section 50 Summary
of Payments to FEA
CB F.II.64 p.F.II.5 Ln 5

50. On 24 December 2020, I received an email from Mr Papas which appeared to be a forward of an email chain and attached signed and dated copies of the Notices of Assignment in respect of the fifth drawdown. The email chain was purportedly between Mr Papas and Ms Brar and appeared to show Mr Papas forwarding Ms Brar copies of the Notices of Assignment and Ms Brar replying: "*Received and acknowledged*". Exhibited at ~~pages 267-270 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notices of Assignment.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents CB
F.II.66 p.F.II.17 Ln 44

The sixth drawdown under the 2020 Arrangement

51. On 1 February 2021, I received an email from Ms Stevens attaching, amongst other things, a document which appeared to be an executed TLA Schedule between FEA and Veolia. Exhibited at ~~pages 271-281 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached TLA Schedule.
52. On 2 February 2021, I received an email from Ms Stevens attaching, amongst other things, the First 2021 Offer Letter which specified a settlement amount of \$6,649,113.79. Exhibited at ~~pages 282-286 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached First 2021 Offer Letter.

SMB.001.069.4468;
CB F.II.66 p.F.II.18 Lns
46-47

SMB.001.069.4577;
CB F.II.66 p.F.II.18 Ln 45

MIN.5000.0006.1718
Section 50 Summary
of Payments to
FEA
CB F.II.64 p.F.II.5 Ln 6

53. On 5 February 2021, SMBC L&F made the sixth drawdown under the 2020 Arrangement by transferring \$6,649,113.79 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 314 of Exhibit RD1~~.
54. Later on 5 February 2021, I received an email from Mr Papas which appeared to be a forward of an email chain and attached a signed and dated copy of the Notice of Assignment in respect of the sixth drawdown. The email chain was purportedly between Mr Papas and Ms Brar and appeared to show Mr Papas forwarding Ms Brar a copy of the Notice of Assignment and Ms Brar replying: "*Received and attached as requested*". Exhibited at ~~pages 287-289 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notice of Assignment.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.18 Ln 48

The seventh drawdown under the 2020 Arrangement

55. On 4 March 2021, I received an email from Ms Stevens attaching, amongst other things, two documents which appeared to be executed TLA Schedules between FEA and Veolia. Exhibited at ~~pages 290-311 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached TLA Schedules.
56. On 8 March 2021, I received an email from Ms Stevens attaching, amongst other things, a re-signed version of one of the TLA Schedules (the earlier version had the incorrect

SMB.001.069.4631;
CB F.II.66 pp.F.II.18-19
Lns 51-54

SMB.001.069.4787;
CB F.II.66 pp.F.II.18-19
Lns 53-54
CB F.II.66 p.F.II.18 Lns
49-50

date) and the Second and Third 2021 Offer Letters which specified settlement amounts of \$10,533,007.84 and of \$1,769,324.17, respectively. Exhibited at ~~pages 312-326 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached re-signed TLA Schedule and the attached Second and Third 2021 Offer Letters.

MIN.5000.0006.1718
Section 50 Summary
of Payments to
FEA
CB F.II.64 p.F.II.5 Ln 7

57. On 11 March 2021, SMBC L&F made the seventh drawdown under the 2020 Arrangement by transferring \$12,302,332.01 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 319 of Exhibit RD1~~.

58. Later on 11 March 2021, I received an email from Mr Papas which appeared to be a forward of an email chain and attached signed and dated copies of the Notices of Assignment in respect of the seventh drawdown. The email chain was purportedly between Mr Papas and Ms Brar and appeared to show Mr Papas forwarding Ms Brar copies of the Notices of Assignment and Ms Brar replying: "Received and acknowledged". Exhibited at ~~pages 327-330 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notices of Assignment.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.19 Ln
55

The eighth drawdown under the 2020 Arrangement

SMB.001.069.4920;
CB F.II.66 p.F.II.19 Lns
58-61

59. On 16 April 2021, I received an email from Ms Stevens attaching, amongst other things, two documents which appeared to be executed TLA Schedules between FEA and Veolia. Exhibited at ~~pages 331-339 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached TLA Schedules.

SMB.001.069.5003;
CB F.II.66 p.F.II.19 Lns
56-57

60. On 19 April 2021, I received an email from Ms Stevens attaching, amongst other things, the Fourth and Fifth 2021 Offer Letters which specified settlement amounts of \$10,018,326.86 and \$1,413,053.28, respectively. Exhibited at ~~pages 340-344 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached Fourth and Fifth 2021 Offer Letters.

MIN.5000.0006.1718
Section 50 Summary
of Payments to FEA
CB F.II.64 p.F.II.6 Ln 8

61. On 22 April 2021, SMBC L&F made the eighth drawdown under the 2020 Arrangement by transferring \$11,431,380.14 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 324 of Exhibit RD1~~.

62. Later on 22 April 2021, I received an email from Mr Papas which appeared to be a forward of an email chain and attached signed and dated copies of the Notices of Assignment in respect of the eighth drawdown. The email chain was purportedly between Mr Papas and Ms Brar and appeared to show Mr Papas forwarding Ms Brar copies of the Notices of Assignment and Ms Brar replying: "Notices received and re-

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.19 Ln
62

attached as requested". Exhibited at ~~pages 345-348 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notices of Assignment.

The ninth drawdown under the 2020 Arrangement

SMB.001.069.5083;
CB F.II.66 p.F.II.20 Lns
64-65

63. On 20 May 2021, I received an email from Ms Stevens attaching, amongst other things, a document which appeared to be an executed TLA Schedule between FEA and Veolia. Exhibited at ~~pages 349-354 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached TLA Schedule.

SMB.001.069.5103;
CB F.II.66 p.F.II.20 Ln
63

64. On 21 May 2021, I received an email from Ms Stevens attaching, amongst other things, the Sixth 2021 Offer Letter which specified a settlement amount of \$9,044,264.61. Exhibited at ~~pages 355-359 of Exhibit MT2~~ is a copy of the email from Ms Stevens and the attached Sixth 2021 Offer Letter.

MIN.5000.0006.1718
Section 50 Summary
of Payments to
FEA
CB F.II.64 p.F.II.6 Ln 9

65. On 26 May 2021, SMBC L&F made the ninth drawdown under the 2020 Arrangement by transferring \$9,044,264.61 to FEA. A SWIFT Payment Confirmation for this payment is exhibited at ~~page 327 of Exhibit RD1~~.

MIN.5000.0006.1727
Section 50 Summary
of Fraudulent
Documents
CB F.II.66 p.F.II.20 Ln
66

66. Later on 26 May 2021, I received an email from Mr Papas which appeared to be a forward of an email chain and attached a signed and dated copy of the Notice of Assignment in respect of the ninth drawdown. The email chain was purportedly between Mr Papas and Ms Brar and appeared to show Mr Papas forwarding Ms Brar a copy of the Notice of Assignment and Ms Brar replying: "*Notice received and attached as requested*". Exhibited at ~~pages 360-362 of Exhibit MT2~~ is a copy of the email chain forwarded by Mr Papas and the attached Notice of Assignment.

Payments made by FEA under the 2018 and 2020 Arrangements

MIN.5000.0006.17
43
Section 50
Summary of
Payments
Received from
FEA CB F.II.68
p.F.II.28

67. Between 30 August 2018 and 28 May 2021, SMBC L&F received 57 payments from FEA, which were paid into SMBC L&F's bank accounts (the **FEA Payments**). The FEA Payments and the bank accounts into which they were paid are listed in **Schedule A** to this affidavit. Exhibited at ~~pages 363-441 of Exhibit MT2~~ are redacted copies of SMBC L&F bank statements with the FEA Payments highlighted in yellow.

68. I have reviewed SMBC L&F's records and, aside from the FEA Payments, I have not identified any other payments in respect of the 2018 Arrangement or the 2020 Arrangement.

SCHEDULE A – THE FEA PAYMENTS

Date	Amount received (\$AUD)	SMBC Account Number
2.08.2018	485,100.00	CA 10021103
3.08.2018	419,760.00	CA 10021103
30.08.2018	153,912.00	CA 10021103
31.08.2018	177,870.00	CA 10021103
27.09.2018	212,388.00	CA 10021103
27.09.2018	301,620.00	CA 10021103
4.10.2018	80,850.00	CA 10021103
19.10.2018	356,400.00	CA 10021103
31.10.2018	420,420.00	CA 10021103
29.11.2018	501,270.00	CA 10021103
28.12.2018	620,400.00	CA 10021103
31.01.2019	620,400.00	CA 10021103
28.02.2019	620,400.00	CA 10021103
29.03.2019	620,400.00	CA 10021103
30.04.2019	620,400.00	CA 10021103
31.05.2019	620,400.00	CA 10021103
28.06.2019	620,400.00	CA 10021103
31.07.2019	620,400.00	CA 10021103
30.08.2019	620,400.00	CA 10021103
30.09.2019	620,400.00	CA 10021103
31.10.2019	620,400.00	CA 10021103
29.11.2019	620,400.00	CA 10021103
31.12.2019	620,400.00	CA 10021103
30.01.2020	620,400.00	CA 10021103
28.02.2020	620,400.00	CA 10021103
1.04.2020	620,400.00	CA 10021103
30.04.2020	620,400.00	CA 10021103
28.05.2020	620,400.00	CA 10021103




Date	Amount received (\$AUD)	SMBC Account Number
30.06.2020	620,400.00	CA 10021103
23.07.2020	180,500.00	CA 10021103
04.08.2020	620,400.00	CA 10021103
21.08.2020	163,600.00	CA 10021103
28.08.2020	620,400.00	CA 10021103
02.09.2020	180,500.00	CA 10021101
25.09.2020	58,800.00	CA 10021103
29.09.2020	344,100.00	CA 10021101
29.09.2020	620,400.00	CA 10021103
28.10.2020	620,400.00	CA 10021103
28.10.2020	344,100.00	CA 10021101
28.10.2020	58,800.00	CA 10021103
12.11.2020	202,300.00	CA 10021103
27.11.2020	1,023,300.00	CA 10021103
21.12.2020	220,000.00	CA 10021103
30.12.2020	1,023,300.00	CA 10021103
04.01.2021	202,300.00	CA 10021103
28.01.2021	620,400.00	CA 10021103
28.01.2021	805,200.00	CA 10021103
02.02.2021	100,000.00	CA 10021103
26.02.2021	120,000.00	CA 10021103
26.02.2021	620,400.00	CA 10021103
26.02.2021	805,200.00	CA 10021103
08.03.2021	222,500.00	CA 10021103
31.03.2021	1,768,100.00	CA 10021103
19.04.2021	207,100.00	CA 10021103
29.04.2021	1,768,100.00	CA 10021103
20.05.2021	163,800.00	CA 10021103
28.05.2021	1,975,200.00	CA 10021103




Sworn by the deponent
at Sydney
in New South Wales
on 4 February 2022
Before me:


Signature of deponent


Signature of witness

Name: MARIA YIASEMIDES

Qualification: SOLICITOR .

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/02/2022 2:58:29 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: NSD681/2021
File Title: SMBC LEASING AND FINANCE, INC. ARBN 602 309 366 v FORUM
ENVIRO (AUST) PTY LTD (VOLUNTARY ADMINISTRATORS
APPOINTED) ACN 607 484 364 & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



Sia Lagos

Dated: 4/02/2022 3:04:45 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.