

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 14/07/2021 3:24:36 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: 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 & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 14/07/2021 3:26:07 PM AEST

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)

## Second Affidavit of Roger Dobson sworn 14 July 2021

No. of 2021

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

**SMBC Leasing and Finance, Inc. Sydney Branch ABN 88 327 596 442**

Applicant

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

First Respondent

**Basile Papadimitriou**

Second Respondent

Affidavit of: **Roger Dobson**  
Address: Level 41, 88 Phillip Street, Sydney 2000  
Occupation: Solicitor  
Date: 14 July 2021

### Contents

Document number	Details	Paragraph	Page
1	Affidavit of Roger Dobson sworn on 14 July 2021 in support of Applicant's Originating Application and Interlocutory Application both filed 14 July 2021.	N/A	1-3
2	Annexure "RD2", being copy of Payment Confirmation dated 8 August 2018.	7	4
3	Annexure "RD3", being copy of Payment Confirmation dated 2 October 2018.	8	5
4	Annexure "RD4", being copy of Payment Confirmation dated 24 October 2018.	8	6

Filed on behalf of (name & role of party) \_\_\_\_\_  
 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** L41 Aurora Place, 88 Phillip Street, Sydney, NSW 2000  
 (include state and postcode)

Document number	Details	Paragraph	Page
5	Annexure “ <b>RD5</b> ”, being copy of Payment Confirmation dated 20 December 2018.	9	7
6	Annexure “ <b>RD6</b> ”, being copy of Letters of Service to the First and Second Respondents dated 14 July 2021.	11	8-11

I Roger Dobson, Solicitor, Level 41, 88 Phillip Street Sydney 2000, say on oath:

1. I am a Partner at Jones Day and the Solicitor with carriage of this matter on behalf of the Applicant, SMBC Leasing & Finance Inc. (**SMBC L&F**). I am authorised to make this affidavit on the Applicant’s behalf.
2. I swear this affidavit to be true and correct to the best of my own knowledge, information and belief. Where indicated otherwise, I depose to matters on the basis of information provided by another person and in the belief that the source of my information is true and correct.

### Introduction

3. I refer to my affidavit sworn on 13 July 2021 in these proceedings (**the First Dobson Affidavit**) which I made in support of the Applicant’s Originating Application and Interlocutory Application both filed on 14 July 2021.
4. I make this affidavit to supplement certain matters addressed in the First Dobson Affidavit.
5. At paragraph 26 of the First Dobson Affidavit, I indicated that SMBC L&F was in the process of recalling certain payment confirmations from archive to provide evidence of the payments made by SMBC L&F pursuant to the 2018 MRASA as identified at paragraphs 25, 28, 30 and 32 of the First Dobson Affidavit.
6. Those payment confirmations have now been located by SMBC L&F.

### Details of purchases made by SMBC L&F pursuant to the 2018 MRASA

7. At paragraph 25 of the First Dobson Affidavit, I referred to an amount paid by SMBC L&F pursuant to the First 2018 Offer Letter and the terms of the 2018 MRASA in the sum of **\$14,411,503.49**. Annexed to this affidavit and marked **RD2** is a copy of SMBC L&F’s SWIFT Payment Confirmation for this payment.
8. At paragraph 28 of the First Dobson Affidavit, I referred to an amount paid by SMBC L&F pursuant to the Second 2018 Offer Letter and the terms of the 2018 MRASA in the sum

of **\$3,829,312.30**. Annexed to this affidavit and marked **RD3** is a copy of SMBC L&F's SWIFT Payment Confirmation for this payment.

9. At paragraph 30 of the First Dobson Affidavit, I referred to an amount paid by SMBC L&F pursuant to the Third 2018 Offer Letter and the terms of the 2018 MRASA in the sum of **\$5,728,041**. Annexed to this affidavit and marked **RD4** is a copy of SMBC L&F's SWIFT Payment Confirmation for this payment.
10. At paragraph 32 of the First Dobson Affidavit, I referred to an amount paid by SMBC L&F pursuant to the Fourth 2018 Offer Letter and the terms of the 2018 MRASA in the sum of **\$5,740,857.35**. Annexed to this affidavit and marked **RD5** is a copy of SMBC L&F's SWIFT Payment Confirmation for this payment.

### **Service on the First and Second Respondents**

11. I have been informed by Maria Yiasemides, Partner at Jones Day, and verily believe, that she has caused the Originating Application, the Interlocutory Application, the First Dobson Affidavit and the affidavit of Michael Timpany (sworn 13 July 2021) filed in the Federal Court of Australia on behalf of SMBC L&F on 14 July 2021 to be served on the First and Second Respondents with service effected in accordance with the Order made by the Honourable Justice Lee on 14 July 2021. Annexed to this affidavit and marked **RD6** are copies of the Letters of Service dated 14 July 2021 and the emails from Ms Yiasemides to the First and Second Respondents.

Sworn by the deponent  
at Sydney  
in New South Wales  
on 14 July 2021  
Before me:

Roger Dobson

---

Signature of deponent

---

Signature of witness

Name:

Qualification:

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----- Instance Type and Transmission -----  
 Notification (Transmission) of Original sent to SWIFT (ACK)  
 Network Delivery Status : Network Ack  
 Priority/Delivery : Normal  
 Message Input Reference : 1100 180808SMBCAU2SAXXX3198385002  
 ----- Message Header -----

Swift Input : FIN 103 Single Customer Credit Transfer  
 Sender : SMBCAU2SXXX  
 SUMITOMO MITSUI BANKING CORPORATION SYDNEY BRANCH  
 SYDNEY AU  
 Receiver : ANZBAU3RXXX  
 AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
 MELBOURNE AU  
 MUR : 2201808080000001  
 FIN Copy Service : PDS

----- Message Text -----

20: Sender's Reference  
 SYO1808080009  
 23B: Bank Operation Code  
 CRED  
 32A: Val Dte/Curr/Interbnk Settld Amt  
 Date : 08 August 2018  
 Currency : AUD (AUSTRALIAN DOLLAR)  
 Amount : #14,411,503.49#  
 33B: Currency/Instructed Amount  
 Currency : AUD (AUSTRALIAN DOLLAR)  
 Amount : #14,411,503.49#  
 50K: Ordering Customer-Name & Address  
 /10021101  
 SMBC LEASING AND FINANCE INC  
 277 PARK AVENUE  
 NEW YORK, 10172  
 UNITED STATES OF AMERICA  
 57D: Account With Inst -Name & Addr  
 //AU012013  
 AUSTRALIA AND NEW ZEALAND BANKING  
 GROUP LIMITED 242 PITT ST  
 59: Beneficiary Customer-Name & Addr  
 /837591252  
 FLEXIRENT CAPITAL PTY LTD  
 LEVEL 7, 179 ELIZABETH STREET,  
 SYDNEY NSW 2000  
 70: Remittance Information  
 OFFER LETTER BETWEEN FLEXIRENT AND  
 SMBCLF DATED 2 AUGUST 2018  
 71A: Details of Charges  
 SHA

----- Message Trailer -----

{CHK:EB3A959333D5}  
 PKI Signature: MAC & PAC-Equivalent

----- Interventions -----

Category : Network Report  
 Creation Time : 08/08/18 10:00:28  
 Application : SWIFT Interface  
 Operator : SYSTEM  
 Text  
 {1:F21SMBCAU2SAXXX3198385002}{4:{177:1808081100}{451:0}  
 {108:2201808080000001}}

End of Message

----- Instance Type and Transmission -----

Notification (Transmission) of Original sent to SWIFT (ACK)  
Network Delivery Status : Network Ack  
Priority/Delivery : Normal  
Message Input Reference : 1112 181002SMBCAU2SAXXX3239394801

----- Message Header -----

Swift Input : FIN 103 Single Customer Credit Transfer  
Sender : SMBCAU2SXXX  
SUMITOMO MITSUI BANKING CORPORATION SYDNEY BRANCH  
SYDNEY AU  
Receiver : ANZBAU3RXXX  
MUR : 2201810020000002  
FIN Copy Service : PDS

----- Message Text -----

20: Sender's Reference  
SYO1810020005  
23B: Bank Operation Code  
CRED  
32A: Val Dte/Curr/Interbnk Settl'd Amt  
Date : 02 October 2018  
Currency : AUD (AUSTRALIAN DOLLAR)  
Amount : #3,829,312.30#  
33B: Currency/Instructed Amount  
Currency : AUD (AUSTRALIAN DOLLAR)  
Amount : #3,829,312.30#  
50K: Ordering Customer-Name & Address  
/10021101  
SMBC LEASING AND FINANCE INC  
277 PARK AVENUE  
NEW YORK, 10172  
UNITED STATES OF AMERICA  
57D: Account With Inst -Name & Addr  
//AU012013  
AUSTRALIA AND NEW ZEALAND BANKING  
GROUP LIMITED 242 PITT ST  
59: Beneficiary Customer-Name & Addr  
/837591252

----- Message Trailer -----

{CHK:01724ABE045C}  
PKI Signature: MAC & PAC-Equivalent

----- Interventions -----

Category : Network Report  
Creation Time : 02/10/18 10:12:00  
Application : SWIFT Interface  
Operator : SYSTEM  
Text  
{1:F21SMBCAU2SAXXX3239394801}{4:{177:1810021112}{451:0}  
{108:2201810020000002}}

\*End of Message

----- Instance Type and Transmission -----

Notification (Transmission) of Original sent to SWIFT (ACK)  
Network Delivery Status : Network Ack  
Priority/Delivery : Normal  
Message Input Reference : 1152 181024SMBCAU2SAXXX3257398671

----- Message Header -----

Swift Input : FIN 103 Single Customer Credit Transfer  
Sender : SMBCAU2SXXX  
SUMITOMO MITSUI BANKING CORPORATION SYDNEY BRANCH  
SYDNEY AU  
Receiver : ANZBAU3RXXX  
MUR : 2201810240000003  
FIN Copy Service : PDS

----- Message Text -----

20: Sender's Reference  
SYO1810240005  
23B: Bank Operation Code  
CRED  
32A: Val Dte/Curr/Interbnk Settld Amt  
Date : 24 October 2018  
Currency : AUD (AUSTRALIAN DOLLAR)  
Amount : #5,728,041.00#  
33B: Currency/Instructed Amount  
Currency : AUD (AUSTRALIAN DOLLAR)  
Amount : #5,728,041.00#  
50K: Ordering Customer-Name & Address  
/10021101  
SMBC LEASING AND FINANCE INC  
277 PARK AVENUE  
NEW YORK, 10172  
UNITED STATES OF AMERICA  
57D: Account With Inst -Name & Addr  
//AU012013  
AUSTRALIA AND NEW ZEALAND BANKING  
GROUP LIMITED 242 PITT ST  
59: Beneficiary Customer-Name & Addr  
/837591252

----- Message Trailer -----

{CHK:183B54422822}  
PKI Signature: MAC & PAC-Equivalent

----- Interventions -----

Category : Network Report  
Creation Time : 24/10/18 09:52:33  
Application : SWIFT Interface  
Operator : SYSTEM  
Text  
{1:F21SMBCAU2SAXXX3257398671}{4:{177:1810241152}{451:0}}  
{108:2201810240000003}}

\*End of Message

----- Instance Type and Transmission -----

Notification (Transmission) of Original sent to SWIFT (ACK)  
Network Delivery Status : Network Ack  
Priority/Delivery : Normal  
Message Input Reference : 1408 181220SMBCAU2SAXXX3299409801

----- Message Header -----

Swift Input : FIN 103 Single Customer Credit Transfer  
Sender : SMBCAU2SXXX  
SUMITOMO MITSUI BANKING CORPORATION SYDNEY BRANCH  
SYDNEY AU  
Receiver : ANZBAU3RXXX  
MUR : 2201812200000003  
UETR : e2248896-d4fc-4d7c-8b47-50b62f72e793  
FIN Copy Service : PDS

----- Message Text -----

20: Sender's Reference  
SYO1812200003  
23B: Bank Operation Code  
CRED  
32A: Val Dte/Curr/Interbnk Settld Amt  
Date : 20 December 2018  
Currency : AUD (AUSTRALIAN DOLLAR)  
Amount : #5,740,857.35#  
33B: Currency/Instructed Amount  
Currency : AUD (AUSTRALIAN DOLLAR)  
Amount : #5,740,857.35#  
50K: Ordering Customer-Name & Address  
/10021101  
SMBC LEASING AND FINANCE INC  
277 PARK AVENUE  
NEW YORK, 10172  
UNITED STATES OF AMERICA  
57D: Account With Inst -Name & Addr  
//AU012013  
AUSTRALIA AND NEW ZEALAND BANKING  
GROUP LIMITED 242 PITT ST  
AUSTRALIA  
59: Beneficiary Customer-Name & Addr

----- Message Trailer -----

{CHK:8ED42F31B742}  
PKI Signature: MAC & PAC-Equivalent

----- Interventions -----

Category : Network Report  
Creation Time : 20/12/18 12:08:34  
Application : SWIFT Interface  
Operator : SYSTEM  
Text  
{1:F21SMBCAU2SAXXX3299409801}{4:{177:1812201408}{451:0}  
{108:2201812200000003}}

\*End of Message



## JONES DAY

AURORA PLACE • LEVEL 41, 88 PHILLIP STREET • SYDNEY NSW 2000

TELEPHONE: +61.2.8272.0500 • FACSIMILE: +61.2.8272.0599

14 July 2021

**Partner**

Maria Yiasemides / Roger Dobson

Telephone: +61 2 8272 0770 / 0534

Email: [myiasemides@jonesday.com](mailto:myiasemides@jonesday.com)

[rdobson@jonesday.com](mailto:rdobson@jonesday.com)

**BY EMAIL**

**KIERAN.KELLY@HILTONBRADLEY.COM.AU**

Mr Kieren Kelly  
Suite 1101, Level 11/99 York St  
Sydney NSW 2000

Dear Mr Kelly

**SMBC Leasing & Finance Inc, Sydney Branch v Forum Enviro (Aust) Pty Ltd  
(administrators appointed) & Anor – Federal Court of Australia proceedings  
NSD681/2021**

We act for SMBC Leasing and Finance, Inc. ARBN 602 309 366 (**SMBC L&F**).

Attached, by way of service, are the following applications and supporting affidavits filed in the Federal Court of Australia on behalf of SMBC L&F:

1. Originating Process dated 13 July 2021;
2. Interlocutory Application dated 13 July 2021;
3. Consent of provisional liquidators by Jason Preston, Jason Island and Katherine Sozou of McGrathNicol and dated 13 July 2021;
4. Consent of liquidators provided by Jason Preston, Jason Island and Katherine Sozou of McGrathNicol and dated 12 July 2021;
5. Affidavit of Roger Dobson dated 13 July 2021;
6. Affidavit of Michael Timpany dated 13 July 2021; and
7. Orders made by Justice Lee on 14 July 2021.

Links to the exhibits to the affidavits will be provided in separate emails.

AUI-931442606v1

The proceedings are listed before Justice Lee at 2:30pm on Thursday 15 June 2021.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Maria Yiasemides', with a stylized flourish at the end.

**Maria Yiasemides**  
Partner

**Roger Dobson**  
Partner

Jones Day

encl.

# JONES DAY

AURORA PLACE • LEVEL 41, 88 PHILLIP STREET • SYDNEY NSW 2000

TELEPHONE: +61.2.8272.0500 • FACSIMILE: +61.2.8272.0599

14 July 2021

**Partner**

Maria Yiasemides / Roger Dobson

Telephone: +61 2 8272 0770 / 0534

Email: [myiasemides@jonesday.com](mailto:myiasemides@jonesday.com)

[rodobson@jonesday.com](mailto:rodobson@jonesday.com)

**BY EMAIL**

[R.PANETTA@PANETTA.COM.AU](mailto:R.PANETTA@PANETTA.COM.AU)

[BPAPAS@FORUMGROUP.COM.AU](mailto:BPAPAS@FORUMGROUP.COM.AU)

Mr Rocco Panetta  
Panetta Lawyers  
Level 8/70 Castlereagh St  
Sydney NSW 2000

Mr Basile Papadimitriou  
23 Margaret Street  
Rozelle NSW 2039

Dear Messrs Panetta and Papadimitriou

**SMBC Leasing & Finance Inc, Sydney Branch v Forum Enviro (Aust) Pty Ltd  
(administrators appointed) & Anor – Federal Court of Australia proceedings  
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5. Affidavit of Roger Dobson dated 13 July 2021;
6. Affidavit of Michael Timpany dated 13 July 2021; and
7. Orders made by Justice Lee on 14 July 2021.

Links to the exhibits to the affidavits will be provided in separate emails.

AUI-931442572v2

The proceedings are listed before Justice Lee at 2:30pm on Thursday 15 July 2021.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Maria Yiasemides', with a stylized flourish at the end.

**Maria Yiasemides**  
Partner

**Roger Dobson**  
Partner

Jones Day

encl.