

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 5/11/2021 1:23:57 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: 5/11/2021 4:44:51 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.



Form 59  
Rule 29.02(1)

### Affidavit

No. NSD681 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 (in provisional liquidation) ACN 607 484 364 and others**

Respondents

Affidavit of: **Maria Yiasemides**  
Address: Level 41, 88 Phillip Street, Sydney 2000  
Occupation: Solicitor  
Date: 5 November 2021

I, Maria Yiasemides, of Level 41, 88 Phillip Street, Sydney 2000, Solicitor, say on oath:

1. I am a Partner at Jones Day, the solicitors for the Applicant (**SMBC L&F**).
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.
3. This affidavit is made in support of SMBC L&F's Interlocutory Application dated 5 November 2021 (**Amend and Service Out Application**).
4. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked "**Exhibit MY1**". Throughout this affidavit I make reference to documents in Exhibit MY1.

Filed on behalf of:	SMBC L&F, the Applicant.		
	AUI-931722244v1		
Prepared by:	Maria Yiasemides		
Law firm:	Jones Day		
Tel	(02) 8272 0770	Fax	(02) 8272 0599
Email	myiasemides@jonesday.com		
<b>Address for service</b>	Level 41, 88 Phillip Street, Sydney 2000		

5. The Amend and Service Out Application seeks:

- (a) leave to file a Further Amended Originating Application (**FAOA**) and an Amended Statement of Claim (**ASOC**) in the form annexed to the Amend and Service Out Application;
- (b) through that leave, to join to the proceedings the following additional respondents:
  - (i) Fourth Respondent, Forum Group Financial Services Pty Ltd (in prov liq) (ACN 623 033 705) (**FGFS**);
  - (ii) Fifth Respondent, Forum Group Pty Ltd (ACN 153 336 997) (**FG**);
  - (iii) Sixth Respondent, Forum Finance Pty Limited (ACN 153 301 172) (**FF**);
  - (iv) Seventh Respondent, The Forum Group of Companies Pty Ltd (ACN 151 964 626) (**TFGC**);
  - (v) Eighth Respondent, Forum Fleet Pty Ltd (ACN 155 440 994) (**Forum Fleet**);
  - (vi) Ninth Respondent, Imagetec Financial Services Pty Ltd (ACN 111 978 182) (**Imagetec FS**);
  - (vii) Tenth Respondent, Imagetec Solutions Australia Pty Ltd (ACN 074 715 718) (**Imagetec Solutions**);
  - (viii) Eleventh Respondent, Intrashield Pty Ltd (ACN 133 426 534) (**Intrashield**);
  - (ix) Twelfth Respondent, Spartan Consulting Group Pty Ltd (ACN 168 989 544) (**Spartan**);
  - (x) Thirteenth Respondent, Iugis Pty Ltd (ACN 632 882 243) (**Iugis**);
  - (xi) Fourteenth Respondent Iugis Waste Solutions Pty Ltd (ACN 647 212 299) (**Iugis Waste Solutions**);
  - (xii) Fifteenth Respondent, Iugis Holdings Limited (UK Company No. 11123437) (**Iugis Holdings**);
  - (xiii) Sixteenth Respondent, Iugis (UK) Limited (UK Company No. 10745974) (**Iugis UK**);
  - (xiv) Seventeenth Respondent, Iugis Hellas IKE (registered in the Hellenic Republic) (**Iugis Hellas**);

- (xv) Eighteenth Respondent, Iugis Energy SA (registered in the Hellenic Republic) (**Iugis Energy**);
  - (xvi) Nineteenth Respondent, Mazcon Investments Hellas IKE (registered in the Hellenic Republic) (**Mazcon**);
  - (xvii) Twentieth Respondent, 26 Edmonstone Road Pty Ltd (ACN 622 944 129) (**26 Edmonstone Rd**);
  - (xviii) Twenty First Respondent, 5 Bulkara Street Pty Ltd (ACN 630 982 160) (**5 Bulkara St**);
  - (xix) Twenty Second Respondent, 6 Bulkara Street Pty Ltd (ACN 639 734 473) (**6 Bulkara St**);
  - (xx) Twenty Third Respondent, 23 Margaret Street Pty Ltd (ACN 623 715 373) (**23 Margaret St**);
  - (xxi) Twenty Fourth Respondent, 286 Carlisle Street Pty Limited (ACN 610 042 343) (**286 Carlisle Street**); and
  - (xxii) Twenty Fifth Respondent, 64-66 Berkeley Street Hawthorn Pty Ltd (ACN 643 838 662) (**64 - 66 Berkeley Street**),  
  
(together, the **Prospective Respondents**);
- (c) leave to serve the FAOA and the ASOC outside Australia in the Hellenic Republic (**Greece**) pursuant to rule 10.43 of the Federal Court Rules on Iugis Hellas (the Seventeenth Respondent), Iugis Energy (the Eighteenth Respondent) and Mazcon (the Nineteenth Respondent); and
- (d) leave to serve the FAOA and the ASOC outside Australia in the United Kingdom of Great Britain and Northern Ireland (**the UK**) pursuant to rule 10.43 of the Federal Court Rules on Iugis Holdings (the Fifteenth Respondent), and Iugis UK (the Sixteenth Respondent).

#### **Leave to file the FAOA and the ASOC**

6. The amendments sought to be made to the FAOA and the ASOC are to plead similar claims to those made against the current respondents against additional corporate respondents falling into four categories:
- (a) additional Australian companies controlled by the Second Respondent, Mr Papas, being FGFS, FG, FF, TFGC, Forum Fleet, FS, Imagetec Solutions, Intrashield, Iugis, Iugis




Waste Solutions, Spartan, 26 Edmonstone Road, 5 Bulkara Street and 6 Bulkara Street, that received funds fraudulently obtained from SMBC L&F;

- (b) additional Australian companies that were not controlled by the Second Respondent, Mr Papas, being 23 Margaret St, 286 Carlisle Street and 64-66 Berkeley Street, that received funds fraudulently obtained from SMBC L&F;
- (c) two UK companies controlled by the Second Respondent, Mr Papas, being Iugis Holdings and Iugis UK, that received funds fraudulently obtained from SMBC L&F; and
- (d) three Greek companies controlled by the Second Respondent, Mr Papas, being Iugis Hellas, Iugis Energy and Mazcon, that received funds fraudulently obtained from SMBC L&F.

7. Company extracts obtained from Australian Securities and Investment Commission (**ASIC**) records are at the following pages of Exhibit MY1:

- (a) FGFS at pages 1 to 16;
- (b) FG at pages 17 to 36;
- (c) FF at pages 37 to 53;
- (d) TFGC at pages 54 to 87;
- (e) Forum Fleet at pages 88 to 103;
- (f) Imagetec FS at pages 104 to 125;
- (g) Imagetec Solutions at pages 126 to 153;
- (h) Intrashield at pages 154 to 171;
- (i) Iugis at pages 172 to 188;
- (j) Iugis Waste Solutions at pages 189 to 204;
- (k) Spartan at pages 205 to 219;
- (l) 26 Edmonstone Road at pages 220 to 236;
- (m) 5 Bulkara Street at pages 237 to 252;
- (n) 6 Bulkara Street at pages 253 to 268;
- (o) 23 Margaret Street at pages 269 to 278;
- (p) 286 Carlisle Street at pages 279 to 290; and
- (q) 64-66 Berkeley Street at 291 to 302.



8. Company extracts obtained from Companies House (the UK government agency which maintains the register of companies incorporated in the UK) are at the following pages of Exhibit MY1:
- (a) Iugis Holdings at pages 303 to 370; and
  - (b) Iugis UK at pages 371 to 427.
9. These records show that the registered office of both Iugis UK and Iugis Holdings is 64 New Cavendish Street, London, United Kingdom, W1G 8TB.
10. In relation to Iugis Hellas, Iugis Energy and Mazcon, I have read the affidavit of Caitlin Maria Murray sworn on 16 September 2021 in Federal Court of Australia Proceedings No NSD 616 of 2021 and Exhibit CMM-11 (filed in support of Westpac's Interlocutory Application to serve outside of Australia on, *inter alios*, Iugis Hellas, Iugis Energy and Mazcon). In this respect:
- (a) exhibited at pages 183 to 186 of Exhibit CMM-11 is a copy of a Greek company extract for Iugis Hellas and a certified translation of that document (now exhibited at pages 428 to 431 of Exhibit MY1);
  - (b) exhibited at pages 187 to 190 of Exhibit CMM-11 is a copy of a Greek company extract for Iugis Energy and a certified translation of that document (now exhibited at pages 432 to 435 of Exhibit MY1); and
  - (c) exhibited at pages 139 to 182 of Exhibit CMM-11 is a copy of a Greek company extract for Mazcon and a certified translation of that document (now exhibited at pages 436 to 479 of Exhibit MY1).
11. Those records indicate that the registered office of:
- (a) Iugis Hellas is 90 Giannitson Street, 54627 Thessaloniki, Greece;
  - (b) Iugis Energy is Building square 48A, 57022 Sindos, Thessaloniki, Greece; and
  - (c) Mazcon is 17 Ionos Dragoumi, 54625 Thessaloniki, Greece.

**Evidence of Prospective Respondents being recipients of funds fraudulently obtained from the Applicant**

The MRASAs

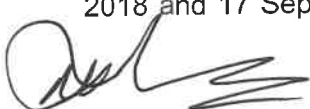
12. The affidavit of Roger Dobson sworn on 13 July 2021 and filed in these proceedings (**First Dobson Affidavit**) refers to two agreements and payments made pursuant to those agreements, which may be summarised as follows:




- (a) on 2 August 2018, SMBC L&F entered into a Master Receivables and Acquisition Servicing Agreement with Flexirent Capital Pty Ltd (**2018 MRASA**) under which it was contemplated that SMBC L&F would purchase receivables from Flexirent arising under contracts entered into between the First Respondent (**FEA**) as Flexirent's undisclosed agent and third parties;
- (b) on 17 July 2020, SMBC L&F entered into a Master Receivables and Acquisition Servicing Agreement directly with FEA (**2020 MRASA**) under which it was contemplated that SMBC L&F would purchase receivables from FEA arising under contracts entered into between FEA and third parties;
- (c) between 6 August 2018 and 19 December 2018, four separate Offer Letters were sent by Flexirent and accepted by SMBC L&F under the terms of the 2018 MRASA for a total price of \$29,709,714.14 paid by SMBC to Flexirent. In each case, the receivables sold to SMBC L&F were rental payments for equipment leases that were purportedly owed by Veolia Environmental Services (Australia) Pty Ltd (**Veolia**). Evidence of each of the payments by SMBC L&F to Flexirent under the terms of the 2018 MRASA (in the form of SWIFT payment confirmations from SMBC L&F's Neo Payment System) is annexed to the Second Affidavit of Roger Dobson sworn 14 July 2021 (**Second Dobson Affidavit**) at Annexures RD2 to RD5; and
- (d) between 27 July 2020 and 21 May 2021, fifteen separate Offer Letters were sent by FEA and accepted by SMBC L&F under the terms of the 2020 MRASA for a total price of \$83,993,909.47 that SMBC paid to FEA. In each case, the receivables sold to SMBC L&F were rental payments for equipment leases that were purportedly owed by Veolia. Evidence of each of the payments by SMBC L&F to FEA under the terms of the 2020 MRASA (in the form of SWIFT payment confirmations from SMBC L&F's Neo Payment System) are set out at pages 293 to 327 of Exhibit RD1 to the First Dobson Affidavit.
13. SMBC L&F asserts in its Statement of Claim filed on 6 August 2021 that, for each of the transactions referred to in paragraphs 12(c) and (d) above, FEA provided to SMBC L&F (either directly or through Flexirent) fraudulent documents, which purported to be issued in relation to equipment leases which did not in fact exist. In the ASOC, SMBC L&F also asserts that in addition to the existing respondents, each of the Prospective Respondents were recipients of the funds fraudulently obtained from SMBC L&F.

*Evidence of receipt of funds – the 2018 MRASA*

14. On 8 August 2018, SMBC L&F paid Flexirent an amount of \$14,411,503.49 pursuant to the First 2018 Offer Letter. Flexirent transferred \$7,689,015.40 and \$3,844,507.70 to FE on 8 August 2018 and 17 September 2018 (respectively). SMBC L&F asserts that the following prospective




respondents were, prima facie, at least partial recipients of the funds transferred to Flexirent by SMBC L&F on 8 August 2018:

- (a) FG;
- (b) Forum Fleet;
- (c) Imagetec FS; and
- (d) Imagetec Solutions,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 480 to 501 of Exhibit MY1 to support that assertion.

15. On 24 October 2018, SMBC L&F paid Flexirent an amount of \$5,728,041.00 pursuant to the Third 2018 Offer Letter. Flexirent transferred \$5,649,073.10 to FE on 25 October 2018. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to Flexirent by SMBC L&F on 24 October 2018:

- (a) FG;
- (b) FF;
- (c) TFGC; and
- (d) Intrashield,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 502 to 517 of Exhibit MY1 to support that assertion.

16. On 20 December 2018, SMBC L&F paid Flexirent an amount of \$5,740,857.35 pursuant to the Fourth 2018 Offer Letter. Flexirent transferred \$5,901,264.60 to FE on 20 December 2018. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to Flexirent by SMBC L&F on 20 December 2018:

- (a) FGFS;
- (b) FG;
- (c) FF; and
- (d) Intrashield,





and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 518 to 535 of Exhibit MY1 to support that assertion.

Evidence of receipt of funds – the 2020 MRASA

17. On 30 July 2020, SMBC L&F paid FEA an amount of \$9,994,866.18 pursuant to the First and Second 2020 Offer Letters. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 30 July 2020:

- (a) FGFS;
- (b) FG;
- (c) Intrashield;
- (d) Iugis; and
- (e) 5 Bulkara St,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 536 to 550 of Exhibit MY1 to support that assertion.

18. On 26 August 2020, SMBC L&F paid FEA an amount of \$9,056,366.96 pursuant to the Third and Fourth 2020 Offer Letters. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 26 August 2020:

- (a) FGFS;
- (b) FG;
- (c) TFGC;
- (d) Imagetec Solutions;
- (e) Spartan
- (f) Iugis;
- (g) 26 Edmonstone Rd;
- (h) 23 Margaret St; and




(i) 5 Bulkara St,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 551 to 578 of Exhibit MY1 to support that assertion.

19. On 30 September 2020, SMBC L&F paid FEA an amount of \$3,256,278.09 pursuant to the Fifth 2020 Offer Letter. SMBC L&F assert that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 30 September 2020:

(a) FGFS;

(b) FG;

(c) Iugis; and

(d) Iugis Holdings,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 579 to 594 of Exhibit MY1 to support that assertion.

20. On 17 November 2020, SMBC L&F paid FEA an amount of \$11,190,576.14 pursuant to the Sixth and Seventh 2020 Offer Letters. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 17 November 2020:

(a) FGFS;

(b) FG;

(c) TFGC;

(d) Intrashield;

(e) Spartan;

(f) Iugis;

(g) Iugis Holdings;

(h) Iugis Hellas;

(i) 26 Edmonstone Rd;



- (j) 5 Bulkara St; and
- (k) 23 Margaret St

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 595 to 628 of Exhibit MY1 to support that assertion.

21. On 23 December 2020, SMBC L&F paid FEA an amount of \$11,068,731.55 pursuant to the Eighth and Ninth 2020 Offer Letters. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 23 December 2020:

- (a) FGFS;
- (b) FG;
- (c) Iugis;
- (d) Iugis UK;
- (e) Mazcon;
- (f) 5 Bulkara Street; and
- (g) 64-66 Berkeley Street,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 629 to 649 of Exhibit MY1 to support that assertion.

22. On 5 February 2021, SMBC L&F paid FEA an amount of \$6,649,113.79 pursuant to the First 2021 Offer Letter. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 5 February 2021:

- (a) FGFS;
- (b) FG;
- (c) 5 Bulkara Street;
- (d) 6 Bulkara Street;
- (e) Imagetec Solutions;




- (f) Iugis;
- (g) Iugis UK;
- (h) 26 Edmonstone Rd; and
- (i) 64-66 Berkeley Street,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 650 to 672 of Exhibit MY1 to support that assertion.

23. On 11 March 2021, SMBC L&F paid FEA an amount of \$12,302,332.01 pursuant to the Second and Third 2021 Offer Letters. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 11 March 2021:

- (a) FGFS;
- (b) FG;
- (c) Iugis;
- (d) Iugis Holdings;
- (e) Iugis UK;
- (f) Iugis Energy;
- (g) Mazcon;
- (h) 26 Edmonstone Rd;
- (i) 5 Bulkara Street;
- (j) 6 Bulkara Street;
- (k) 23 Margaret Street;
- (l) 286 Carlisle Street; and
- (m) 64-66 Berkeley Street,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 673 to 705 of Exhibit MY1 to support that assertion.



24. On 22 April 2021, SMBC L&F paid FEA an amount of \$11,431,380.14 pursuant to the Fourth and Fifth 2021 Offer Letters. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 22 April 2021:

- (a) FGFS;
- (b) FG;
- (c) Spartan;
- (d) Mazcon;
- (e) Iugis;
- (f) Iugis Waste Solutions;
- (g) Iugis Holdings;
- (h) Iugis UK;
- (i) 23 Margaret Street;
- (j) 286 Carlisle Street; and
- (k) 64-66 Berkeley Street,

and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 706 to 733 of Exhibit MY1 to support that assertion.

25. On 26 May 2021, SMBC L&F paid FEA an amount of \$9,044,264.61 pursuant to the Sixth 2021 Offer Letter. SMBC L&F asserts that the following prospective respondents were, prima facie, at least partial recipients of the funds transferred to FEA by SMBC L&F on 26 May 2021:

- (a) FGFS;
- (b) FG;
- (c) Iugis;
- (d) Mazcon;
- (e) 26 Edmonstone Rd; and
- (f) 286 Carlisle Street,



and relies upon the transactions highlighted in the bank statements exhibited to this affidavit at pages 734 to 755 of Exhibit MY1 to support that assertion.

### **Leave to serve outside Australia**

26. Australia, the UK and Greece are all parties to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters 1965 (**the Hague Convention**). A copy of an extract from the website of the Hague Conference on Private International Law, a global inter-governmental organisation, which lists the countries that are parties the Hague Convention is located at pages 756 to 759 of Exhibit MY1. A copy of the Hague Convention is at pages 760 to 765 of Exhibit MY1.

27. Article 3 of the Hague Convention states:

*"The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality. The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate."*

28. Article 5 of the Hague Convention states:

*"... the Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either –*

*(a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory..."*

29. Article 10 of the Hague Convention states:

*"Provided the State of destination does not object, the present Convention shall not interfere with:*

*a) the freedom to send judicial documents, by postal channels, directly to persons abroad,*

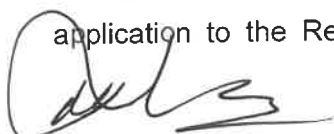
*b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,*

*c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination."*

30. In relation to the UK, the Hague Conference on Private International Law has published on its website:

(a) information about the Central Authority and practical information, which appears at pages 766 to 768 of Exhibit MY1; and

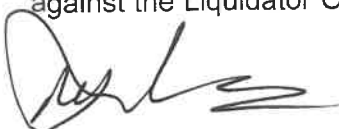
- (b) information about the declarations, reservations and notifications made under the Hague Convention by the UK, which appears at page 769 of Exhibit MY1.
31. Based on this information, the UK has made no reservation with respect to Article 10(a) of the Hague Convention and therefore, if leave is granted to serve outside Australia, SMBC L&F proposes to take steps to cause service of the FAOA and the ASOC to be effected on Iugis UK and Iugis Holdings in accordance with the method of service permitted under Article 10(a) of the Hague Convention, being by way of international registered post to each of the companies' registered offices in the UK.
32. In relation to Greece, the Hague Conference on Private International Law has published on its website:
- (a) information about the Central Authority and practical information, which appears at pages 770 to 772 of Exhibit MY1; and
- (b) information about the declarations, reservations and notifications made under the Hague Convention by Greece, which appears at page 773 of Exhibit MY1.
33. Based on this information:
- (a) Greece has declared that formal service will be effected only if the document to be served is written in, or translated into, Greek;
- (b) Greece is opposed to the method of services provided in Article 10;
- (c) the competent Australian Central Authority shall forward the request to the Greek Central Authority, which is the Ministry of Justice, Department of International Judicial Cooperation in Civil and Criminal Cases;
- (d) upon receipt of the documents, the Greek Central Authority shall forward them to the competent Public Prosecutor, namely the Prosecutor of the district where the person being served is resident (in this case, Thessaloniki) and the service of documents will be performed by a process server; and
- (e) the Public Prosecutor or the Greek Central Authority shall then send the Certificate of Service under Article 6 of the Hague Convention to the Australian Central Authority.
34. Accordingly, if leave is granted to serve outside Australia, SMBC L&F proposes to take steps to cause service of the FAOA and the ASOC to be effected on Mazcon, Iugis Hellas and Iugis Energy in Greece, in accordance with Articles 3 and 5 of the Hague Convention by making an application to the Registrar of the Court pursuant to Federal Court Rule 10.64 with a draft



request for service addressed to the Greek Central Authority, together with copies of the pleadings (in both English and Greek) and summaries of them.

**Leave to proceed against the Fourth to Fourteenth and Twentieth to Twenty Second Respondents**

35. On 9 July 2021, Jason Ireland and Jason Preston (**the Liquidators**) were appointed as joint and several liquidators of FF (the Sixth Respondent). A copy of the current ASIC extract for FF is exhibited to this affidavit at pages 37 to 53 of Exhibit MY1.
36. On 15 July 2021, the Liquidators were appointed as provisional liquidators of FGFS (the Fourth Respondent). A copy of the current ASIC extract for FGFS is exhibited to this affidavit at pages 1 to 16 of Exhibit MY1.
37. On 28 July 2021, the Liquidators were appointed as joint and several liquidators of FG (the Fifth Respondent), TFGC (the Seventh Respondent), Forum Fleet (the Eighth Respondent), Imagetec FS (the Ninth Respondent), Imagetec Solutions (the Tenth Respondent), Intrashield (the Eleventh Respondent), Spartan (the Twelfth Respondent), Iugis (the Thirteenth Respondent) and Iugis Waste Solutions (the Fourteenth Respondent). Copies of the current ASIC extracts for the Fifth and Seventh to Fourteenth Respondents are exhibited to this affidavit at pages 17 to 36 and 54 to 204 of Exhibit MY1.
38. On 3 September 2021, the Liquidators were appointed as joint and several liquidators of 26 Edmonstone Rd (Twentieth Respondent), 5 Bulkara St (the Twenty First Respondent) and 6 Bulkara St (the Twenty Second Respondent). Copies of the current ASIC extracts for the Twentieth to Twenty Second Respondents are exhibited to this affidavit at pages 220 to 268 of Exhibit MY1.
39. On 12 October 2021, I caused a solicitor at Jones Day working under my supervision, Tom Haystead, to send a letter to the solicitors for the Liquidators, Allens, seeking the Liquidators' consent to SMBC L&F's interlocutory application to proceed against the Fourth to Seventh, Ninth to Fourteenth and Twentieth to Twenty Second Respondents (**the Liquidator Controlled Entities**). That consent was sought on the basis that SMBC L&F would also seek an order that the Liquidator Controlled Entities would be excused from the requirement to file a defence in the proceedings. A copy of the letter from Jones Day to Allens dated 12 October 2021 is exhibited to this affidavit at pages 774 to 775 of Exhibit MY1.
40. On the same day, on 12 October 2021, Allens responded to the letter from Jones Day by email indicating that the Liquidators consent to SMBC L&F's interlocutory application to proceed against the Liquidator Controlled Entities on the basis that an order is sought that the Liquidator






Controlled Entities be excused from the requirement to file a defence in the proceedings. A copy of the email from Allens to Jones Day on 12 October 2021 is exhibited to this affidavit at page 776 of Exhibit MY1.

41. On 1 November 2021, Tom Haystead sent an email to the solicitors for the Liquidators, Allens, seeking the Liquidators' consent to SMBC L&F's interlocutory application to proceed against the Eighth Respondent, Forum Fleet. That consent was also sought on the basis that SMBC L&F would also seek an order that Forum Fleet would be excused from the requirement to file a defence in the proceedings. A copy of the email from Mr Haystead to Allens on 1 November 2021 is exhibited to this affidavit at page 777 of Exhibit MY1.
42. On the same day, on 1 November 2021, Allens responded to the email from Mr Haystead indicating that the Liquidators consent to SMBC L&F's interlocutory application to proceed against Forum Fleet on the basis that an order is sought that Forum Fleet be excused from the requirement to file a defence in the proceedings. A copy of the email from Allens to Mr Haystead on 1 November 2021 is exhibited to this affidavit at page 778 of Exhibit MY1.

Sworn by the deponent  
at Sydney  
in New South Wales  
on 5 November 2021  
Before me: Thomas Anthony Haystead

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

  
\_\_\_\_\_  
Signature of witness

Name: Thomas Anthony Haystead

Qualification: Solicitor