

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 16/11/2021 1:04:25 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: Statement of Claim - Form 17 - Rule 8.06(1)(a)
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: 19/11/2021 2:08:18 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 17
Rule 8.05(1)(a)

Amended Statement of claim

**Filed pursuant to leave granted by Orders 15 to 18 of the orders
made on 12 November 2021**

No. NSD681/2021

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

SMBC Leasing and Finance, Inc. Sydney Branch ARBN 602 309 366
Applicant

Forum Enviro (Aust) Pty Ltd (in provisional liquidation) ACN 607 484 364 and others
identified in the Schedule
Respondents

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A. PARTIES

(1) Applicant

1. The Applicant (**SMBC L&F**):
 - (a) is a company incorporated in the State of New York;
 - (b) is a registered foreign company for the purposes of the *Corporations Act 2001* (Cth) (**Corporations Act**);
 - (c) has, at all material times, carried on a financial services business which included the provision of financing for its clients' leasing arrangements in Australia; and
 - (d) is able to sue in its corporate name.

(2) Respondents

2. The Second Respondent (**Mr Papas**):
 - (a) was, at all material times, ordinarily resident in Australia;
 - (b) is and was at all material times a person for the purposes of sections 18 and 29 of the ACL;
 - (c) is and was at all material times a person for the purposes of sections 12DA and 12DB of the ASIC Act;
 - (d) is and was at all material times a person for the purposes of section 1041H of the Corporations Act;
 - (e) was, at all material times, the sole director and secretary of the Second Respondent, Forum Enviro (Aust) Pty Ltd (in prov liq) (ACN 607 484 364) (**FEA**);
 - (f) was, at all material times, the sole director and secretary of the Third Respondent, Forum Enviro Pty Ltd (ACN 168 709 840) (in prov liq) (~~ACN 607 484 364~~) (**FE**);
 - ~~(g) was, at all material times, with Vincenzo Tesorerio, one of the two shareholders in and directors of Forum Group Financial Services Pty Ltd (in prov liq) (ACN 623 033 705) (**FGFS**);~~

(~~hg~~) ~~in addition to FEA, FE and FGFS, at all material times, directly or indirectly owned or controlled~~was a director or shareholder of each of the following companies ~~incorporated in Australia:~~

(i) the Twenty-First Respondent, 5 Bulkara Street Pty Ltd (in liq) (ACN 630 982 160) (5 Bulkara St); and

(ii) the Twenty-Second Respondent, 6 Bulkara Street Pty Ltd (in liq) (ACN 639 734 473) (6 Bulkara St).

(iii) 14 James Street Pty Ltd (in liq) (ACN 638 449 206);

(iv) the Twentieth Respondent, 26 Edmonstone Road Pty Ltd (in liq) (ACN 622 944 129) (26 Edmonstone Road);

(~~iv~~) Aramia Holdings Pty Ltd (ACN 114 958 717) (Aramia Holdings);

(~~ii~~) ~~Autonomus~~vi Autonomous Energy Pty Ltd (ACN 113 593 383);

(~~iii~~vii) Eros Management Pty Ltd (ACN 622 298 346) (Eros Management);

(~~iv~~viii) Forum Direct Pty Ltd (in liq) (ACN 054 890 710);

(~~vix~~) the Eighth Respondent, Forum Fleet Pty Limited (in liq) (ACN 155 440 994) (Forum Fleet);

(~~vix~~) the Sixth Respondent, Forum Finance Pty Limited (in liq) (ACN 153 301 172) (FF);

(~~vii~~xi) Forum Group (QLD) Pty Ltd (in liq) (ACN 103 609 678);

(~~viii~~xii) Forum Group (VIC) Pty Ltd (in liq) (ACN 153 062 018);

(~~ix~~) xiii the Fifth Respondent, Forum Group Pty Ltd (in liq) (ACN 153 336 997) (FG);

(xiv) the Fourth Respondent, Forum Group Financial Services Pty Ltd (in prov liq) (ACN 623 033 705) (FGFS);

(~~xv~~) the Ninth Respondent, Imagetec Financial Services Pty Ltd (in liq) (ACN 111 978 182) (Imagetec FS);

~~(xi)~~ xvi) the Tenth Respondent, Imagetec Solutions Australia Pty Ltd (in liq) (ACN 074 715 718) (Imagetec Solutions);

~~(xii)~~ xvii) Intrashield Investment Group Pty Ltd (in liq) (ACN 645 578 829);

~~(xiii)~~ xviii) Intrashield Financial Services Pty Ltd (ACN 650 501 321)

~~(xiv)~~ xix) the Eleventh Respondent, Intrashield Pty Ltd (in liq) (ACN 133 426 534) (Intrashield);

~~(xv)~~ xx) Iugis Investments Pty Ltd (in liq) (ACN 647 627 745) (Iugis Investments);

~~(xvi)~~ xxi) the Thirteenth Respondent, Iugis Pty Ltd (in liq) (ACN 632 882 243) (Iugis);

~~(xvii)~~ xxii) the Fourteenth Respondent, Iugis Waste Solutions Pty Ltd (in liq) (ACN 647 212 299) (Iugis Waste Solutions);

~~(xviii)~~ xxiii) Onesource Australia Holdings Pty Limited (in liq) (ACN 120 463 541);

~~(xix)~~ xxiv) Orca Enviro Solutions Pty Ltd (in liq) (ACN 626 552 645);

~~(xx)~~ xxv) Orca Enviro Systems Pty Ltd (in liq) (ACN 627 597 782);

~~(xxi)~~ xxvi) Smartprint Fleet Management Pty Ltd (in liq) (ACN 132 807 080);

~~(xxii)~~ xxvii) Palante Pty Ltd (ACN 135 344 151);

~~(xxiii)~~ xxviii) ifish finance Pty Ltd (ACN 118 683 542);

~~(xxiv)~~ xxix) the Twelfth Respondent, Spartan Consulting Group Pty Ltd (in liq) (ACN 168 989 544) (Spartan); and

~~(xxv)~~ xxx) the Seventh Respondent, The Forum Group of Companies Pty Ltd (in liq) (ACN 151 964 626) (TFGC);

(xxxi) the Fifteenth Respondent, Iugis Holdings Limited (UK Company No. 11123437) (Iugis Holdings);

(xxxii) the Sixteenth Respondent, Iugis (UK) Limited (UK Company No. 10745974) (Iugis UK);

(xxxiii) the Seventeenth Respondent, Iugis Hellas IKE (registered in the Hellenic Republic) (Iugis Hellas);

(xxxiv) the Eighteenth Respondent, Iugis Energy SA (registered in the Hellenic Republic) (Iugis Energy); and

(xxxv) the Nineteenth Respondent, Mazcon Investments Hellas IKE (registered in the Hellenic Republic) (Mazcon).

~~(together, the **Papas Controlled Entities**).~~

~~(i) at all material times directly or indirectly owned and controlled, with Mr Tesorerio, the following companies incorporated in Australia:~~

~~(i) 64-66 Berkeley St, Hawthorn Pty Ltd (ACN 643 838 662);~~

~~(ii) 14 James Street Pty Ltd (ACN 638 449 206);~~

~~(iii) 26 Edmonstone Road Pty Ltd (ACN 622 944 129);~~

~~(iv) 5 Bulkara Street Pty Ltd (ACN 630 982 160); and~~

~~(v) 6 Bulkara Street Pty Ltd (ACN 639 734 473).~~

(together, the **Jointly Owned**Papas Related Entities).

3. The First Respondent, FEA:

(a) is a company incorporated within Australia;

(b) is able to be sued;

(c) was duly registered as a corporation under the Corporations Act on 5 August 2015;

(d) has had Mr Papas as the sole director and secretary since 5 August 2015;

(e) has 1 share on issue which has been held at all times by TFGC;

(f) had Domenico Alessandro Calabretta, Grahame Robert Ward and Thyge Trafford-Jones (**Administrators**) as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until the termination of the voluntary administration of FEA by court order on ~~4~~15 July 2021; and

(g) has Jason Preston and Jason Ireland of McGrathNicol (**Liquidators**) as its provisional liquidators, who were appointed jointly and severally by the Court on ~~46~~15 July 2021 pursuant to s 472(2) of the Corporations Act.

4. The Third Respondent, FE:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 24 March 2014;
- (d) has had Mr Papas as the sole director and secretary since 24 March 2014;
- (e) has 10,000 shares on issue which ~~have been~~are currently held ~~at all times~~ by TFGC;
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until the termination of the voluntary administration of FE by court order on ~~46~~15 July 2021; and
- (g) has the Liquidators as its provisional liquidators, who were appointed jointly and severally by the Court on ~~46~~15 July 2021 pursuant to s 472(2) of the Corporations Act.

4A. The Fourth Respondent, FGFS:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 23 November 2017;
- (d) has had Mr Papas as a director and secretary since 23 November 2017;
- (e) had Vince Tesoriero (**Mr Tesoriero**) as a director from 13 November 2018 to 30 April 2020;
- (f) has had no directors other than Mr Papas and Mr Tesoriero;
- (g) has 2 shares on issue of which:
 - (i) one share is held by Mr Papas; and

(ii) one share is held by Mr Tesoriero:

(h) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until the termination of the voluntary administration of FGFS on 15 July 2021; and

(i) has the Liquidators as its provisional liquidators, who were appointed by the Court on 15 July 2021 pursuant to s 472(2) of the Corporations Act.

4B. The Fifth Respondent, FG:

(a) is a company incorporated within Australia;

(b) is able to be sued;

(c) was duly registered as a corporation under the Corporations Act on 21 September 2011;

(d) is one of the Papas Related Entities and has had Mr Papas as the sole director and secretary since 21 September 2011;

(e) has 100 shares on issue which have been held at all times by TFGC;

(f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 22 July 2021;

(g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment by court order on 22 July 2021 until the termination of the voluntary administration of FG on 28 July 2021; and

(h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4C. The Sixth Respondent, FF:

(a) is a company incorporated within Australia;

(b) is able to be sued;

(c) was duly registered as a corporation under the Corporations Act on 19 September 2011;

- (d) is one of the Papas Related Entities and has had Mr Papas as a director and secretary since 19 September 2011;
- (e) has had Mr Tesoriero as a director since 1 April 2017;
- (f) has 100 shares on issue which have been held at all times by TFGC; and
- (g) has the Liquidators as its joint and several liquidators, who were appointed by the Court on 9 July 2021 pursuant to s 472(2) of the Corporations Act.

4D. The Seventh Respondent, TFGC:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 7 July 2011;
- (d) is one of the Papas Related Entities and has had Mr Papas as
 - (i) a director and secretary since 28 September 2011; and
 - (ii) sole director since 24 April 2020.
- (e) had Mr Tesoriero as a director from 27 January 2013 to 24 April 2020;
- (f) has 15,199,626 shares on issue of which:
 - (i) Mr Papas has an indirect interest in at least 9,029,289 shares (59.4%) as follows:
 - (A) 5,445,239 shares through Aramia Holdings;
 - (B) 3,584,050 shares through Intrashield (of which he indirectly holds a 50% shareholding);
 - (ii) Mr Tesoriero has an indirect interest in at least 5,873,355 shares (38.6%) as follows:
 - (A) 2,289,305 shares through Tesoriero Investment Group Pty Ltd (a company of which Mr Tesoriero and his father, Giovanni Tesoriero (Mr Tesoriero Snr), are the only directors); and

(B) 3,584,050 through Intrashield (of which he indirectly holds a 50% shareholding).

- (g) owns all of the shares in FEA, FE, FG and FF;
- (h) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until their termination on 21 July 2021;
- (i) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment by court order on 21 July 2021 until the termination of the voluntary administration of TFGC on 28 July 2021; and
- (j) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4E. The Eighth Respondent, Forum Fleet:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 1 February 2012;
- (d) is one of the Papas Related Entities and has had Mr Papas as sole director and secretary since 1 February 2012;
- (e) has 2 shares on issue which have been held at all times by TFGC;
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until their termination on 21 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Forum Fleet on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4F. The Ninth Respondent, Imagetec FS:

- (a) is a company incorporated within Australia;

- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 26 November 2004;
- (d) is one of the Papas Related Entities and has had Mr Papas as sole director and secretary since 28 March 2014;
- (e) has 1,201,000 shares on issue which have been held at all relevant times by FF;
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until their termination on 21 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Imagetec FS on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4G. The Tenth Respondent, Imagetec Solutions:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 4 July 1996;
- (d) is one of the Papas Related Entities and has had Mr Papas as sole director and secretary since 3 April 2017;
- (e) has TFGC as its ultimate holding company;
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until their termination on 21 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Imagetec Solutions on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4H. The Eleventh Respondent, Intrashield:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 25 September 2008;
- (d) is one of the Papas Related Entities and has had Mr Papas as:
 - (i) a director since 6 May 2012; and
 - (ii) sole director and secretary since 7 July 2014;
- (e) has 100 shares on issue of which:
 - (i) 50 are held by Eros Management (of which Mr Papas is the sole director and shareholder); and
 - (ii) 50 are held by Tesoriero Investment Group Pty Ltd (of which Mr Tesoriero and his father Giovanni Tesoriero (**Mr Tesoriero Snr**) are the directors and shareholders).
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until their termination on 28 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Intrashield on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4I. The Twelfth Respondent, Spartan:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 8 April 2014;

- (d) is one of the Papas Related Entities and has had Mr Papas as sole director and secretary since 8 April 2014;
- (e) has 1 shares on issue which has been held at all times by Mr Papas
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 21 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Spartan on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4J. The Thirteenth Respondent, Iugis:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 12 April 2019;
- (d) is one of the Papas Related Entities and has had Mr Papas as sole director and secretary since 12 April 2019;
- (e) has 1 share on issue which:
 - (i) was held by Mr Papas from 12 April 2019 to 6 March 2020; and
 - (ii) has been, since 6 March 2020, and is currently held by Iugis Holdings Limited (a corporation registered in the United Arab Emirates);
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 21 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Iugis on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4K. The Fourteenth Respondent, Iugis Waste Solutions:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 18 January 2021;
- (d) is one of the Papas Related Entities and has had Mr Papas as sole director and secretary since 18 January 2021;
- (e) has 100 shares on issue which have been held at all times by Iugis Investments (which has at all times had Mr Papas as the sole director and Iugis Holdings as the sole shareholder);
- (f) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 21 July 2021;
- (g) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of Iugis Waste Solutions on 28 July 2021; and
- (h) has the Liquidators as its joint and several liquidators, who were appointed by the Court on 28 July 2021.

4L. The Fifteenth Respondent, Iugis Holdings:

- (a) is a company incorporated in England and Wales;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Companies Act 2006 (UK) on 22 December 2017;
- (d) was formerly known as Orca Enviro Holdings Limited; and
- (e) is one of the Papas Related Entities and has had Mr Papas as sole director and shareholder since 22 December 2017.

4M. The Sixteenth Respondent, Iugis UK:

- (a) is a company incorporated in England and Wales;

- (b) is able to be sued;
- (c) was duly registered as a corporation under the Companies Act 2006 (UK) on 28 April 2017;
- (d) was formerly known as Iugis Systems (UK) Limited and Orca Systems (UK) Limited; and
- (e) is one of the Papas Related Entities and has had Mr Papas as sole director and shareholder since 28 April 2017.

4N. The Seventeenth Respondent, Iugis Hellas:

- (a) is a company incorporated in the Hellenic Republic;
- (b) was incorporated on 13 March 2019 and registered in the General Commercial Registry with registration number 149668304000;
- (c) was formerly known as Orca Enviro Systems Hellas IKE;
- (d) is one of the Papas Related Entities and has had Mr Papas as a director at all material times;
- (e) has Mr Papas as the holder of 98% of its shares; and
- (f) has Anastasios Chalemis as the holder of 2% of its shares.

4O. The Eighteenth Respondent, Iugis Energy:

- (a) is a company incorporated in the Hellenic Republic;
- (b) is registered in the General Commercial Registry with registration number 1579760060000;
- (c) is one of the Papas Related Entities and has had Mr Papas as a director at all material times;
- (d) has Iugis Holdings as the holder of 99% of its shares; and
- (e) has Craig Rollinson as the holder of 1% of its shares.

4P. The Nineteenth Respondent, Mazcon:

- (a) is a company incorporated in the Hellenic Republic;
- (b) was incorporated on 26 September 2018 and registered in the General Commercial Registry with registration number 147896606000;
- (c) is one of the Papas Related Entities and has had Mr Papas as a director at all material times;
- (d) has Mr Papas as the holder of 99% of its shares; and
- (e) has Anastasios Giamouridis as the holder of 1% of its shares.

4Q. The Twentieth Respondent, 26 Edmonstone St:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 20 November 2017;
- (d) is one of the Papas Related Companies and has had Mr Papas as a director and secretary since 20 November 2017;
- (e) had Mr Tesoriero as a director from 20 November 2017 to 1 May 2020;
- (f) has Mr Papas and Mr Tesoriero as shareholders with one share each;
- (g) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 21 July 2021;
- (h) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of 26 Edmonstone St on 28 July 2021; and
- (i) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4R. The Twenty-First Respondent, 5 Bulkara St:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;

- (c) was duly registered as a corporation under the Corporations Act on 14 January 2019;
- (d) is one of the Papas Related Entities and has had Mr Papas as a director and secretary since 14 January 2019;
- (e) had Mr Tesoriero as a director from 1 March 2019 to 30 April 2020;
- (f) has Mr Papas and Mr Tesoriero as shareholders with one share each;
- (g) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 21 July 2021;
- (h) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of 5 Bulkara St on 28 July 2021; and
- (i) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4S. The Twenty-Second Respondent, 6 Bulkara St:

- (a) is a company incorporated within Australia;
- (b) is able to be sued;
- (c) was duly registered as a corporation under the Corporations Act on 13 March 2020;
- (d) is one of the Papas Related Entities and has had Mr Papas as a director and secretary since 13 March 2020;
- (e) had Mr Tesoriero as a director from 13 March 2020 to 27 October 2020;
- (f) has Mr Papas and Mr Tesoriero as shareholders with one share each;
- (g) had the Administrators as its voluntary administrators from their appointment by Mr Papas on 8 July 2021 until termination on 21 July 2021;
- (h) had the Liquidators and Katherine Sozou as its voluntary administrators from their appointment on 21 July 2021 until the termination of the voluntary administration of 6 Bulkara St on 28 July 2021; and

(i) has the Liquidators as its joint and several liquidators, who were appointed on 28 July 2021.

4T. The Twenty-Third Respondent, 23 Margaret St:

(a) is a company incorporated within Australia;

(b) is able to be sued;

(c) was duly registered as a corporation under the Corporations Act on 9 January 2018;
and

(d) has had Mr Tesoriero as its sole director and shareholder since 9 January 2018.

4U. The Twenty-Fourth Respondent, 286 Carlisle St:

(a) is a company incorporated within Australia;

(b) is able to be sued;

(c) was duly registered as a corporation under the Corporations Act on 5 January 2016;

(d) has had Mr Tesoriero as a director and sole shareholder since 8 November 2017;
and

(e) has had Mr Tesoriero Snr as a director since 8 November 2017.

4V. The Twenty-Fifth Respondent, 64-66 Berkeley St:

(a) is a company incorporated within Australia;

(b) is able to be sued;

(c) was duly registered as a corporation under the Corporations Act on 26 August 2020;

(d) has had Mr Tesoriero as a director since 26 August 2020;

(e) had Mr Papas as a director between 26 August 2020 and 2 November 2020; and

(f) has Mr Tesoriero and Mr Papas as shareholders with 50 shares each.

B. THE MASTER AGREEMENTS

(1) The 2018 Master Receivables Agreement

5. On 13 June 2018, FEA entered into a Principal and Agency Agreement with Flexirent Capital Pty Ltd (**Flexirent**), which set out the terms on which FEA would act as Flexirent's undisclosed agent in relation to certain rental, lease and technology licence agreements for wholesale and retail customers that Flexirent was in the business of providing (**Flexirent Agency Agreement**).
6. On 2 August 2018, SMBC L&F entered into a Master Receivables and Acquisition Servicing Agreement with Flexirent (**2018 MRASA**) and a Supplemental Deed, which together set out the terms on which SMBC L&F would purchase receivables and related assets from Flexirent that arose under contracts which had purportedly been entered into between FEA and Veolia Environmental Services (Australia) Pty Ltd (**Veolia**).
7. Under the terms of the 2018 MRASA and the Supplemental Deed:
 - (a) any purchase of receivables would be documented by way of separate "Offer Letters" sent by Flexirent and accepted by SMBC L&F, which would incorporate terms set out in the 2018 MRASA;
 - (b) each Offer Letter would specify the receivables and related assets being sold and the purchase price payable by SMBC L&F; [and](#)
 - (c) any purchase of receivables would take effect by way of equitable assignment, although SMBC L&F had rights to obtain the legal title in certain circumstances (for example, by providing notice of the assignment to the relevant customer).
8. Also on 2 August 2018, SMBC L&F, Flexirent and FEA entered into an agent side letter, under which SMBC L&F appointed FEA as its collection agent in relation to the receivables from the various underlying leasing arrangements in respect of the equipment (**Agent Side Letter**).
9. Also on 2 August 2018, Flexirent executed a Title Perfection Power of Attorney Deed Poll (**TP Power of Attorney**), under which Flexirent appointed each director and other specified officers of SMBC L&F severally as its attorney to take steps to perfect SMBC's interest in the assigned receivables following a "Title Perfection Event" (as defined) under the 2018 MRASA.

(2) The 2020 Master Receivables Agreement

10. On 17 July 2020, FEA and SMBC L&F entered into a Master Receivables Acquisition and Servicing Agreement (**2020 MRASA**) and a Supplemental Deed which set out the terms on which SMBC L&F would purchase receivables from FEA that arose under contracts entered into between FEA and Veolia.
11. Under the terms of the 2020 MRASA and the Supplemental Deed:
 - (a) any purchase of receivables would be documented by way of separate “Offer Letters” sent by FEA and accepted by SMBC L&F, which would incorporate terms set out in the 2020 MRASA;
 - (b) each Offer Letter would specify the receivables being sold and the purchase price payable by SMBC L&F;
 - (c) SMBC L&F would acquire the legal interest in any receivables; and
 - (d) FEA would act as collection agent for SMBC L&F, collecting payments under the relevant contracts and forwarding those to SMBC L&F.

C. THE FRAUDULENT SCHEME

12. On a date not known to SMBC L&F but by no later than 6 August 2018, Mr Papas and either together with Mr Tesoriero or alone, devised a scheme involving FEA ~~and~~ FE and other persons or entities related to one or both of them (including entities that they would later bring into existence) to obtain money dishonestly and fraudulently from SMBC L&F that they were not entitled to receive (**Scheme**).
13. In the period from 6 August 2018 to 21 May 2021, the Scheme operated as follows:
 - (a) Mr Papas would create or cause to be created false and fraudulent documents to be provided to SMBC L&F under the 2018 MRASA and, subsequently, the 2020 MRASA including by forging signatures of the counterparties on the fraudulent documents (**Fraudulent Documents**) and falsely signing many of those documents as a witness;
 - (b) the Fraudulent Documents referred to in sub-paragraph (a) purported to record transactions which were a fiction and of which the purported counterparty, Veolia, was unaware and into which Veolia had not entered;

- (c) in respect of the 2018 MRASA, Mr Papas would submit or cause to be submitted the Fraudulent Documents to Flexirent intending that Flexirent would pass the Fraudulent Documents to SMBC L&F as part of the Scheme and that SMBC L&F would pay funds in accordance with the Fraudulent Documents to Flexirent;
- (d) in respect of the 2020 MRASA, Mr Papas would submit or cause to be submitted the Fraudulent Documents to SMBC L&F intending that SMBC L&F would pay funds in accordance with the Fraudulent Documents to FEA;
- (e) SMBC L&F did, in reliance upon the Fraudulent Documents and the representations made through them, pay funds to Flexirent (under the 2018 MRASA) and to FEA (under the 2020 MRASA);
- (f) in respect of the 2018 MRASA, Flexirent would reimburse itself for amounts it had already advanced to FE in respect of the 2018 MRASA and then pay substantially all of the rest of the funds it received from SMBC L&F to FE ~~and other entities controlled by Mr Papas (2018 Recipients)~~;
- (g) ~~the 2018 Recipients~~ FE and FEA would then disperse the funds received from Flexirent and SMBC L&F to other companies related to Mr Papas or Mr Tesoriero, including the Papas ~~Controlled~~ Related Entities ~~and the Jointly Owned Entities~~ or otherwise used the funds for their own purposes;
- (h) FEA would make periodic payments to the collections account of SMBC L&F as part of the concealment of the Scheme.

Particulars

In the period from 6 August 2018 to 21 May 2021, 19 transactions using the Fraudulent Documents were carried out pursuant to the Scheme. The transactions carried out pursuant to the Scheme are set out in section D below.

14. The dishonest and fraudulent purpose of Mr Papas and Mr Tesoriero, or Mr Papas alone, in devising and implementing the Scheme was:
- (a) to benefit themselves and people and entities related to them, to the detriment of SMBC L&F;
 - (b) to spend the funds on properties including the properties acquired by the ~~Jointly Owned Entities and the~~ Papas ~~Controlled~~ Related Entities;

- (c) to spend the funds on businesses in Australia and overseas (including in Greece, the United Kingdom, Germany and the United Arab Emirates) for the benefit of themselves and people and entities related to them, to the detriment of SMBC L&F.

D. THE FRAUDULENT TRANSACTIONS

(1) The Offer Letters and payments by SMBC L&F under the 2018 MRASA

15. On 6 August 2018, SMBC L&F received an Offer Letter from Flexirent (**First 2018 Offer Letter**) which relied on and attached two underlying Technology Licence Agreements purportedly executed by Veolia Environmental Services (Australia) Pty Ltd (**Veolia**):
- (a) a Technology Licence Agreement – Waste Management commencing 5 July 2018; and
- (b) a Technology Licence Agreement – Waste Management commencing 5 August 2018.
16. On 8 August 2018, pursuant to the First 2018 Offer Letter and the terms of the 2018 MRASA, SMBC L&F made a payment to Flexirent in the sum of \$14,411,503.49 (**First 2018 Payment**).
17. ~~After receiving the First 2018 Payment, Flexirent transferred a substantial part~~ paid the traceable proceeds of the First 2018 Payment to FE.

Particulars

On 21 June 2018, Flexirent paid \$4,435,587.20 to FE

On 25 June 2018, Flexirent paid \$2,217,793.60 to FE

(together, **Advances**)

Flexirent paid the Advances to FE in anticipation of receiving payments from SMBC L&F pursuant to the 2018 MRASA, from which Flexirent intended to reimburse itself for the Advances.

On 8 August 2018, Flexirent paid \$7,689,015.40 ~~of the First 2018 Payment~~ to FE.

On 17 September 2018, Flexirent paid \$3,844,507.70 to FE.

~~Further particulars will be provided after further investigations, and service of and production pursuant to subpoenas.~~

[Flexirent used the balance of the First 2018 Payment to reimburse itself for the Advances.](#)

18. On 28 September 2018, SMBC L&F received a second Offer Letter from Flexirent (**Second 2018 Offer Letter**), which relied on and attached an underlying Technology Licence Agreement – Waste Management commencing 1 September 2018 purportedly executed by Veolia.
19. On 2 October 2018, pursuant to the Second 2018 Offer Letter and the terms of the 2018 MRASA, SMBC L&F made a payment to Flexirent in the sum of \$3,829,312.30 (**Second 2018 Payment**).
20. ~~SMBC L&F does not presently know whether and to whom~~ Flexirent ~~transferred~~ [paid the traceable proceeds of](#) the Second 2018 Payment [to FE](#).

Particulars

Further particulars will be provided after further investigations, and service of and production pursuant to subpoenas.

[Flexirent paid the Advances to FE.](#)

[Flexirent paid the Advances to FE in anticipation of receiving payments from SMBC L&F pursuant to the 2018 MRASA, from which Flexirent intended to reimburse itself for the Advances.](#)

[Flexirent used the whole of the Second 2018 Payment to reimburse itself for the Advances.](#)

21. On 23 October 2018, SMBC L&F received a third Offer Letter from Flexirent (**Third 2018 Offer Letter**) which relied on and attached an underlying Technology Licence Agreement – Waste Management commencing 1 October 2018 purportedly executed by Veolia.
22. On 24 October 2018, pursuant to the Third 2018 Offer Letter and the terms of the 2018 MRASA, SMBC L&F made a payment to Flexirent in the sum of \$5,728,041 (**Third 2018 Payment**).
23. ~~After receiving the Third 2018 Payment,~~ Flexirent ~~transferred substantially all~~ [paid the traceable proceeds](#) of the Third 2018 Payment to FE.

Particulars

On 25 October ~~2015~~ [2018](#), Flexirent paid \$5,649,073.10 ~~of the Third 2018 Payment~~ to FE.

~~Further particulars will be provided after further investigations, and service of and production pursuant to subpoenas.~~

24. On 19 December 2018, SMBC L&F received a fourth Offer Letter from Flexirent (**Fourth 2018 Offer Letter**) which relied on and attached an underlying Technology Licence Agreement – Waste Management commencing 1 December 2018 (~~Usage Charge: \$119,130 per month~~) which was purportedly executed by Veolia.
25. On 20 December 2018, pursuant to the Fourth 2018 Offer Letter and the terms of the 2018 MRASA, SMBC L&F made a payment to Flexirent in the sum of \$5,740,857.35 (**Fourth 2018 Payment**).
26. ~~After receiving the Fourth 2018 Payment,~~ Flexirent ~~transferred all~~ paid the traceable proceeds of the Fourth 2018 Payment to FE.

Particulars

On 20 December ~~2020~~2018, Flexirent paid \$5,901,264.60, ~~including all of the Fourth 2018 Payment,~~ to FE.

~~Further particulars will be provided after further investigations, and service of and production pursuant to subpoenas.~~

27. For each of the four Offer Letters sent to SMBC L&F by Flexirent between 6 August 2018 and 19 December 2018 pursuant to the terms 2018 MRASA (described at paragraphs 15 to 24 above), Mr Papas prepared or caused to be prepared, and signed, false and fraudulent documents that purported to be:
 - (a) Technology License Agreements executed by Veolia when in fact they were not executed by Veolia and no such transaction existed (**2018 TLAs**); and
 - (b) the Offer Letters relying on the 2018 TLAs,(together, the **2018 MRASA Transaction Documents**).
28. Mr Papas forged, or caused to be forged, purported signatures of employees or officers of Veolia on the 2018 TLAs.
29. Mr Papas and FEA caused Flexirent to submit the 2018 TLAs to SMBC L&F.
30. By the conduct described in the preceding paragraphs, Mr Papas and FEA represented to SMBC L&F that:

- (a) the transactions set out in the 2018 Transaction Documents were genuine;
- (b) the 2018 TLAs had been executed by and were binding on Veolia;
- (c) the 2018 MRASA Transaction Documents, and the security contemplated by them, were valid, binding and enforceable;
- (d) the 2018 Transaction Documents were complete ~~and~~ accurate and not misleading;
- (e) there was no fraud, dishonesty, misrepresentation or negligence on the part of FEA in connection with the selection and offer of the 2018 MRASA Transaction Documents; and
- (f) the assets to be provided to Veolia to which the 2018 Transaction Documents related had been delivered to and duly accepted by Veolia on or before the payment of any money to Flexirent,

(2018 Representations).

31. Each of the 2018 Representations was false because:

- (a) the transactions set out in the 2018 Transaction Documents were not genuine and were a fiction;
- (b) the 2018 TLAs had not been executed by and were not binding on Veolia, but rather forged by Mr Papas or at Mr Papas' direction;
- (c) the 2018 MRASA Transaction Documents, and the security contemplated by them, were not valid, binding and enforceable;
- (d) there was fraud, dishonesty, misrepresentation and negligence on the part of FEA as the 2018 Transaction Documents were false and fraudulent; and
- (e) the assets represented to be provided to Veolia to which the 2018 Transaction Documents related had not been delivered to and duly accepted by Veolia, but rather did not exist at all.

32. Mr Papas and FEA made each of the 2018 Representations with knowledge that they were false (both wilfully false and without an honest belief in their truth).

33. Mr Papas and FEA made each of the 2018 Representations with the intention that they should be acted upon by SMBC L&F in a manner which would result in damage to it, being the payment away of money in relation to a transaction and an underlying security that did not exist.
34. SMBC L&F relied on the 2018 Transaction Documents and the 2018 Representations and they produced in the mind of SMBC L&F an erroneous belief that the 2018 Transaction Documents and the underlying transactions they documented, were genuine, when in fact they were not.
35. As a consequence of its reliance, SMBC L&F paid away the amount of \$29,709,714.14 to an Australia and New Zealand Bank Account in the name of Flexirent pursuant to the 2018 MRASA Transaction Documents.
36. Flexirent gave no value for the receipt of the amount of \$29,709,714.14.
37. On and from the time that Flexirent received the funds from SMBC L&F, Flexirent held those amounts on trust for SMBC L&F pursuant to the principles in *Black v S Freedman & Company* (1910) 12 CLR 105.
38. In breach of trust, Flexirent transferred ~~at least~~ \$23,083,860.80 of the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents to ~~the 2018 Recipients~~ FE.
39. On and from the date that Flexirent transferred the funds it received from SMBC L&F to ~~the 2018 Recipients, each of the 2018 Recipients:~~ FE, FE:
- (a) knew that the amount it was receiving was paid to it in breach of trust (because of the knowledge of Mr Papas who controlled ~~the 2018 Recipients~~ FE); and
 - (b) knowingly assisted Mr Papas to implement the fraudulent scheme to receive those funds for his and their benefit.

40. [not used]

~~40. Other than FE, the identity of the 2018 Recipients to whom Flexirent paid the funds it received from SMBC L&F as a result of the 2018 Transaction Documents and the 2018 Representations is currently unknown.~~

Particulars

~~Further particulars will be provided in due course.~~

41. ~~On dates unknown, the 2018 Recipients~~Following receipt, FE transferred the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2018 Representations to ~~entities controlled by Mr Papas~~the Papas Related Entities (including Imagetec FS, Imagetec Solutions, FG, FF and TFGC) or otherwise used them for its own purposes.

Particulars

Further particulars of SMBC L&F's tracing claim will be provided in due course.

42. On and from the date that ~~the 2018 Recipients~~FE transferred the funds paid by SMBC L&F to ~~entities controlled by Mr~~the Papas Related Entities, those entities:
- (a) knew that the ~~amount~~amounts they were receiving were paid to them in breach of trust (because of the knowledge of Mr Papas who controlled the entities); and
 - (b) knowingly assisted Mr Papas to implement the fraudulent scheme to receive those funds for his and its benefit.
43. ~~The identity of the other persons to whom the funds paid to the 2018 Recipients by Flexirent~~SMBC L&F is currently unaware of the identities of all of the recipients who received amounts wholly or partly traceable to funds advanced under the 2018 Transaction Documents and as a result of the 2018 ~~Transaction Documents and the 2018~~ Representations ~~were dispersed is currently unknown.~~

Particulars

Further particulars of SMBC L&F's tracing claim will be provided in due course.

(2) Documents under the 2020 MRASA

44. On 27 July 2020, SMBC L&F received the following from FEA:
- (a) a Master Technology Licence Agreement – Waste Management dated 23 July 2020 (**2020 MTLA Waste**) purportedly executed by Veolia; and
 - (b) a Master Technology Licence Agreement – Health UV-C Disinfection dated 23 July 2020 (**2020 MTLA Health**) purportedly executed by Veolia.
45. ~~In~~On 9 November 2020, SMBC L&F received from FEA a letter purporting to be from Veolia and purporting to have been executed by Veolia referring to the 2020 MTLA Waste and the

2020 MTLA Health, confirming the authorised signatories and providing specimen signatures (**Authorised Officer Certificate**).

(3) *The Offer Letters and payments by SMBC L&F under the 2020 MRASA*

46. On 27 July 2020, SMBC L&F received an Offer Letter from FEA (**First 2020 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 23 July 2020 purportedly executed by Veolia.
47. On 30 July 2020, pursuant to the First 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$8,444,416,05.
48. Also on 27 July 2020, SMBC L&F received a second Offer Letter from FEA (**Second 2020 Offer Letter**) which relied on the 2020 MTLA Health and attached a TLA Schedule dated 23 July 2020 purportedly executed by Veolia.
49. Also on 30 July 2020, pursuant to the Second 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$1,550,450.13.
50. On 21 August 2020, SMBC L&F received a third Offer Letter from FEA (**Third 2020 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 18 August 2020 purportedly executed by Veolia.
51. On 26 August 2020, pursuant to the Third 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$6,576,383.83.
52. Also on 21 August 2020, SMBC L&F received a fourth Offer Letter from FEA (**Fourth 2020 Offer Letter**) which relied on the 2020 MTLA Health and attached a TLA Schedule dated 18 August 2020 purportedly executed by Veolia.
53. On 26 August 2020, pursuant to the Fourth 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$2,479,983.13.
54. On 28 September 2020, SMBC L&F received a fifth Offer Letter from FEA (**Fifth 2020 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 23 September 2020 purportedly executed by Veolia.
55. On 30 September 2020, pursuant to the Fifth 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$3,256,278.09.

56. On 13 November 2020, SMBC L&F received a sixth Offer Letter from FEA (**Sixth 2020 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 6 November 2020 purportedly executed by Veolia.
57. On 17 November 2020, pursuant to the Sixth 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$8,712,386.32.
58. Also on 13 November 2020, SMBC L&F received a seventh Offer Letter from FEA (**Seventh 2020 Offer Letter**) which relied the 2020 MTLA Health and attached a TLA Schedule dated 6 November 2020 purportedly executed by Veolia.
59. On 17 November 2020, pursuant to the Seventh 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$2,478,189.82.
60. On 21 December 2020, SMBC L&F received an eighth Offer Letter from FEA (**Eighth 2020 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 17 December 2020 purportedly executed by Veolia.
61. On 23 December 2020, pursuant to the Eighth 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$9,297,734.49.
62. Also on 21 December 2020, SMBC L&F received a ninth Offer Letter from FEA (**Ninth 2020 Offer Letter**) which relied on the 2020 MTLA Health and attached a TLA Schedule dated 17 December 2020 purportedly executed by Veolia.
63. On 23 December 2020, pursuant to the ~~Eighth~~[Ninth](#) 2020 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$1,770,997.06.
64. On 2 February 2021, SMBC L&F received another Offer Letter from FEA (**First 2021 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 25 January 2021 purportedly executed by Veolia.
65. On 5 February 2021, pursuant to the First 2021 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$6,649,113.79.
66. On 8 March 2021, SMBC L&F received another Offer Letter from FEA (**Second 2021 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 1 March 2021 purportedly executed by Veolia.
67. On 11 March 2021, pursuant to the Second 2021 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$10,533,007.84.

68. Also on 8 March 2021, SMBC L&F received another Offer Letter from FEA (**Third 2021 Offer Letter**) which relied on the 2020 MTLA Health and attached a TLA Schedule dated 1 March 2021 purportedly executed by Veolia.
69. On 11 March 2021, pursuant to the Third 2021 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$1,769,324.17.
70. On 19 April 2021, SMBC L&F received another Offer Letter from FEA (**Fourth 2021 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 13 April 2021 purportedly executed by Veolia.
71. On 22 April 2021, pursuant to the Fourth 2021 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$10,018,326.86.
72. Also on 19 April 2021, SMBC L&F received another Offer Letter from FEA (**Fifth 2021 Offer Letter**) which relied the 2020 MTLA Health and attached a TLA Schedule dated 13 April 2021 purportedly executed by Veolia.
73. On 22 April 2021, pursuant to the Fifth 2021 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$1,413,053.28.
74. On 21 May 2021, SMBC L&F received another Offer Letter from FEA (**Sixth 2021 Offer Letter**) which relied on the 2020 MTLA Waste and attached a TLA Schedule dated 18 May 2021 purportedly executed by Veolia.
75. On 26 May 2021, pursuant to the Sixth 2021 Offer Letter and the terms of the 2020 MRASA, SMBC L&F made a payment to FEA in the sum of \$9,044,264.61.
76. In respect of the 2020 MRASA, Mr Papas prepared or caused to be prepared, and signed, false and fraudulent documents, being:
 - (a) the 2020 MTLA Waste and the 2020 MTLA Health (**2020 MTLAs**), which purported to be Master Technology License Agreements executed by Veolia when in fact they were not executed by Veolia and no such transactions existed;
 - (b) the Authorised Officer Certificate which purported to be from and executed by Veolia when in fact it was not from or executed by Veolia and no such persons were authorised by Veolia as authorised officers in respect of the 2020 MTLA Waste and the 2020 MTLA Health;

- (c) the Offer Letters relying on the 2020 MTLAs, each such Offer Letter signed by Papas; and
- (d) the TLA Schedules annexed to each Offer Letter, which purported to be executed by Veolia when in fact they were not executed by Veolia and no such transactions existed,

(together, the **2020 Transaction Documents**).

77. Mr Papas forged, or caused to be forged, purported signatures of employees or officers of Veolia on the 2020 MTLAs and the TLA Schedules.

78. Papas and FEA submitted the 2020 Transaction Documents to SMBC L&F.

79. By the conduct described in the preceding paragraphs, Mr Papas and FEA represented to SMBC L&F that:

- (a) the transactions set out in the 2020 Transaction Documents were genuine;
- (b) the 2020 MTLAs, the Authorised Officer Certificate and the TLA Schedules had been executed by and were binding on Veolia;
- (c) the 2020 Transaction Documents, and the security contemplated by them, were valid, binding and enforceable;
- (d) the 2020 Transaction Documents were complete and accurate and not misleading;
- (e) there was no fraud, dishonesty, misrepresentation or negligence on the part of FEA in connection with the selection and offer of the 2020 Transaction Documents; and
- (f) the assets to be provided to Veolia to which the 2020 Transaction Documents related had been delivered to and duly accepted by Veolia on or before the payment of any money to FEA,

(**2020 Representations**).

80. Each of the 2020 Representations was false because:

- (a) the transactions set out in the 2020 Transaction Documents were not genuine and were a fiction;

- (b) the 2020 MTLAs, the Authorised Officer Certificate and the TLA Schedules had not been executed by and were not binding on Veolia, but rather forged by Mr Papas or at Mr Papas' direction;
- (c) the 2020 Transaction Documents, and the security contemplated by them, were not valid, binding and enforceable;
- (d) there was fraud, dishonesty, misrepresentation and negligence on the part of FEA as the 2020 Transaction Documents were false and fraudulent; and
- (e) the assets represented to be provided to Veolia to which the 2020 Transaction Documents related had not been delivered to and duly accepted by Veolia, but rather did not exist at all.

81. Mr Papas and FEA made each of the 2020 Representations with knowledge that they were false (both wilfully false and without an honest belief in their truth).
82. Mr Papas and FEA made each of the 2020 Representations with the intention that they should be acted upon by SMBC L&F in a manner which would result in damage to it, being the payment away of money in relation to a transaction and an underlying security that did not exist.
83. SMBC L&F relied on the 2020 Transaction Documents and the 2020 Representations and they produced in the mind of SMBC L&F an erroneous belief that the 2020 Transaction Documents and the underlying transactions they documented, were genuine, when in fact they were not.
84. As a consequence of its reliance, SMBC L&F paid away the amount of \$83,993,909.47 to a National Australia Bank Account in the name of FEA pursuant to the 2020 Transaction Documents.
85. ~~On dates unknown~~Following receipt, FEA transferred the funds paid by SMBC L&F pursuant to the 2020 Transaction Documents ~~to entities controlled by Mr Papas and 2020 Representations to the Papas Related Entities, or otherwise used them for its own purposes.~~

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

86. On and from the time that FEA received the ~~amount of~~amounts totalling \$83,993,909.47 from SMBC L&F, FEA held ~~that amount~~those amounts on trust for SMBC L&F pursuant to the principles in *Black v S Freedman & Company* (1910) 12 CLR 105.
87. On and from the date that FEA transferred the funds paid by SMBC L&F to ~~entities controlled by Mr~~the Papas Related Entities, those entities:
- (a) knew that the amount they were receiving was paid to them in breach of trust (because of the knowledge of Mr Papas who controlled the entities); and
 - (b) knowingly assisted Mr Papas to implement the fraudulent scheme to receive those funds for his and its benefit.
88. ~~The identity of the other persons to whom the funds paid to FEA by SMBC L&F~~SMBC L&F is currently unaware of the identities of all of the recipients who received amounts wholly or partly traceable to funds advanced under the 2020 Transaction Documents and as a result of the 2020 ~~Transaction Documents and the 2020~~ Representations ~~were dispersed is currently unknown.~~

Particulars

Further particulars of SMBC L&F's tracing claim will be provided in due course.

E. THE CLAIM AGAINST MR PAPAS

(1) Funds held on trust

89. Mr Papas:
- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that he has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that he converted those funds into; and
 - (b) holds on trust such of those funds or the traceable proceeds of those funds which he holds or of which he has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

90. On and from the dates on which he received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Mr Papas was obliged to account to SMBC L&F for each of those amounts.
91. Mr Papas holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that he has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

92. Alternatively, Mr Papas is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

93. On a date unknown to SMBC L&F but by no later than 6 August 2018, an agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme (**Scheme Agreement**).
94. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
95. In furtherance of the Scheme Agreement, Mr Papas:
- (a) signed the Flexirent Agency Agreement;
 - (b) signed the Agent Side Letter;
 - (c) signed the 2020 MRASA;
 - (d) acted as a director of FEA which had as its predominant corporate purpose to carry into effect the Scheme;
 - (e) created or caused to be created false and fraudulent documents and caused these to be submitted to Flexirent under the 2018 MRASA and to SMBC L&F under the 2020 MRASA;
 - (f) made the 2018 Transaction Documents and the 2020 Transaction Documents;

- (g) procured FEA to pay the amounts received by it from SMBC L&F away to third parties;
- (h) received himself, or in the ~~Jointly-Owned~~Papas Related Entities, money derived from the 2018 Transaction Documents and the 2020 Transaction Documents; and
- (i) managed either by himself, or with Mr Tesoriero, the ~~Jointly-Owned~~Papas Related Entities.

96. As a consequence of the ~~acts~~actions taken by Mr Papas in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

- 97. In breach of trust, Mr Papas caused ~~the 2018 Recipients~~FE and FEA to pay away amounts currently unknown from the funds transferred to them by Flexirent or SMBC L&F to FGFS and other companies owned or controlled by him, either alone or with Mr Tesoriero.
- 98. Of those amounts, Mr Papas caused FGFS to pay and FGFS paid Mr Papas and Mr Papas received amounts directly and various other amounts through the receipt by companies owned or controlled by him, either alone or with Mr Tesoriero.
- 99. Mr Papas knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:
 - (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by ~~the 2018 Recipients~~FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
 - (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because he was aware of the following facts, matters and circumstances:

- (d) the amounts that ~~the 2018 Recipients~~FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) ~~the 2018 Recipients~~FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that ~~the 2018 Recipients~~FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which ~~the 2018 Receipts~~FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero, and the Papas ~~Controlled Entities and the Jointly Owned~~Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

100. Mr Papas holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that he has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

101. From 6 August 2018 to at least 21 May 2021, Mr Papas was aware of the Scheme and its purpose because he had devised it and set about implementing and giving effect to it.

102. Mr Papas knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by ~~the 2018 Recipients~~FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because he was aware of the following facts, matters and circumstances:

- (d) the amounts that ~~the 2018 Recipients~~FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) ~~the 2018 Recipients~~FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that ~~the 2018 Recipients~~FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which ~~the 2018 Receipts~~FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero, and the Papas ~~Controlled Entities and the Jointly Owned~~Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

103. With the knowledge identified in paragraphs 101 and 102 and through his conduct in:

- (a) signing the Flexirent Agency Agreement;
- (b) signing the Agent Side Letter;
- (c) signing the 2020 MRASA;
- (d) acting as a director of FEA which had as its predominant corporate purpose to carry into effect the Scheme;
- (e) creating or causing to be created false and fraudulent documents and causing these to be submitted to Flexirent under the 2018 MRASA and to SMBC L&F under the 2020 MRASA;

- (f) making the 2018 Transaction Documents and the 2020 Transaction Documents;
- (g) receiving himself, or in the ~~Jointly-Owned~~Papas Related Entities, money derived pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents;
- (h) managing himself, or with Mr Tesoriero, the ~~Jointly-Owned~~Papas Related Entities, which were entities created to hold property that was financed in part through amounts improperly obtained pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents;
- (i) procuring ~~the 2018 Recipients~~FE and FEA to pay the amounts received by them from Flexirent and SMBC L&F away to third parties,

Mr Papas knowingly assisted the breaches of the obligations as ~~trustees~~trustee owed to SMBC L&F by FEA.

104. By reason of the knowing assistance of Mr Papas, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

105. Mr Papas is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

(5) Tort of deceit

106. Mr Papas, in relation to the 2018 Transaction Documents and the 2020 Transaction Documents, made the 2018 Representations and the 2020 Representations in the circumstances set out in Section C.

107. Each of the 2018 Representations and the 2020 Representations were false because:

- (a) the 2018 Transaction Documents and the 2020 Transaction Documents had not been executed by and were not binding on the purported customer, but rather forged by Mr Papas or at Mr Papas' direction and often falsely witnessed by Mr Papas;

- (b) the 2018 Transaction Documents and the 2020 Transaction Documents and the security contemplated by them, were not valid, binding and enforceable;
- (c) there was fraud, dishonesty, misrepresentations and negligence on the part of FEA as each of the 2018 Transaction Documents and the 2020 Transaction Documents were false and fraudulent;
- (d) the assets represented to be provided to Veolia to which each of the 2018 Transaction Documents and the 2020 Transaction Documents related had not been delivered to and duly accepted by Veolia, but rather did not exist at all.

- 108. Mr Papas made each of the 2018 Representations and the 2020 Representations with knowledge that they were false (both wilfully false and without an honest belief in their truth).
- 109. Mr Papas made each of the 2018 Representations and the 2020 Representations with the intention that they should be acted upon by SMBC L&F in a manner which would result in damage to it, being the payment away of money in relation to a transaction and an underlying security that did not exist.
- 110. SMBC L&F relied on the 2018 Transaction Documents and the 2020 Transaction Documents and the 2018 Representations and the 2020 Representations and they produced in the mind of SMBC L&F an erroneous belief that the 2018 Transaction Documents and the 2020 Transaction Documents, and the underlying transactions they documented, were genuine, when in fact they were not.
- 111. As a consequence of its reliance, SMBC L&F paid away the amount of \$113,703,623.61 to Flexirent or FEA.
- 112. By reason of Mr Papas' tortious acts, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(6) Misleading and deceptive conduct or false or misleading conduct

113. From 6 August 2018 to at least 21 May 2021, Mr Papas engaged in the following conduct:
- (a) preparing or causing to be prepared the 2018 Transaction Documents and the 2020 Transaction Documents;
 - (b) providing to SMBC L&F (either directly or through Flexirent) the 2018 Transaction Documents and the 2020 Transaction Documents;
 - (c) making each of the 2018 Representations and the 2020 Representations to SMBC L&F.
114. The conduct identified in paragraph 113 occurred in circumstances where:
- (a) the transactions set out in the 2018 Transaction Documents and the 2020 Transaction Documents were not genuine and were a fiction;
 - (b) the 2018 Transaction Documents and the 2020 Transaction Documents had not been executed by and were not binding on Veolia, but rather forged by Mr Papas or at Mr Papas' direction;
 - (c) the 2018 Transaction Documents and the 2020 Transaction Documents, and the security contemplated by them, were not valid, binding and enforceable;
 - (d) there was fraud, dishonesty, misrepresentation and negligence on the part of FEA as each of the 2018 Transaction Documents and the 2020 Transaction Documents were false and fraudulent;
 - (e) the assets represented to be provided to Veolia to which each of the 2018 Transaction Documents and the 2020 Transaction Documents related had not been delivered to and duly accepted by Veolia, but rather did not exist at all.
115. By reason of engaging in the conduct identified in paragraph 113 in the circumstances identified in paragraph 114, Mr Papas:
- (a) engaged in conduct in trade or commerce that was misleading or deceptive or was likely to mislead or deceive ~~or~~ in contravention of section 18 of the ACL;
 - (b) engaged in conduct in relation to financial services that was misleading or deceptive or was likely to mislead or deceive in contravention of section 12DA(1) of the ASIC Act;

- (c) engaged in conduct in relation to a financial product or a financial service that was misleading or deceptive or was likely to mislead or deceive in contravention of section 1041H(1) of the Corporations Act;
- (d) made a false or misleading statement in relation to each of the 2018 Transaction Documents and the 2020 Transaction Documents that the goods or services were of a particular standard, quality, value or grade and the purported customer had agreed to acquire services from FEA (in circumstances in which the 2018 Transaction Documents and the 2020 Transaction Documents were not genuine and were in fact a fiction) in trade or commerce in connection with the supply or possible supply of goods or services in contravention of section 29(1)(a) or (b) and (d) of the ACL;
- (e) made false and misleading representation in relation to each of the 2018 Transaction Documents and the 2020 Transaction Documents that the services were of a particular standard, quality, value or grade and the purported customer had agreed to acquire services from FEA (in circumstances in which the 2018 Transaction Documents and the 2020 Transaction Documents were not genuine and were a fiction) in trade or commerce in connection with the supply or possible supply of financial services in contravention of section 12DB(1)(a) and (b) of the ASIC Act.

Particulars

The matters set out in Section C with respect to the 2018 Transaction Documents and the 2020 Transaction Documents are repeated.

- 116. By reason of the contraventions by Mr Papas of sections 18 and 29(1)(a) or (b) and (d) of the ACL, section 12DA(1) and 12DB(1)(a) and (b) of the ASIC Act and section 1041H of the Corporations Act, and in reliance on the conduct identified in paragraph 113 (including each of the 2018 Representations and the 2020 Representations), SMBC L&F paid away the amounts identified in Section C which totalled \$113,703,623.61.
- 117. By reason of the contraventions referred to in paragraph 115, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from

Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

118. Further and in the alternative, Mr Papas by entering into the Scheme Agreement and engaging in the conduct identified in paragraph 113 in the circumstances identified in paragraph 114;

(a) aided, abetted and procured;

(b) was knowingly concerned in or a party to;

(c) conspired with others (by the Scheme Agreement) to give effect to,

FEA's misleading and deceptive conduct, and false and misleading conduct, and was involved in the contraventions pleaded in paragraph 138.

119. SMBC L&F is entitled to recover from Mr Papas the loss and damage referred to in paragraph 117 by reason of sections 236 and 237 of the ACL and/or sections 12GF or 12GM of the ASIC Act and/or section 1041I of the Corporations Act.

F. THE CLAIM AGAINST FEA

(1) Funds held on trust

120. FEA:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

121. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, FEA was obliged to account to SMBC L&F for each of those amounts.

122. FEA holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

123. Alternatively, FEA is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

124. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

125. FEA was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a ~~co-conspirator~~co-conspirator and the conduct pleaded in paragraph 127.

126. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

127. In furtherance of the Scheme Agreement, FEA:

- (a) executed the Flexirent Agency Agreement;
- (b) executed the Agent Side Letter;
- (c) executed the 2019 MRASA;
- (d) executed the 2020 MRASA;
- (e) submitted fraudulent documents to Flexirent under the 2018 MRASA and to SMBC L&F under the 2020 MRASA;
- (f) received money from SMBC L&F under the 2020 MRASA pursuant to the Scheme Agreement; and

(g) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

128. As a consequence of the ~~acts~~actions taken by FEA in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Tort of deceit

129. FEA, in relation to the 2018 Transaction Documents and the 2020 Transaction Documents, made the 2018 Representations and the 2020 Representations in the circumstances set out in Section C.

130. Each of the 2018 Representations and the 2020 Representations were false because:

- (a) the 2018 Transaction Documents and the 2020 Transaction Documents had not been executed by and were not binding on the purported customer, but rather forged by Mr Papas or at Mr Papas' direction and often falsely witnessed by Mr Papas;
- (b) the 2018 Transaction Documents and the 2020 Transaction Documents and the security contemplated by them, were not valid, binding and enforceable;
- (c) there was fraud, dishonesty, misrepresentations and negligence on the part of FEA as each of the 2018 Transaction Documents and the 2020 Transaction Documents were false and fraudulent;
- (d) the assets represented to be provided to Veolia to which each of the 2018 Transaction Documents and the 2020 Transaction Documents related had not been delivered to and duly accepted by Veolia, but rather did not exist at all.

131. FEA made each of the 2018 Representations and the 2020 Representations with knowledge that they were false (both wilfully false and without an honest belief in their

truth), because Mr Papas had this knowledge and was the sole director and secretary of FEA.

132. FEA made each of the 2018 Representations and the 2020 Representations with the intention that they should be acted upon by SMBC L&F in a manner which would result in damage to it, being the payment away of money in relation to a transaction and an underlying security that did not exist.
133. SMBC L&F relied on the 2018 Transaction Documents and the 2020 Transaction Documents and the 2018 Representations and the 2020 Representations and they produced in the mind of SMBC L&F an erroneous belief that the 2018 Transaction Documents and the 2020 Transaction Documents, and the underlying transactions they documented, were genuine, when in fact they were not.
134. As a consequence of its reliance, SMBC L&F paid away the amount of \$113,703,623.61 to Flexirent or FEA.
135. By reason of FEA's tortious acts, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(4) Misleading and deceptive conduct or false or misleading conduct

136. From 6 August 2018 to at least 21 May 2021, FEA engaged in the following conduct:
 - (a) providing to SMBC L&F (either directly or through Flexirent) the 2018 Transaction Documents and the 2020 Transaction Documents; and
 - (b) making each of the 2018 Representations and the 2020 Representations to SMBC L&F.
137. The conduct identified in paragraph 136 occurred in circumstances where:
 - (a) the transactions set out in the 2018 Transaction Documents and the 2020 Transaction Documents were not genuine and were a fiction;

- (b) the 2018 Transaction Documents and the 2020 Transaction Documents had not been executed by and were not binding on Veolia, but rather forged by Mr Papas or at Mr Papas' direction;
- (c) the 2018 Transaction Documents and the 2020 Transaction Documents, and the security contemplated by them, were not valid, binding and enforceable;
- (d) there was fraud, dishonesty, misrepresentation and negligence on the part of FEA as each of the 2018 Transaction Documents and the 2020 Transaction Documents were false and fraudulent;
- (e) the assets represented to be provided to Veolia to which each of the 2018 Transaction Documents and the 2020 Transaction Documents related had not been delivered to and duly accepted by Veolia, but rather did not exist at all.

138. By reason of engaging in the conduct identified in paragraph 136 in the circumstances identified in paragraph 137, FEA:

- (a) engaged in conduct in trade or commerce that was misleading or deceptive or was likely to mislead or deceive ~~en~~in contravention of section 18 of the ACL;
- (b) engaged in conduct in relation to financial services that was misleading or deceptive or was likely to mislead or deceive in contravention of section 12DA(1) of the ASIC Act;
- (c) engaged in conduct in relation to a financial product or a financial service that was misleading or deceptive or was likely to mislead or deceive in contravention of section 1041H(1) of the Corporations Act;
- (d) made a false or misleading statement in relation to each of the 2018 Transaction Documents and the 2020 Transaction Documents that the goods or services were of a particular standard, quality, value or grade and the purported customer had agreed to acquire services from FEA (in circumstances in which the 2018 Transaction Documents and the 2020 Transaction Documents were not genuine and were in fact a fiction) in trade or commerce in connection with the supply or possible supply of goods or services in contravention of section 29(1)(a) or (b) and (d) of the ACL;
- (e) made false and misleading representation in relation to each of the 2018 Transaction Documents and the 2020 Transaction Documents that the services were of a particular standard, quality, value or grade and the purported customer had agreed to

acquire services from FEA (in circumstances in which the 2018 Transaction Documents and the 2020 Transaction Documents were not genuine and were a fiction) in trade or commerce in connection with the supply or possible supply of financial services in contravention of section 12DB(1)(a) and (b) of the ASIC Act.

Particulars

The matters set out in Section C with respect to the 2018 Transaction Documents and the 2020 Transaction Documents are repeated.

139. By reason of the contraventions by FEA of sections 18 and 29(1)(a) or (b) and (d) of the ACL, section 12DA(1) and 12DB(1)(a) and (b) of the ASIC Act and section 1041H of the Corporations Act, and in reliance on the conduct identified in paragraph 136 (including each of the 2018 Representations and the 2020 Representations), SMBC L&F paid away the amounts identified in Section C which totalled \$113,703,623.61.
140. By reason of the contraventions referred to in paragraph 138, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

141. SMBC L&F is entitled to recover from FEA the loss and damage referred to in paragraph 140 by reason of sections 236 and 237 of the ACL and/or sections 12GF or 12GM of the ASIC Act and/or section 1041I of the Corporations Act.

(5) Contract

142. Pursuant to the 2020 MRASA, FEA represented and warranted to SMBC L&F that, on the date of each Offer Letter and on the relevant settlement date for each Offer Letter (being each of the dates on which FEA received payment from SMBC L&F in respect of the Offer Letters set out in Section D) that:

- (a) there was no fraud, dishonesty, material misrepresentation or negligence on the part of FEA in connection with the selection and offer to SMBC L&F of each receivable (cl 6.2(b));
- (b) each receivable was a valid and binding obligation of the lessee (cl 6.2(f));
- (c) FEA had no reason to believe that any payments due to SMBC L&F under the receivable terms on or after the relevant settlement date would not be paid by the lessee in full in accordance with the receivable terms (cl 6.2(k));
- (d) all information relating to the related assets which ~~is~~was known to FEA which was material to be known by a prudent purchaser for value of the related assets ~~has been~~was disclosed to SMBC L&F in writing prior to FEA delivering the Offer Letter (cl 6.3(a));
- (e) FEA owned the related assets (cl 6.3(b)); and
- (f) the related assets existed, had been delivered to the lessee and were acceptable to the lessee (cl 6.3(c)).

143. On the date of each Offer Letter and on the date on which FEA received each of the payments identified in Section D from SMBC L&F, FEA breached each of clauses 6.2 and 6.3 and remained in breach of those clauses at all times thereafter because:

- (a) there was fraud, dishonesty and material misrepresentation on the part of FEA in connection with the selection and offer to SMBC L&F of each receivable;
- (b) each receivable was not a valid and binding obligation of the lessee;
- (c) FEA had reason ~~to believe~~ to believe, and in fact knew, that the payments purportedly due to SMBC L&F under the receivable terms on or after the relevant settlement date would not be paid by the lessee, because the leases did not exist;
- (d) information relating to the related assets which ~~is~~was known to FEA which was material to be known by a prudent purchaser for value of the related assets, being the fact that the related assets did not exist, had not been disclosed to SMBC L&F in writing prior to FEA delivering the Offer Letter;
- (e) FEA did not own the related assets; and

- (f) the related assets did not exist, had not been delivered to the lessee and were not acceptable to the lessee.

144. As a consequence of the breaches of the 2020 MRASA identified in paragraph 143, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amounts payable to SMBC L&F under the 2020 MRASA and the Offer Letters, less the amounts repaid by FEA, plus interest costs, legal fees, termination costs, break costs, any other recovery costs and SMBC L&F's financing costs.

G. THE CLAIM AGAINST FE

(1) *Funds held on trust*

145. FE:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

146. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, FE was obliged to account to SMBC L&F for each of those amounts.

147. FE holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

148. Alternatively, FE is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

149. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

150. FE was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a ~~co-conspirators~~co-conspirator and the conduct pleaded in paragraph 152.

151. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

152. In furtherance of the Scheme Agreement, FE:

- (a) received money from Flexirent under the 2018 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

153. As a consequence of the ~~acts~~actions taken by FE in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA (totalling \$29,709,714.14) less the amounts it has received in respect of the 2018 MRASA purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$18,379,800.00) which leaves an outstanding loss of \$11,329,914.14.

(3) Knowing receipt

154. In breach of trust, Flexirent transferred at least \$23,083,860.80 of the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents to FE.
155. As the sole director and secretary of FE, the knowledge of Mr Papas was the knowledge of FE.
156. FE knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:
- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by ~~the 2018 Recipients~~ FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
 - (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
 - (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that ~~the 2018 Recipients~~ FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) ~~the 2018 Recipients~~ FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that ~~the 2018 Recipients~~ FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which ~~the 2018 Receipts~~ FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero, ~~the Papas Controlled Entities~~ and the ~~Jointly Owned~~ Papas Related Entities were receiving substantial payments traceable to the funds paid by

SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

157. FE holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

158. From 6 August 2018 to at least 21 May 2021, FEA was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

159. FE knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by ~~the 2018 Recipients~~ FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that ~~the 2018 Recipients~~ FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) ~~the 2018 Recipients~~ FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that ~~the 2018 Recipients~~ FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the

acquisition of assets for Veolia and were not amounts to which ~~the 2018 Receipts~~ FE or FEA were entitled themselves to use and pay away to their related parties; and

- (g) Mr Papas, Mr Tesoriero, and the Papas ~~Controlled Entities and the Jointly Owned~~ Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

160. FE holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

161. With the knowledge identified in paragraphs 158 and 159 and through its conduct in:

- (a) receiving money from Flexirent under the 2018 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators,

FE knowingly assisted the breaches of the obligations as trustee owed to Flexirent.

162. By reason of the knowing assistance of FE, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA (totalling \$29,709,714.14) less the amounts it has received in respect of the 2018 MRASA purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$18,379,800.00) which leaves an outstanding loss of \$11,329,914.14.

163. ~~FEA~~ FE is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

H. THE CLAIM AGAINST FGFS

(1) Funds held on trust

164. FGFS:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

165. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, FGFS was obliged to account to SMBC L&F for each of those amounts.
166. FGFS holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

167. Alternatively, FGFS is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

168. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.
169. FGFS was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 171.
170. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
171. In furtherance of the Scheme Agreement, FGFS:

- (a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

FGFS received at least \$85,080,307 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

172. As a consequence of the actions taken by FGFS in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

173. As a director and secretary of FGFS, the knowledge of Mr Papas was the knowledge of FGFS.

174. FGFS knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

175. FGFS holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

176. From 6 August 2018 to at least 21 May 2021, FGFS was aware of the Scheme and its purpose because its director and secretary had devised it and set about implementing and giving effect to it.

177. FGFS knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

178. FGFS holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

179. With the knowledge identified in paragraphs 176 and 177 and through its conduct in:

(a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

FGFS knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

180. By reason of the knowing assistance of FGFS, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

181. FGFS is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

L THE CLAIM AGAINST FG

(1) Funds held on trust

182. FG:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

183. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, FG was obliged to account to SMBC L&F for each of those amounts.

184. FG holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

185. Alternatively, FG is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

186. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

187. FG was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 189.

188. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

189. In furtherance of the Scheme Agreement, FG:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

FG received at least \$70,456,010 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

190. As a consequence of the actions taken by FG in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

191. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to FG at least \$70,456,010 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

192. As the sole director and secretary of FG, the knowledge of Mr Papas was the knowledge of FG.

193. FG knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018

Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

194. FG holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

195. From 6 August 2018 to at least 21 May 2021, FG was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

196. FG knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

197. FG holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

198. With the knowledge identified in paragraphs 195 and 196 and through its conduct in:

(a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

FG knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

199. By reason of the knowing assistance of FG, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

200. FG is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

J. THE CLAIM AGAINST FF

(1) Funds held on trust

201. FF:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

202. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, FF was obliged to account to SMBC L&F for each of those amounts.
203. FF holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

204. Alternatively, FF is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

205. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.
206. FF was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 208.
207. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
208. In furtherance of the Scheme Agreement, FF:

- (a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

FF received at least \$529,306 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

209. As a consequence of the actions taken by FF in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

210. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to FF at least \$529,306 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.
211. As a director and secretary of FF, the knowledge of Mr Papas was the knowledge of FF.
212. FF knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:
- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

213. FF holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

214. From 6 August 2018 to at least 21 May 2021, FF was aware of the Scheme and its purpose because Mr Papas, its secretary and one of its directors had devised it and set about implementing and giving effect to it.

215. FF knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

216. FF holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

217. With the knowledge identified in paragraphs 214 and 215 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

FF knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

218. By reason of the knowing assistance of FF, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

219. FF is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

K. THE CLAIM AGAINST TFGC

(1) Funds held on trust

220. TFGC:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

221. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, TFGC was obliged to account to SMBC L&F for each of those amounts.

222. TFGC holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

223. Alternatively, TFGC is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

224. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

225. TFGC was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 227.

226. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

227. In furtherance of the Scheme Agreement, TFGC:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

TFGC received at least \$9,430,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

228. As a consequence of the actions taken by TFGC in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

229. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to TFGC at least \$9,430,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

230. As the sole director and secretary of TFGC, the knowledge of Mr Papas was the knowledge of TFGC.

231. TFGC knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for

Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

232. TFGC holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

233. From 6 August 2018 to at least 21 May 2021, TFGC was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

234. TFGC knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by the FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

235. TFGC holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

236. With the knowledge identified in paragraphs 233 and 234 and through its conduct in:

(a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

TFGC knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

237. By reason of the knowing assistance of TFGC, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

238. TFGC is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

L. THE CLAIM AGAINST FORUM FLEET

(1) Funds held on trust

239. Forum Fleet:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

240. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Forum Fleet was obliged to account to SMBC L&F for each of those amounts.

241. Forum Fleet holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

242. Alternatively, Forum Fleet is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

243. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

244. Forum Fleet was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 246.

245. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

246. In furtherance of the Scheme Agreement, Forum Fleet:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Forum Fleet received at least \$190,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

247. As a consequence of the actions taken by Forum Fleet in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

248. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Forum Fleet at least \$190,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

249. As the sole director and secretary of Forum Fleet, the knowledge of Mr Papas was the knowledge of Forum Fleet.

250. Forum Fleet knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

251. Forum Fleet holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

252. From 6 August 2018 to at least 21 May 2021, Forum Fleet was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

253. Forum Fleet knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

254. Forum Fleet holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

255. With the knowledge identified in paragraphs 252 and 253 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Forum Fleet knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

256. By reason of the knowing assistance of Forum Fleet, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

257. Forum Fleet is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

M. THE CLAIM AGAINST IMAGETEC FS

(1) Funds held on trust

258. Imagetec FS:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

259. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Imagetec FS was obliged to account to SMBC L&F for each of those amounts.

260. Imagetec FS holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

261. Alternatively, Imagetec FS is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

262. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

263. Imagetec FS was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 265.

264. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

265. In furtherance of the Scheme Agreement, Imagetec FS:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Imagetec FS received at least \$264,974 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

266. As a consequence of the actions taken by Imagetec FS in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

267. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Imagetec FS at least \$264,974 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

268. As the sole director and secretary of Imagetec FS, the knowledge of Mr Papas was the knowledge of Imagetec FS.

269. Imagetec FS knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

270. Imagetec FS holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

271. From 6 August 2018 to at least 21 May 2021, Imagetec FS was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

272. Imagetec FS knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that the FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) the FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that the FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero, and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

273. Imagetec FS holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

274. With the knowledge identified in paragraphs 271 and 272 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Imagetec FS knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

275. By reason of the knowing assistance of Imagetec FS, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA

(totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

276. Imagetec FS is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

N. THE CLAIM AGAINST IMAGETEC SOLUTIONS

(1) Funds held on trust

277. Imagetec Solutions:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

278. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Imagetec Solutions was obliged to account to SMBC L&F for each of those amounts.

279. Imagetec Solutions holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

280. Alternatively, Imagetec Solutions is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

281. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.
282. Imagetec Solutions was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 284.
283. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
284. In furtherance of the Scheme Agreement, Imagetec Solutions:
- (a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and
 - (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Imagetec Solutions received at least \$1,435,100 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

285. As a consequence of the actions taken by Imagetec Solutions in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

286. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Imagetec Solutions at least \$1,435,100 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

287. As the sole director and secretary of Imagetec Solutions, the knowledge of Mr Papas was the knowledge of Imagetec Solutions.

288. Imagetec Solutions knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018

Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

289. Imagetec Solutions holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

290. From 6 August 2018 to at least 21 May 2021, Imagetec Solutions was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

291. Imagetec Solutions knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

292. Imagetec Solutions holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

293. With the knowledge identified in paragraphs 290 and 291 and through its conduct in:

(a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Imagetec Solutions knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

294. By reason of the knowing assistance of Imagetec Solutions, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

295. Imagetec Solutions is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

O. THE CLAIM AGAINST INTRASHIELD

(1) Funds held on trust

296. Intrashield:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

297. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Intrashield was obliged to account to SMBC L&F for each of those amounts.
298. Intrashield holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

299. Alternatively, Intrashield is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) *Tort of unlawful means conspiracy*

300. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.
301. Intrashield was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 303.
302. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
303. In furtherance of the Scheme Agreement, Intrashield:

- (a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Intrashield received at least \$123,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

304. As a consequence of the actions taken by Intrashield in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

305. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Intrashield at least \$123,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

306. As the sole director and secretary of Intrashield, the knowledge of Mr Papas was the knowledge of Intrashield.

307. Intrashield knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

308. Intrashield holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

309. From 6 August 2018 to at least 21 May 2021, Intrashield was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

310. Intrashield knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

311. Intrashield holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

312. With the knowledge identified in paragraphs 309 and 310 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Intrashield knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

313. By reason of the knowing assistance of Intrashield, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

314. Intrashield is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

P. THE CLAIM AGAINST SPARTAN

(1) Funds held on trust

315. Spartan:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

316. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Spartan was obliged to account to SMBC L&F for each of those amounts.

317. Spartan holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

318. Alternatively, Spartan is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

319. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

320. Spartan was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 322.

321. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

322. In furtherance of the Scheme Agreement, Spartan:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Spartan received at least \$610,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

323. As a consequence of the actions taken by Spartan in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

324. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Spartan at least \$610,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

325. As the sole director and secretary of Spartan, the knowledge of Mr Papas was the knowledge of Spartan.

326. Spartan knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

327. Spartan holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

328. From 6 August 2018 to at least 21 May 2021, Spartan was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

329. Spartan knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

330. Spartan holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

331. With the knowledge identified in paragraphs 328 and 329 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Spartan knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

332. By reason of the knowing assistance of Spartan, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA

(totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

333. Spartan is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

Q. THE CLAIM AGAINST IUGIS

(1) Funds held on trust

334. Iugis:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

335. On and from the dates on which it received any amounts paid pursuant to the 2020 Transaction Documents, Iugis was obliged to account to SMBC L&F for each of those amounts.

336. Iugis holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

337. Alternatively, Iugis is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

338. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

339. Iugis became a party to the Scheme Agreement upon its incorporation on 12 April 2019 by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 341.

340. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

341. In furtherance of the Scheme Agreement, Iugis:

(a) received money from payments made by SMBC L&F under the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Iugis received at least \$10,628,254 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2020 Transactions Documents.

342. As a consequence of the actions taken by Iugis in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$83,993,909.47) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$58,297,909.47.

(3) Knowing receipt

343. In breach of trust, FEA, both directly or through intermediaries, transferred to Iugis at least \$10,628,254 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the the 2020 Transaction Documents.

344. As the sole director and secretary of Iugis, the knowledge of Mr Papas was the knowledge of Iugis.

345. Iugis knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (b) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (c) the amounts that FEA received from SMBC L&F were obtained pursuant to the Scheme and pursuant to the false and fraudulent 2020 Transaction Documents;
- (d) FEA had no legitimate business which would entitle it to use the amounts that it received from SMBC L&F;
- (e) any amounts that FEA received pursuant to the 2020 Transaction Documents was to finance the acquisition of assets for Veolia and were not amounts to which FEA was entitled itself to use and pay away to related parties;
- (f) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

346. Iugis holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

347. From 12 April 2019 to at least 21 May 2021, Iugis was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

348. Iugis knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(b) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(c) the amounts that FEA received from SMBC L&F were obtained pursuant to the Scheme and pursuant to the false and fraudulent 2020 Transaction Documents;

(d) FEA had no legitimate business which would entitle it to use itself the amounts that it received from SMBC L&F;

(e) any amounts that FEA received pursuant to the 2020 Transaction Documents was to finance the acquisition of assets for Veolia and were not amounts to which FEA was entitled themselves to use and pay away to its related parties;

(f) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

349. Iugis holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

350. With the knowledge identified in paragraphs 347 and 348 and through its conduct in:

- (a) directly or indirectly receiving money from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Iugis knowingly assisted the breaches of the obligations owed by FEA as trustee.

351. By reason of the knowing assistance of Iugis, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$83,993,909.47) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$58,297,909.47.

352. Iugis is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

R. THE CLAIM AGAINST IUGIS WASTE SOLUTIONS

(1) Funds held on trust

353. Iugis Waste Solutions:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

354. On and from the dates on which it received any amounts paid pursuant to the 2020 Transaction Documents, Iugis Waste Solutions was obliged to account to SMBC L&F for each of those amounts.

355. Iugis Waste Solutions holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

356. Alternatively, Iugis Waste Solutions is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

357. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

358. Iugis Waste Solutions became a party to the Scheme Agreement upon its incorporation on 18 January 2021 by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 360.

359. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

360. In furtherance of the Scheme Agreement, Iugis Waste Solutions:

(c) received money from payments made by SMBC L&F under the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(d) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Iugis Waste Solutions received at least \$1,000,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2020 Transactions Documents.

361. As a consequence of the actions taken by Iugis Waste Solutions in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$83,993,909.47) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$58,297,909.47.

(3) Knowing receipt

362. In breach of trust, FEA, both directly or through intermediaries, transferred to Iugis Waste Solutions at least \$1,000,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2020 Transaction Documents.

363. As the sole director and secretary of Iugis Waste Solutions, the knowledge of Mr Papas was the knowledge of Iugis Waste Solutions.

364. Iugis Waste Solutions knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(b) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(c) the amounts that FEA received from SMBC L&F were obtained pursuant to the Scheme and pursuant to the false and fraudulent 2020 Transaction Documents;

(d) FEA had no legitimate business which would entitle it to use itself the amounts that it received from SMBC L&F;

(e) any amounts that FEA received pursuant to the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FEA was entitled to use and pay away to its related parties;

(f) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

365. Iugis Waste Solutions holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

366. From 18 January 2021 to at least 21 May 2021, Iugis Waste Solutions was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

367. Iugis Waste Solutions knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (b) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (c) the amounts that FEA received from SMBC L&F were obtained pursuant to the Scheme and pursuant to the false and fraudulent 2020 Transaction Documents;
- (d) FEA had no legitimate business which would entitle it to use the amounts that it received from SMBC L&F;
- (e) any amounts that FEA received pursuant to the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FEA was entitled to use and pay away to its related parties;
- (f) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

368. Iugis Waste Solutions holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

369. With the knowledge identified in paragraphs 366 and 367 and through its conduct in:

- (a) directly or indirectly receiving money from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Iugis Waste Solutions knowingly assisted the breaches of the obligations owed by FEA as trustee.

370. By reason of the knowing assistance of Iugis Waste Solutions, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$83,993,909.47) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$58,297,909.47.

371. Iugis Waste Solutions is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

S. THE CLAIM AGAINST IUGIS HOLDINGS

(1) Funds held on trust

372. Iugis Holdings:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

373. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Iugis Holdings was obliged to account to SMBC L&F for each of those amounts.

374. Iugis Holdings holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

375. Alternatively, Iugis Holdings is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

376. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

377. Iugis Holdings was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 379.

378. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

379. In furtherance of the Scheme Agreement, Iugis Holdings:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Iugis Holdings received at least \$1,454,422 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

380. As a consequence of the actions taken by Iugis Holdings in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

381. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Iugis Holdings at least \$1,454,422 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

382. As the sole director and secretary of Iugis Holdings, the knowledge of Mr Papas was the knowledge of Iugis Holdings.

383. Iugis Holdings knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

384. Iugis Holdings holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

385. From 6 August 2018 to at least 21 May 2021, Iugis Holdings was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

386. Iugis Holdings knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

387. Iugis Holdings holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

388. With the knowledge identified in paragraphs 385 and 386 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Iugis Holdings knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

389. By reason of the knowing assistance of Iugis Holdings, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA

(totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

390. Iugis Holdings is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

I. THE CLAIM AGAINST IUGIS UK

(1) Funds held on trust

391. Iugis UK:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

392. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Iugis UK was obliged to account to SMBC L&F for each of those amounts.

393. Iugis UK holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

394. Alternatively, Iugis UK is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

395. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

396. Iugis UK was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 398.

397. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

398. In furtherance of the Scheme Agreement, Iugis UK:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Iugis UK received at least \$1,004,465 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

399. As a consequence of the actions taken by Iugis UK in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

400. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Iugis UK at least \$1,004,465 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

401. As the sole director and secretary of Iugis UK, the knowledge of Mr Papas was the knowledge of Iugis UK.

402. Iugis UK knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018

Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

403. Iugis UK holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

404. From 6 August 2018 to at least 21 May 2021, Iugis UK was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

405. Iugis UK knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

406. Iugis UK holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

407. With the knowledge identified in paragraphs 404 and 405 and through its conduct in:

(a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Iugis UK knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

408. By reason of the knowing assistance of Iugis UK, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

409. Iugis UK is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

U. THE CLAIM AGAINST IUGIS HELLAS

(1) Funds held on trust

410. Iugis Hellas:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

411. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Iugis Hellas was obliged to account to SMBC L&F for each of those amounts.
412. Iugis Hellas holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

413. Alternatively, Iugis Hellas is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

414. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.
415. Iugis Hellas was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 417.
416. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
417. In furtherance of the Scheme Agreement, Iugis Hellas:

- (a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

lugis Hellas received at least \$660,077 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

418. As a consequence of the actions taken by lugis Hellas in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

419. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to lugis Hellas at least \$660,077 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

420. As the sole director and secretary of lugis Hellas, the knowledge of Mr Papas was the knowledge of lugis Hellas.

421. lugis Hellas knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

422. Iugis Hellas holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

423. From 6 August 2018 to at least 21 May 2021, Iugis Hellas was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

424. Iugis Hellas knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

425. Iugis Hellas holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

426. With the knowledge identified in paragraphs 423 and 424 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Iugis Hellas knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

427. By reason of the knowing assistance of Iugis Hellas, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

428. Iugis Hellas is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

V. THE CLAIM AGAINST IUGIS ENERGY

(1) Funds held on trust

429. Iugis Energy:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

430. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Iugis Energy was obliged to account to SMBC L&F for each of those amounts.

431. Iugis Energy holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

432. Alternatively, Iugis Energy is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

433. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

434. Iugis Energy was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 436.

435. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

436. In furtherance of the Scheme Agreement, Iugis Energy:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Iugis Energy received at least \$93,867 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

437. As a consequence of the actions taken by Iugis Energy in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

438. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Iugis Energy at least \$93,867 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

439. As the sole director and secretary of Iugis Energy, the knowledge of Mr Papas was the knowledge of Iugis Energy.

440. Iugis Energy knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

441. Iugis Energy holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

442. From 6 August 2018 to at least 21 May 2021, Iugis Energy was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

443. Iugis Energy knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

444. Iugis Energy holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

445. With the knowledge identified in paragraphs 442 and 443 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Iugis Energy knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

446. By reason of the knowing assistance of Iugis Energy, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA

(totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

447. Iugis Energy is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

W. THE CLAIM AGAINST MAZCON

(1) Funds held on trust

448. Mazcon:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

449. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, Mazcon was obliged to account to SMBC L&F for each of those amounts.

450. Mazcon holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

451. Alternatively, Mazcon is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

452. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

453. Mazcon was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 455.

454. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

455. In furtherance of the Scheme Agreement, Mazcon:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

Mazcon received at least \$3,903,302 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

456. As a consequence of the actions taken by Mazcon in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

457. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to Mazcon at least \$3,903,302 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

458. As the sole director and secretary of Mazcon, the knowledge of Mr Papas was the knowledge of Mazcon.

459. Mazcon knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018

Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

460. Mazcon holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

461. From 6 August 2018 to at least 21 May 2021, Mazcon was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

462. Mazcon knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

463. Mazcon holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

464. With the knowledge identified in paragraphs 461 and 462 and through its conduct in:

(a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Mazcon knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

465. By reason of the knowing assistance of Mazcon, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

466. Mazcon is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

X. THE CLAIM AGAINST 26 EDMONSTONE RD

(1) Funds held on trust

467. 26 Edmonstone Rd:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

468. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, 26 Edmonstone Rd was obliged to account to SMBC L&F for each of those amounts.
469. 26 Edmonstone Rd holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

470. Alternatively, 26 Edmonstone Rd is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) *Tort of unlawful means conspiracy*

471. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.
472. 26 Edmonstone Rd was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 474.
473. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.
474. In furtherance of the Scheme Agreement, 26 Edmonstone Rd:

- (a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

26 Edmonstone Rd received at least \$190,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

475. As a consequence of the actions taken by 26 Edmonstone Rd in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

476. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to 26 Edmonstone Rd at least \$190,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

477. As the sole director and secretary of 26 Edmonstone Rd, the knowledge of Mr Papas was the knowledge of 26 Edmonstone Rd.

478. 26 Edmonstone Rd knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

(e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;

(f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and

(g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

479. 26 Edmonstone Rd holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

480. From 6 August 2018 to at least 21 May 2021, 26 Edmonstone Rd was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

481. 26 Edmonstone Rd knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

482. 26 Edmonstone Rd holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

483. With the knowledge identified in paragraphs 480 and 481 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

26 Edmonstone Rd knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

484. By reason of the knowing assistance of 26 Edmonstone Rd, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

485. 26 Edmonstone Rd is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

Y. THE CLAIM AGAINST 5 BULKARA ST

(1) Funds held on trust

486. 5 Bulkara St:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

487. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, 5 Bulkara St was obliged to account to SMBC L&F for each of those amounts.

488. 5 Bulkara St holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

489. Alternatively, 5 Bulkara St is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

490. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

491. 5 Bulkara St was also a party to the Scheme Agreement by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 493.

492. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

493. In furtherance of the Scheme Agreement, 5 Bulkara St:

(a) received money from payments made by SMBC L&F under the 2018 Transaction Documents and the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

5 Bulkara St received at least \$165,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2018 and 2020 Transactions Documents.

494. As a consequence of the actions taken by 5 Bulkara St in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

(3) Knowing receipt

495. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to 5 Bulkara St at least \$165,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

496. As the sole director and secretary of 5 Bulkara St, the knowledge of Mr Papas was the knowledge of 5 Bulkara St.

497. 5 Bulkara St knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;

(b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;

- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

498. 5 Bulkara St holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) *Knowing assistance*

499. From 6 August 2018 to at least 21 May 2021, 5 Bulkara St was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

500. 5 Bulkara St knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2018 Transaction Documents were dishonestly obtained by FE and paid out by Flexirent in breach of its obligations to SMBC L&F as trustee set out at paragraph 37;
- (b) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (c) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (d) the amounts that FE received from Flexirent and FEA received from SMBC L&F were obtained by them pursuant to the Scheme and pursuant to the false and fraudulent 2018 Transaction Documents and the 2020 Transaction Documents;
- (e) FE and FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (f) any amounts that FE and FEA received pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FE or FEA were entitled themselves to use and pay away to their related parties; and
- (g) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

501. 5 Bulkara St holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

502. With the knowledge identified in paragraphs 499 and 500 and through its conduct in:

- (a) directly or indirectly receiving money from Flexirent under the 2018 MRASA and from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

5 Bulkara St knowingly assisted the breaches of the obligations owed by Flexirent and FEA as trustees.

503. By reason of the knowing assistance of 5 Bulkara St, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to Flexirent pursuant to the 2018 MRASA and the amount that it advanced to FEA pursuant to the 2020 MRASA

(totalling \$113,703,623.61) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$88,007,623.61.

504. 5 Bulkara St is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

Z. THE CLAIM AGAINST 6 BULKARA ST

(1) Funds held on trust

505. 6 Bulkara St:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

506. On and from the dates on which it received any amounts paid pursuant to the 2020 Transaction Documents, 6 Bulkara St was obliged to account to SMBC L&F for each of those amounts.

507. 6 Bulkara St holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

508. Alternatively, 6 Bulkara St is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

(2) Tort of unlawful means conspiracy

509. On a date unknown to SMBC L&F but by no later than 6 August 2018, the Scheme Agreement was reached between Mr Papas, Mr Tesoriero and diverse others (known and unknown) to devise and implement the Scheme.

510. 6 Bulkara St became a party to the Scheme Agreement upon its incorporation on 13 March 2020 by reason of the knowledge and control of it by Mr Papas as a co-conspirator and the conduct pleaded in paragraph 512.

511. The Scheme Agreement was carried into effect by the 2018 Transaction Documents and the 2020 Transaction Documents as set out above.

512. In furtherance of the Scheme Agreement, 6 Bulkara St:

(a) received money from payments made by SMBC L&F under the 2020 Transaction Documents pursuant to the Scheme Agreement; and

(b) in accordance with the purpose of the Scheme, paid some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

Particulars

6 Bulkara St received at least \$1,020,000 in funds wholly or partly traceable to payments made by SMBC L&F pursuant to the 2020 Transactions Documents.

513. As a consequence of the actions taken by 6 Bulkara St in furtherance of the Scheme Agreement, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$83,993,909.47) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$58,297,909.47.

(3) Knowing receipt

514. In breach of trust, FEA, both directly or through intermediaries, transferred to 6 Bulkara St at least \$1,020,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2020 Transaction Documents.

515. As the sole director and secretary of 6 Bulkara St, the knowledge of Mr Papas was the knowledge of 6 Bulkara St.

516. 6 Bulkara St knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

- (a) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;
- (b) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

- (c) the amounts that FEA received from SMBC L&F were obtained pursuant to the Scheme and pursuant to the false and fraudulent 2020 Transaction Documents;
- (d) FEA had no legitimate business which would entitle them to use themselves the amounts that they received from SMBC L&F;
- (e) any amounts that FEA received pursuant to the the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FEA was entitled themselves to use and pay away to its related parties;
- (f) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

517. 6 Bulkara St holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

(4) Knowing assistance

518. From 13 March 2020 to at least 21 May 2021, 6 Bulkara St was aware of the Scheme and its purpose because its sole director and secretary had devised it and set about implementing and giving effect to it.

519. 6 Bulkara St knew (or, in the alternative, ought reasonably to have known or, in the further alternative, knew circumstances which would have disclosed to an honest and reasonable person in his position) that:

(a) the amounts paid in relation to the 2020 Transaction Documents were dishonestly obtained by FEA and paid out by FEA in breach of its obligations to SMBC L&F as trustee set out at paragraph 86;

(b) the amounts remained the property of SMBC L&F and were not permitted to be dispersed to anyone other than SMBC L&F;

because it was aware of the following facts, matters and circumstances:

(c) the amounts that FEA received from SMBC L&F were obtained pursuant to the Scheme and pursuant to the false and fraudulent 2020 Transaction Documents;

(d) FEA had no legitimate business which would entitle them to use the amounts received from SMBC L&F;

(e) any amounts that FE and FEA received pursuant to the 2020 Transaction Documents were to finance the acquisition of assets for Veolia and were not amounts to which FEA was entitled to use and pay away to their related parties; and

(f) Mr Papas, Mr Tesoriero and the Papas Related Entities were receiving substantial payments traceable to the funds paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, which they had no legitimate basis to receive.

520. 6 Bulkara St holds on trust or is liable to account to SMBC L&F for the funds (and the traceable proceeds of the funds) that it has received, or received and dissipated, or pay equitable compensation.

521. With the knowledge identified in paragraphs 518 and 519 and through its conduct in:

- (a) directly or indirectly receiving money from FEA under the 2020 MRASA pursuant to the Scheme Agreement; and
- (b) in accordance with the purpose of the Scheme, paying some or all of the money received from SMBC L&F away for its own purposes or to the benefit of the other conspirators.

6 Bulkara St knowingly assisted the breaches of the obligations owed by FEA as trustees.

522. By reason of the knowing assistance of 6 Bulkara St, SMBC L&F has suffered loss and damage.

Particulars

SMBC L&F's loss and damage is the amount that it advanced to FEA pursuant to the 2020 MRASA (totalling \$83,993,909.47) less the amounts it has received purportedly as payments from Veolia but which was in fact paid by FEA as part of the concealment of the Scheme (\$25,696,000.00) which leaves an outstanding loss of \$58,297,909.47.

523. 6 Bulkara St is liable to pay equitable compensation to SMBC L&F with respect to the losses occasioned by reason of the Scheme.

AA. THE CLAIM AGAINST 23 MARGARET ST

(1) Funds held on trust

524. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to 23 Margaret St at least \$130,701.00 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

525. 23 Margaret St:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

526. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, 23 Margaret St was obliged to account to SMBC L&F for each of those amounts.

527. 23 Margaret St holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

528. Alternatively, 23 Margaret St is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

BB. THE CLAIM AGAINST 286 CARLISLE ST

(1) Funds held on trust

529. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to 286 Carlisle St at least \$990,000.00 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents.

530. 286 Carlisle St:

(a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents and any property that it converted those funds into; and

(b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

531. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, 286 Carlisle St was obliged to account to SMBC L&F for each of those amounts.

532. 286 Carlisle St holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

533. Alternatively, 286 Carlisle St is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

CC. THE CLAIM AGAINST 64-66 BERKELEY ST

(1) Funds held on trust

534. In breach of trust, Flexirent and FEA, both directly or through intermediaries, transferred to 64-66 Berkeley St at least \$130,000 of funds wholly or partly traceable to amounts paid by SMBC L&F pursuant to the 2020 Transaction Documents.

535. 64-66 Berkeley St:

- (a) held on trust for SMBC L&F all funds, or the traceable proceeds of those funds, that it has received from the payments made pursuant to the 2020 Transaction Documents and any property that it converted those funds into; and
- (b) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

536. On and from the dates on which it received any amounts paid pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents, 64-66 Berkeley St was obliged to account to SMBC L&F for each of those amounts.

537. 64-66 Berkeley St holds on trust or is liable to account for those amounts or the traceable proceeds of those amounts and is liable to account to SMBC L&F for the balance of any funds that it has received and paid away.

Particulars

Particulars of SMBC L&F's tracing claim will be provided in due course.

538. Alternatively, 64-66 Berkeley St is liable to pay those amounts or the traceable proceeds of those amounts to SMBC L&F as money had and received to SMBC L&F's use.

Date: ~~6 August~~ 5 November 2021



Signed by Maria Yiasemides
Lawyer for the Applicant

This pleading was prepared by Michael Izzo SC and Emma Beechey of Counsel

Schedule

First Respondent Second <u>First</u> Respondent	BASILE PAPADIMITRIOU FORUM ENVIRO (AUST) PTY LTD (IN PROVISIONAL LIQUIDATION) (ACN 607 484 364)
<u>Second Respondent</u>	<u>BASILE PAPADIMITRIOU</u>
Third Respondent	FORUM ENVIRO PTY LTD (IN PROVISIONAL LIQUIDATION) (ACN 168 709 840)
<u>Fourth Respondent</u>	<u>FORUM GROUP FINANCIAL SERVICES PTY LTD (IN PROVISIONAL LIQUIDATION) (ACN 623 033 705)</u>
<u>Fifth Respondent</u>	<u>FORUM GROUP PTY LTD (IN LIQUIDATION) (ACN 153 336 997)</u>
<u>Sixth Respondent</u>	<u>FORUM FINANCE PTY LTD (IN LIQUIDATION) (ACN 153 301 172)</u>
<u>Seventh Respondent</u>	<u>THE FORUM GROUP OF COMPANIES PTY LTD (IN LIQUIDATION) (ACN 151 964 626)</u>
<u>Eighth Respondent</u>	<u>FORUM FLEET PTY LTD (IN LIQUIDATION) (ACN 155 440 994)</u>
<u>Ninth Respondent</u>	<u>IMAGETEC FINANCIAL SERVICES PTY LTD (IN LIQUIDATION) (ACN 111 978 182)</u>
<u>Tenth Respondent</u>	<u>IMAGETEC SOLUTIONS AUSTRALIA PTY LTD (IN LIQUIDATION) (ACN 074 715 718)</u>
<u>Eleventh Respondent</u>	<u>INTRASHIELD PTY LTD (IN LIQUIDATION) (ACN 133 426 534)</u>
<u>Twelfth Respondent</u>	<u>SPARTAN CONSULTING GROUP PTY LTD (IN LIQUIDATION) (ACN 168 989 544)</u>
<u>Thirteenth Respondent</u>	<u>IUGIS PTY LTD (IN LIQUIDATION) (ACN 632 882 243)</u>
<u>Fourteenth Respondent</u>	<u>IUGIS WASTE SOLUTIONS PTY LTD (IN LIQUIDATION) (ACN 647 212 299)</u>
<u>Fifteenth Respondent</u>	<u>IUGIS HOLDINGS LIMITED (UK Company No. 11123437)</u>

<u>Sixteenth Respondent</u>	<u>IUGIS (UK) LIMITED (UK Company No. 10745974)</u>
<u>Seventeenth Respondent</u>	<u>IUGIS HELLAS IKE (registered in the Hellenic Republic)</u>
<u>Eighteenth Respondent</u>	<u>IUGIS ENERGY SA (registered in the Hellenic Republic)</u>
<u>Nineteenth Respondent</u>	<u>MAZCON INVESTMENTS HELLAS IKE (registered in the Hellenic Republic)</u>
<u>Twentieth Respondent</u>	<u>26 EDMONSTONE ROAD PTY LTD (IN LIQUIDATION) (ACN 622 944 129)</u>
<u>Twenty-First Respondent</u>	<u>5 BULKARA STREET PTY LTD (IN LIQUIDATION) (ACN 630 982 160)</u>
<u>Twenty-Second Respondent</u>	<u>6 BULKARA STREET PTY LTD (IN LIQUIDATION) (ACN 639 734 473)</u>
<u>Twenty-Third Respondent</u>	<u>23 MARGARET STREET PTY LTD (ACN 623 715 373)</u>
<u>Twenty-Fourth Respondent</u>	<u>286 CARLISLE STREET PTY LIMITED (ACN 610 042 343)</u>
<u>Twenty-Fifth Respondent</u>	<u>64-66 BERKELEY STREET HAWTHORN PTY LTD (ACN 643 838 662)</u>

Certificate of lawyer

I ~~Roger Dobson~~ Maria Yiasemides certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~6 August~~ 5 November 2021



Signed by Maria Yiasemides
Lawyer for the Applicant