

SMBC Leasing and Finance, Inc. v Forum Enviro (Aust) Pty Ltd (in liq) & Others**Summary of the Discovery of the Fraud***Evidence Act 1995 (NSW), s 50*

No	Date	Time	Email	Details	Exhibit reference
1.	1 July 2021	7:55AM	Email from M Timpany to T Bouchahine, B Papas and A Colbert (Forum) re Veolia Payments due 30 June 2021	M Timpany writes: "I have been advised that we didn't receive the Veolia related payments due yesterday of \$2,139,000? Can you please urgently advise by providing the payment confirmation and/or arrange payment as soon as possible."	MT1 p. 9
2.	1 July 2021	8:12AM	Email from M Timpany to K Wang re Veolia Payments due 30 June 2021	M Timpany writes: "I got an out of office response from Tony. I would really appreciate you responding as soon as possible to my email below."	MT1 p 10
3.	1 July 2021	11:21AM	Email from M Timpany to B Chin re Veolia Payments due 30 June 2021	M Timpany writes: "Are you able to help with the below?"	MT1 p 11
4.	1 July 2021	12:40PM	Email from F Yang to M Timpany re Veolia Payments due 30 June 2021	F Yang writes: "Brandon is not working with us now. As Tony is on leave, Craig (cc'd) oversees all payments. I am still waiting for Craig's confirmation to do the payments."	MT1 p. 14
5.	1 July 2021	12:43PM	Email from M Timpany to F Yang re Veolia Payments due 30 June 2021	M Timpany writes: "Thanks for the update. I would really appreciate your urgent attention to this late payment."	MT1 p. 13
6.	1 July 2021	12:46PM	Email from F Yang to M Timpany re Veolia Payments due 30 June 2021	F Yang writes: "I am really sorry for the payment delay, I will get back to you ASAP once I get any payment confirmation."	MT1 p. 13

Filed on behalf of (name & role of party)

SMBC Leasing and Finance Inc. Sydney Branch, Applicants

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No	Date	Time	Email	Details	Exhibit reference
7.	1 July 2021	12:47PM	Email from M Timpany to F Yang re Veolia Payments due 30 June 2021	M Timpany writes: "Thanks Fiona."	MT1 p. 13
8.	1 July 2021	3:02PM	Email from M Timpany to F Yang re Veolia Payments due 30 June 2021	M Timpany writes: "Sorry to chase, but payment been made?"	MT1 p. 19
9.	1 July 2021	4:21PM	Email from F Yang to M Timpany re Veolia Payments due 30 June 2021	F Yang writes: "... as today is 1 st of the month also new Financial year, we are a bit busy today. I have emailed Craig about the payment request, and he must be busy with something at the moment. I am still waiting for his confirmation."	MT1 p. 24
10.	1 July 2021	4:26PM	Email from M Timpany to F Yang re Veolia Payments due 30 June 2021	M Timpany writes: "Do you agree with the payment amount due yesterday of AUD2,139,000? Are you just waiting for Craig's approval to release funds?"	MT1 p. 24
11.	1 July 2021	4:30PM	Email from F Yang to M Timpany re Veolia Payments due 30 June 2021	F Yang writes: "We only have two outstanding invoices which I attached. The total should be \$1,975,200.00. Did I miss any invoices?"	MT1 p. 24
12.	1 July 2021	4:47PM	Email from M Timpany to F Yang re Veolia Payments due 30 June 2021	M Timpany writes: "Thanks for the update - can you please urgently arrange payment of the AUD1,975,200 per the invoices you have on hand? The difference of AUD163,800 relates to the monthly repayment due on the last drawdown we completed for Forum on 26 May 2021. It appears that that this monthly payment has not been included in either of the attached invoices, and apologies I haven't been copied on another invoice raised by our operations team for this additional AUD163,800 due."	MT1 p. 23
13.	2 July 2021	9:13AM	Email from F Yang to M Timpany re Veolia Payments due 30 June 2021	M Timpany writes: "Apologies for the oversight on the missing invoice of AUD163,800. Please see attached the three invoices to support the total payment due of AUD2,139,000. Please urgently advise when payment will be made, and also provide the payment confirmation."	MT1 p. 23
14.	2 July 2021	10:29AM	Email from B Papas to M Timpany (cc A Colbert) re SMBC	B Papas writes: "I want to inform you that significant issues have arisen on our business that have led to Forum Finance unable to meet the timing of its obligations for this month's receivables."	MT1 p. 33

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				<p>We are currently working with third parties to advise as to next steps and anticipate an update provided to you by COB Monday 5th July.</p> <p>We kindly ask to wait till then before any action is taken by SMBC in relation to the receivables as we are seeking to find commercial terms suitable for all parties.</p> <p>Our team will be in touch prior to that timeframe with any updates.”</p>	
15.	2 July 2021	1:59PM	Email from M Timpany to B Papas (cc A Colbert) re SMBC	<p>M Timpany writes: “In advance of Monday 5 July, we would appreciate you please providing an update on the nature of your significant issues.</p> <p>Please note that we reserve our rights under the documentation we have in place with Forum Enviro. We are also seeking advice on this matter.”</p>	MT1 p. 33
16.	7 July 2021	3:29PM	Emails from M Timpany to G Brar (and others at Veolia) re Forum-Veolia agreements	<p>M Timpany writes: “Thank you for your call with our team on Monday 5 July 2021.</p> <p>We would appreciate your urgent confirmation on the validity of the following contracts and email communications between Veolia Environmental Services (Australia) Pty Ltd and Forum Enviro (Aust) Pty Ltd set out in the table and attached. Due to size, please note that the attachments will be provided in four separate emails.</p> <p>Please note that SMBC Leasing and Finance, Inc. Sydney Branch is considering its position in relation to this matter. Accordingly, SMBC Leasing and Finance, Inc. Sydney Branch reserves all of its rights in relation to the relevant transactions.”</p>	MT1 pp. 35-171
		3:30PM			
		3:31PM			
		3:32PM			
		5:30PM			

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17.	7 July 2021	5:02PM	Email from J Sandilands (Veolia) to M Timpany	<p>J Sandilands writes: “Thank you for sending all of this through. By way of next steps, I propose:</p> <ul style="list-style-type: none"> - once Preet has had the time to check all of the attachments, she will confirm, by return email, the validity or lack thereof of her signature and the emails. We have gone over quite a few of the documents and emails attached to your emails since you sent them and the ones we have looked at so far are forged - please note that Laurie Kozlovic is no longer with Veolia. His email address is lkozlovic@woolworths.com.au. - Veolia leases approx 10 Surfside units from Iugis, and I have asked our COO - Waste to provide me the serial numbers that correspond to those units, which I will then share with you.” 	MT1 pp. 172-173
18.	8 July 2021	2:30PM	Email from G Brar to M Timpany re Forum-Veolia agreements	<p>G Brar writes: “I can confirm that I have not signed these documents and neither did I approve the use of my electronic signature to execute these documents. Kindly also note that not only is the signature not mine but also this is first time I have seen these documents.</p> <p>I can also confirm that I did not send any of those e-mails (as per the pdf copy of e-mails shared in your e-mail 4 of 4). I have cross checked them against my mailbox and calendar. Also please find some additional information regarding two of the e-mails:</p> <ol style="list-style-type: none"> 1. E-mail purported to be sent on Sep 30, 2020 => I was holidaying with my family in Red Head (30 mins north of Forster). I was out on the beach with the kids for most of the day. 2. E-mail purported to be sent on Dec 24, 2020 => I was driving as we left Sydney to spend Christmas 	MT1 p. 172

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				<p>with some friends at a farm near Goulburn. I had no connectivity whatsoever while at at the farm and the e-mail has a time stamp of 5.36pm.</p> <p>These e-mails have been fabricated.”</p>	
19.	8 July 2021	2:38PM	Email from M Timpany to G Brar (and other at Veolia) re Forum-Veolia 2018 agreements	<p>M Timpany writes: “Further to our email from yesterday, we would appreciate your urgent confirmation on the validity of the following additional contracts between Veolia Environmental Services (Australia) Pty Ltd and Forum Enviro (Aust) Pty Ltd set out in the table and attached.</p> <p>Please note that SMBC Leasing and Finance, Inc. Sydney Branch is considering its position in relation to this matter. Accordingly, SMBC Leasing and Finance, Inc. Sydney Branch reserves all of its rights in relation to the relevant transactions.”</p>	MT1 p. 174
20.	8 July 2021	3:01PM	Email from G Brar to M Timpany re Forum-Veolia 2018 agreements	G Brar writes: “I can confirm that I have not signed these documents and neither did I approve the use of my electronic signature to execute these documents.”	MT1 p. 175