

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 20/04/2022 3:34:30 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Defence - Form 33 - Rule 16.32  
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: 20/04/2022 3:42:28 PM AEST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



**Defence of the Twenty-Third Respondent**

No. NSD681 of 2021

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

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

Applicant

**23 Margaret Street Pty Ltd ACN 623 715 373**

Twenty-Third Respondent

In response to the Applicant's Amended Statement of Claim dated 5 November 2021, the Twenty-Third Respondent (**23 Margaret St**) says:

*NB: Unless otherwise stated:*

- A. *terms defined in the Amended Statement of Claim have the same meaning when used in this Defence;*
- B. *headings and definitions are adopted from the Amended Statement of Claim for ease of reference and are not treated as part of the pleadings;*
- C. *for the avoidance of doubt, 23 Margaret St does not plead to the headings or definitions employed by the Applicant and in particular does not plead to (and does not admit) headings or definitions which incorporate characterisations of conduct.*

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Filed on behalf of (name & role of party)	Filed on behalf of the Twenty-Third Respondent
Prepared by (name of person/lawyer)	Prepared by Alexandra Lawrence
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**A. PARTIES**

1-4V It admits paragraphs 1 to 4V.

**B. THE MASTER AGREEMENTS**

5-11 It does not know and therefore does not admit paragraphs 5 to 11.

**C. THE FRAUDULENT SCHEME**

12-14 It does not know and therefore does not admit paragraphs 12 to 14.

**D. THE FRAUDULENT TRANSACTIONS**

15-88 It does not know and therefore does not admit paragraphs 15 to 88.

**E-Z. CLAIMS AGAINST OTHER PARTIES**

89-523 It does not know and therefore does not admit paragraphs 89 to 523.

**AA. THE CLAIM AGAINST 23 MARGARET ST**

(1) Funds held on trust

524 It does not know and therefore does not admit paragraph 524.

525 As to paragraph 525:

- (a) it does not know and therefore does not admit that it received amounts paid by SMBC L&F pursuant to the 2018 Transaction Documents and the 2020 Transaction Documents;
- (b) it denies that it had any knowledge whatsoever that any monies it received were derived from the 2018 Transaction Documents or the 2020 Transaction Documents;
- (c) in relation to any such funds, it denies that it:
  - (i) held those funds, the traceable proceeds of those funds, or any property it converted those funds into, on trust for SMBC L&F;
  - (ii) holds on trust such of those funds or the traceable proceeds of those funds which it holds or of which it has the benefit;

(d) it says further that:

- (i) Mr Papas rented the property at 23 Margaret Street, Rozelle NSW 3039 from 23 Margaret St;
- (ii) if it did receive any such funds, then those funds were paid to it either by way of rental income paid by or on behalf of Mr Papas, or by way of a return on a capital investment made in the Forum group of companies by Mr Tesoriero or others on his behalf.

**Particulars**

Mr Tesoriero's capital investment in the Forum group of companies included the following payments (at least):

- (i) \$1,000,000 paid on around 4 February 2013;
- (ii) \$200,000 paid on around 4 October 2013;
- (iii) \$60,000 paid on around 4 October 2013;
- (iv) \$1,500,000 paid on around 2 June 2014;
- (v) \$2,109,755 paid on around 1 May 2017;
- (vi) \$2,000,000 paid on around 2 May 2017.

Further particulars may be provided after discovery.

526 It denies paragraph 526.

**Particulars**

It refers to and repeats the matters pleaded and particularised in paragraph 525 above.

527 It denies paragraph 527.

**Particulars**

It refers to and repeats the matters pleaded and particularised in paragraph 525 above.

528 It denies paragraph 528.

**Particulars**

It refers to and repeats the matters pleaded and particularised in paragraph 525 above.

**BB-CC. CLAIMS AGAINST 286 CARLISLE ST AND 64-66 BERKELEY ST**

529- It does not know and therefore does not admit paragraphs 529 to 538.  
538

Date: 20 April 2022



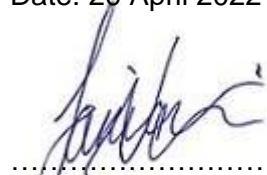
.....  
Signed by Sarwar (Sazz) Nasimi  
Lawyer for the Twenty-Third Respondent

This pleading was prepared by Paul Hayes QC and Michael O'Haire.

**Certificate of lawyer**

I, Sarwar (Sazz) Nasimi, certify to the Court that, in relation to the defence filed on behalf of the Twenty-Third Respondent, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 20 April 2022



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Signed by Sarwar (Sazz) Nasimi  
Lawyer for the Twenty-Third Respondent