

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 10/08/2020 5:59:25 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: Concise Statement
File Number: VID532/2020
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v
GOGETTA EQUIPMENT FUNDING PTY LTD
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 11/08/2020 4:46:56 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

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.



Concise Statement

No. of 2020

Federal Court of Australia

District Registry: Victoria

Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Applicant

GOGETTA EQUIPMENT FUNDING PTY LTD (ACN 124 102 647)

Respondent

A. Important facts giving rise to the claim

1. The Respondent (**GoGetta**) is a wholly-owned subsidiary of SIV Capital Limited (ACN 011 045 828) (**SIV Capital**).
2. During the period from 1 July 2014 to 23 February 2018 (the **Relevant Period**), GoGetta carried on the business of leasing light passenger vehicles to customers.
3. GoGetta entered into 5,183 rental agreements with customers, under which GoGetta leased light passenger vehicles to customers (**Light Passenger Vehicle Agreements**).
4. Throughout the Relevant Period, neither GoGetta nor SIV Capital:
 - 4.1. held, under the *National Consumer Credit Protection Act 2009* (Cth) (the **National Credit Act**), an Australian credit licence (an **ACL**);
 - 4.2. was a credit representative of any person that held an ACL.
5. During the Relevant Period, GoGetta entered into 10 Light Passenger Vehicle Agreements (**Agreements**, and individually **Agreement**):
 - 5.1. with the consumer named in column A (**Consumer**);

Filed on behalf of (name & role of party) Australian Securities and Investments Commission, Applicant

Prepared by (name of person/lawyer) Tina Beltrame, Litigation Counsel, ASIC

Law firm (if applicable) N/A

Tel +61 402 955 439 Fax +61 1300 720 000

Email tina.beltrame@asic.gov.au and lucy.reesgraham@asic.gov.au

Address for service 7/120 Collins Street, Melbourne VIC 3000 c/o Tina Beltrame and Lucy Rees-Graham
(include state and postcode)

- 5.2. based on an application received from the third-party intermediary in column B;
 - 5.3. for the light passenger vehicle (or in one case, vehicles) in column C
(the **Vehicle(s)**);
 - 5.4. on the date in column D;
- of Table 1 in Annexure A.
6. ASIC has provided GoGetta with a schedule that sets out the identity of the Consumer to each of the Agreements.
 7. GoGetta was the lessor, and the Consumer was a lessee, under each Agreement.
 8. GoGetta:
 - 8.1. did not, when or before entering into any Agreement, obtain from the Consumer a declaration that the Vehicle(s) was/were hired wholly or predominantly for business purposes; and
 - 8.2. has not established that any Agreement was not a consumer lease to which Part 11 of the National Credit Code (Sch 1 of the National Credit Act) applies.
 9. The Vehicles were hired by each Consumer wholly or predominantly for a personal, domestic or household purpose.
 10. By each Agreement:
 - 10.1. the Consumer authorised GoGetta to arrange for any amount GoGetta might debit or charge the Consumer to be debited through the bulk electronic clearing system account held at the Consumer's financial institution;
 - 10.2. the Consumer agreed to pay weekly, from the Agreement's commencement date, for the term of the Agreement, rent of an expressed amount by direct debit to GoGetta.
 11. Under each Agreement, during the relevant period, GoGetta as the lessor under the Agreement, made automated demands to, and received and accepted payments from, the Consumer, as described in Table 2 of Annexure A.
 12. By reason of the matters in paragraph 11, GoGetta exercised its rights as the lessor in relation to each Agreement.
 13. In relation to each Agreement, the amounts that each Consumer was required to pay to GoGetta exceeded the cash price of the relevant Vehicles.

14. GoGetta hired out the Vehicles to each Consumer in the course of its business of hiring out light passenger vehicles to customers in Australia.
15. Accordingly, each Agreement was a consumer lease to which Part 11 of the National Credit Code (Sch 1 to the National Credit Act) applies.

B. RELIEF SOUGHT FROM THE COURT

16. ASIC seeks the relief set out in the Originating Application.

C. PRIMARY LEGAL GROUNDS FOR THE RELIEF SOUGHT

17. By reason of the above matters:

- 17.1. by entering into each Agreement, GoGetta contravened s 29 of the National Credit Act, by engaging in the credit activity described in item 3(a) of s 6(1) of the National Credit Act when it did not hold a licence authorising it to engage in that credit activity;
- 17.2. by exercising its rights as the lessor under each Agreement, GoGetta contravened s 29 of the National Credit Act, by engaging in the credit activity described in item 3(c) of s 6(1) of the National Credit Act when it did not hold a licence authorising it to engage in that credit activity; and
- 17.3. by demanding, and receiving or accepting, fees, charges or other amounts from the Consumers under the Agreements for engaging in a credit activity when it did not hold a licence authorising it to do so, GoGetta contravened s 32 of the National Credit Act.

D. HARM CAUSED BY THE RESPONDENT'S CONDUCT

18. If the Court makes the declarations sought at para 1 (a) of the Originating Application, the Applicant will provide further and better particulars of the harm caused by the Respondent's conduct.

Date: 10 August 2020

A handwritten signature in blue ink, consisting of a stylized 'T' followed by a horizontal line that extends to the right and then curves back down.

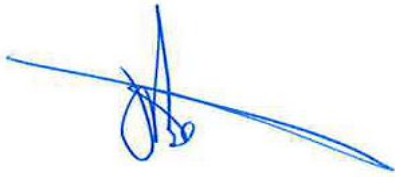
Signed by Tina Beltrame

Lawyer for the Applicant

Certificate of lawyer

I Tina Beltrame 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: 10 August 2020



Signed by Tina Beltrame

Lawyer for the Applicant

ANNEXURE A

TABLE 1

A. Consumer	B. Third party intermediary	C. Good(s) hired	D. Date of Agreement
Consumer 1	Amiri, Parvis, trading as Gold Coast Automobiles ABN 85 689 149 708; M.K Astill & M Pratt, trading as Rent 2 Own Express Loans ABN 95 798 768 759	1998 Chrysler Grand Voyager; 2006 Jeep Cherokee Station Wagon	30 April 2015
Consumer 2	Cema Holdings trading as The Auto House ABN 70 117 371 936; Stratton Finance Pty Ltd ABN 63070 636 903	2004 Porsche Cayenne S Wagon Engine	4 May 2015
Consumer 3	Jaimatt Pty Ltd trading as Franky's A1 Car Sales, LMCT 10991 ACN 121 451 876 ABN 34 367 720 176 Nationwide Finance and Loans Pty Ltd trading as T/As EziLend ABN 62 167 572 045	2011 Mitsubishi Outlander	15 December 2015
Consumer 4	Hop Along Investments Pty Ltd ABN 80 115 244 089 trading as Westgate Motors	2014 Mitsubishi Outlander Wagon 4WD	9 December 2016

A. Consumer	B. Third party intermediary	C. Good(s) hired	D. Date of Agreement
Consumer 5	Stop and Save Motors Pty Ltd ABN 59602108654 LIC MDO52368; Stratton Finance Pty Ltd ABN 63 070 636 903	2010 Lexus RX350	21 March 2016
Consumer 6	Triple S Motor Group Pty Ltd trading as Steve Foster & Sons ABN 48 091931752; Independent Finance Group Pty Ltd ABN 79 144 080 026 formerly trading as Luke Matthews Management Pty Ltd	2010 Holden Berlina Sedan	21 April 2016
Consumer 7	RA Motors Granville Pty Ltd ABN 96 106 852 199; Independent Finance Group Pty Ltd ABN 79 144 080 026 formerly trading as formerly trading as Luke Matthews Management Pty Ltd	2005 Ford Territory Tx (4 x 4) Sx 4D Wagon	29 February 2016
Consumer 8	Lakis Pantelopoulos trading as Melbourne Quality Cars LMCT: 10767, ABN 66 093 418 221 Masin, Dino ABN 39 358 925 672 trading as League Management	2001 Holden Commodore SV6	12 May 2016 (varied on 15 September 2016)

A. Consumer	B. Third party intermediary	C. Good(s) hired	D. Date of Agreement
Consumer 9	Money Now Pty Ltd ACN 156 544 455 ABN 93 156 544 455 Swordtail Pty Ltd trading as M. & G..Motors ACN 006 441 309 ABN 41 750 652 125	2005 Mercedes E350 Black Sedan	10 June 2016
Consumer 10	Westgate Motors ABN 80 115 244 089 Commercial Equipment Finance Pty Ltd ABN 70 600 849 170 ACN 600 849 170	2011 Ford Territory TS (4x4) Wagon	21 January 2016

ANNEXURE A

TABLE 2

Consumer 1

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$1,031.52	1	\$1,031.52
Receiving or accepting a fee or charge	Documentation fee	\$395	1	\$395
Receiving or accepting a fee or charge	Merchant fee	\$25.27	1	\$25.27
Receiving or accepting a fee or charge	First rental payment	\$257.89	1	\$257.89
Receiving or accepting a fee or charge	Direct debits	\$257.89	60	\$15,473.40
Receiving or accepting a fee or charge	Direct debits	\$357.89	28	\$10,020.92
Receiving or accepting a fee or charge	Legal fees	\$187	1	\$187
Demanding a fee or charge	Dishonour fees	\$35	6	\$210
Total			99	\$27.601

Consumer 2

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$1,384.60	1	\$1,384.60
Receiving or accepting a fee or charge	Documentation fee	\$395	1	\$395
Receiving or accepting a fee or charge	Merchant fee	\$31.89	1	\$31.89
Receiving or accepting a fee or charge	First rental payment	\$346.15	1	\$346.15
Receiving or accepting a fee or charge	Direct debits	\$346.15	39	\$13,499.85
Receiving or accepting a fee or charge	Credit Card payment	\$346.15	32	\$11,076.80
Receiving or accepting a fee or charge	Credit Card payment	\$381.15	1	\$381.15
Demanding a fee or charge	Dishonour fees	\$35	2	\$70
Total			78	\$27,185.44

Consumer 3

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$906.04	1	\$906.04
Receiving or accepting a fee or charge	Documentation fee	\$395.00	1	\$395.00
Receiving or accepting a fee or charge	Merchant fee	\$22.93	1	\$22.93
Receiving or accepting a fee or charge	First rental payment	\$226.51	1	\$226.51
Receiving or accepting a fee or charge	Arrears	\$150.00	1	\$150.00
Receiving or accepting a fee or charge	Arrears	\$250.00	1	\$250.00
Receiving or accepting a fee or charge	Arrears	\$260.50	1	\$260.50
Receiving or accepting a fee or charge	Arrears	\$300.00	4	\$1,200.00
Receiving or accepting a fee or charge	Arrears	\$343.27	1	\$343.27
Receiving or accepting a fee or charge	Arrears	\$350.00	12	\$4,200.00
Receiving or accepting a fee or charge	Arrears	\$398.50	1	\$398.50
Receiving or accepting a fee or charge	Arrears	\$400.00	3	\$1,200.00
Receiving or accepting a fee or charge	Arrears	\$450.00	1	\$450.00
Receiving or accepting a fee or charge	Arrears	\$500.00	1	\$500.00

Receiving or accepting a fee or charge	Arrears	\$594.13	1	\$594.13
Receiving or accepting a fee or charge	Arrears	\$600.00	1	\$600.00
Demanding a fee or charge	Direct debits	\$227.51	9	\$2,047.59
Demanding a fee or charge	Legal Fees	\$1,117.60	1	\$1,117.60
Demanding a fee or charge	Legal Fees	\$726.00	1	\$726.00
Demanding a fee or charge	Legal Fees	\$231.00	1	\$231.00
Demanding a fee or charge	Legal Fees	\$33.00	1	\$33.00
Total			45	\$15,852.07

Consumer 4

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Documentation fee	\$395.00	1	\$395.00
Receiving or accepting a fee or charge	Merchant fee	\$9.86	1	\$9.86
Receiving or accepting a fee or charge	First rental payment	\$262.29	1	\$262.29
Demanding a fee or charge	Direct debits	\$262.29	2	\$524.58
Demanding a fee or charge	Direct debits	\$524.58	5	\$2,622.90
Demanding a fee or charge	Direct debits	\$1,049.16	1	\$1,049.16
Demanding a fee or charge	Direct debits	\$1,084.16	1	\$1,084.16
Demanding a fee or charge	Field Call	\$99.00	1	\$99.00
Demanding a fee or charge	Skip Trace	\$181.50	1	\$181.50
Demanding a fee or charge	Dishonour fee	\$35.00	2	\$70.00
Total			16	\$6,298.45

Consumer 5

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$1,791.92	1	\$1,791.92
Receiving or accepting a fee or charge	Documentation fee	\$395.00	1	\$395.00
Receiving or accepting a fee or charge	Merchant fee	\$39.52	1	\$39.52
Receiving or accepting a fee or charge	First rental payment	\$447.98	1	\$447.98
Receiving or accepting a fee or charge	Direct debits	\$448.98	4	\$1,795.92
Demanding a fee or charge	Direct debits	\$448.98	14	\$6,285.72
Demanding a fee or charge	Dishonour fees	\$35.00	4	\$140.00
Total			26	\$10,896.06

Consumer 6

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$654.92	1	\$654.92
Receiving or accepting a fee or charge	First rental payment	\$184.50	1	\$184.50
Receiving or accepting a fee or charge	Arrears	\$200.00	1	\$200.00
Receiving or accepting a fee or charge	Direct debits	\$184.50	18	\$3,321.00
Demanding a fee or charge	Direct debits	\$184.50	13	\$2,398.50
Demanding a fee or charge	Dishonour fee	\$35.00	4	\$140.00
Total			38	\$6,898.92

Consumer 7

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$516.48	1	\$516.48
Receiving or accepting a fee or charge	Documentation fee	\$395.00	1	\$395.00
Receiving or accepting a fee or charge	Merchant fee	\$15.61	1	\$15.61
Receiving or accepting a fee or charge	First rental payment	\$129.12	1	\$129.12
Receiving or accepting a fee or charge	Arrears	\$300.00	2	\$600.00
Receiving or accepting a fee or charge	Arrears	\$400.00	1	\$400.00
Receiving or accepting a fee or charge	Direct debits	\$130.12	15	\$1,951.80
Receiving or accepting a fee or charge	Direct debits	\$200.00	1	\$200.00
Receiving or accepting a fee or charge	Direct debits	\$246.44	1	\$246.44
Receiving or accepting a fee or charge	Direct debits	\$600.00	1	\$600.00
Receiving or accepting a fee or charge	Direct debits	\$650.00	1	\$650.00
Demanding a fee or charge	Direct debits	\$129.12	3	\$387.36
Demanding a fee or charge	Direct debits	\$130.12	29	\$3,773.48
Demanding a fee or charge	Direct debits	\$260.24	3	\$780.72
Demanding a fee or charge	Direct debits	\$280.00	1	\$280.00

Demanding a fee or charge	Direct debits	\$450.60	1	\$450.60
Demanding a fee or charge	Direct debits	\$531.44	1	\$531.44
Demanding a fee or charge	Direct debits	\$1,075.96	1	\$1,075.96
Demanding a fee or charge	Dishonour fees	\$35.00	13	\$455.00
Demanding a fee or charge	Field Call	\$391.60	1	\$391.60
Demanding a fee or charge	Repo/Collection	\$660.00	1	\$660.00
Demanding a fee or charge	Tow costs	\$440.00	1	\$440.00
Total			81	\$14,930.61

Consumer 8

Contract No. 145567

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	1st rent and bond	\$844.38	1	\$844.38
Receiving or accepting a fee or charge	Direct debits	\$177.26	3	\$531.78
Receiving or accepting a fee or charge	Direct debits	\$88.38	10	\$883.80
Demanding a fee or charge	Direct debits	\$88.38	4	\$353.52
Total			18	\$2,613.48

Contract No. 156413

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Bond	\$349.52	1	\$349.52
Receiving or accepting a fee or charge	First Rental Payment	\$113.93	1	\$113.93
Receiving or accepting a fee or charge	Direct debits	\$112.25	18	\$2,020.50
Demanding a fee or charge	Direct debits	\$112.25	9	\$1,010.25
Demanding a fee or charge	Direct debits	\$224.50	1	\$224.50
Demanding a fee or charge	Direct debits	\$225.00	1	\$225.00
Demanding a fee or charge	Dishonour fee	\$35.00	1	\$35.00
Total			32	\$3,978.70

Consumer 9

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$1,147.20	1	\$1,147.20
Receiving or accepting a fee or charge	Documentation fee	\$395.00	1	\$395.00
Receiving or accepting a fee or charge	First rental payment	\$286.80	1	\$286.80
Demanding a fee or charge	Direct debits	\$286.80	1	\$286.80
Demanding a fee or charge	Direct debits	\$287.80	3	\$863.40
Receiving or accepting a fee or charge	Direct debits	\$287.80	50	\$14,390.00
Total			57	\$17,369.20

Consumer 10

Contravening conduct	Type	Amount per transaction	Number of occurrences	Total value
Receiving or accepting a fee or charge	Security bond	\$1,022.32	1	\$1,022.32
Receiving or accepting a fee or charge	Documentation fee	\$395.00	1	\$395.00
Receiving or accepting a fee or charge	Merchant fee	\$25.11	1	\$25.11
Receiving or accepting a fee or charge	First rental payment	\$255.58	1	\$255.58
Receiving or accepting a fee or charge	Direct debits	\$256.58	35	\$8,980.30
Receiving or accepting a fee or charge	Direct debits	\$384.87	2	\$769.74
Receiving or accepting a fee or charge	Direct debits	\$513.16	1	\$513.16
Demanding a fee or charge	Direct debits	\$255.58	4	\$1,022.32
Demanding a fee or charge	Direct debits	\$256.58	18	\$4,618.44
Demanding a fee or charge	Direct debits	\$355.58	4	\$1,422.32
Demanding a fee or charge	Direct debits	\$384.87	1	\$384.87
Demanding a fee or charge	Direct debits	\$513.16	1	\$513.16
Demanding a fee or charge	Field Call	\$297.00	1	\$297.00
Demanding a fee or charge	Legal Fees	\$726.00	1	\$726.00
Demanding a fee or charge	Legal Fees	\$66.00	1	\$66.00
Demanding a fee or charge	Legal Fees	\$264.00	1	\$264.00

Demanding a fee or charge	Legal Fees	\$627.00	1	\$627.00
Demanding a fee or charge	Repo/Collection	\$440.00	1	\$440.00
Demanding a fee or charge	Dishonour fees	\$35.00	3	\$105.00
Total			79	\$22,447.32