

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 5/08/2020 12:42:43 AM 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: Affidavit - Form 59 - Rule 29.02(1)  
File Number: NSD714/2020  
File Title: WELLS FARGO TRUST COMPANY, NATIONAL ASSOCIATION (AS OWNER TRUSTEE) & ANOR v VB LEASECO PTY LTD (ADMINISTRATORS APPOINTED) ACN 134 268 741 & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 5/08/2020 12:42:51 AM 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.



Form 59  
Rule 29.02(1)

### Affidavit

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

No. NSD 714 of 2020

#### **WELLS FARGO TRUST COMPANY, NATIONAL ASSOCIATION (AS OWNER TRUSTEE) AND ANOTHER NAMED IN SCHEDULE 1**

Applicants

#### **VB LEASECO PTY LTD (ADMINISTRATORS APPOINTED) ACN 134 268 741 AND OTHERS NAMED IN SCHEDULE 2**

Respondents

Affidavit of: Darren William Dunbier  
Address: 56 Edmondstone Road Bowen Hills Queensland 4006  
Occupation: General Manager, Engineering and Aircraft Servicing  
Date: 5 August 2020

I, Darren William Dunbier, General Manager, Engineering and Aircraft Servicing of Virgin Australia Airlines Pty Ltd (admins apptd), at 56 Edmondstone Road, Bowen Hills, Queensland, affirm:

1. This is the second affidavit I have made in these proceedings. In this affidavit, I refer to my affidavit affirmed 17 July 2020 and filed in these proceedings (**First Affidavit**) and adopt the terms defined in the First Affidavit. In my First Affidavit and its annexures, I set out my qualifications and experience.
2. In making this affidavit, I also refer to:
  - (a) schedule 2 (**Schedule 2**) and schedule 3 (**Schedule 3**) to the Applicants' amended originating process dated 27 July 2020;
  - (b) the Court Book filed in the proceeding on 28 July 2020 (**Court Book**); and
  - (c) the hearing of the Applicants' application on 31 July 2020 (**Hearing**), which I attended.

|  |   |     |                 |
|--|---|-----|-----------------|
| Filed on behalf of (name & role of party)                  | The Respondents                           |     |                 |
| Prepared by (name of person/lawyer)                        | Timothy James Sackar                      |     |                 |
| Law firm (if applicable)                                   | Clayton Utz                               |     |                 |
| Tel  | +61 2 9353 4000                           | Fax | +61 2 8220 6700 |
| Email  | kaadams@claytonutz.com                    |     |                 |
| <b>Address for service</b><br>(include state and postcode) | Level 15, 1 Bligh Street, Sydney NSW 2000 |     |                 |

3. Unless otherwise stated, I make this affidavit based on my own knowledge and belief and on information from Virgin staff, which I believe to be true.

### **Redelivery Proposal**

4. Following the Hearing, I was asked by Salvatore Algeri (one of the Administrators) to consider the most cost effective and expeditious means of delivering the aircraft engines and other physical objects leased by Willis to the First Respondent (**Willis Property**) to Coconut Creek, Florida, United States, having regard to the applicable regulatory and lease requirements (as compiled in Schedule 3) and the practical restraints imposed by the insolvency of the Virgin Group and the COVID-19 pandemic.
5. In my opinion, the most cost effective and expeditious option for the delivery of the Willis Property to Willis at Florida (**Redelivery Proposal**) is as follows:
  - (a) the Willis Engines (and the associated QEC Kits) are currently attached to four airframes, which are presently located in Adelaide (VH-VUT) and Melbourne (VH-VOT, VH-VUA and VH-VOY). As a first step, VH-VUT will be repositioned from Adelaide to Melbourne (the **Adelaide VH-VUT Transfer**). Using Virgin Tech Pty Ltd (Administrators Appointed) (**Virgin Tech**) at Virgin's Melbourne airport facility, the Willis Engine currently attached to VH-VOT will be removed and placed on VH-VUT. The 'C Check' for each of the Willis Engines will be performed by Virgin Tech in Melbourne;
  - (b) VH-VUT will then be flown (with two Willis Engines installed) to the facility operated by Delta Air Lines, Inc. (**Delta**) at Hartsfield-Jackson Atlanta International Airport at Atlanta, Georgia, United States (**Delta Facility**). The Delta Facility is a Repair Station that has a certificate issued by the United States Federal Aviation Administration (**FAA**) under Title 14 of the Code of Federal Regulations, Part 145. The Delta Facility will be able to issue the FAA Form 8130-3 Authorised Release Certificate specified in paragraph 2 of Schedule 3;
  - (c) Delta will conduct the inspections, checks and other steps necessary to issue the FAA Form 8130-3 Authorised Release Certificate and other records referred to in paragraphs 7(b) and 7(c) of Schedule 2 while the first two Willis Engines are 'on wing' of VH-VUT;
  - (d) following the completion of step (c):
    - (i) the first two Willis Engines will be removed by Delta at the Delta Facility, then will be appropriately prepared and freighted by road to Coconut Creek, Florida, United States (in accordance with paragraph 3 of Schedule 3). The

first two Willis Engines will be delivered using the two Willis Stands currently at the Delta Facility; and

- (ii) Delta will install two Virgin engines or short-term lease engines on VH-VUT and VH-VUT will return to Melbourne;
  - (e) in Melbourne, the remaining two Willis Engines will be removed from VH-VOY and VH-VUA and installed on VH-VUT;
  - (f) VH-VUT will return to the Delta Facility, where steps (c) and (d) will be repeated in respect of the remaining two Willis Engines. The remaining two Willis Engines will be delivered using Approved Shipping Stands as described at paragraph 20 of my First Affidavit which will be sourced at the Delta Facility. The Approved Shipping Stands will be provided to the Applicants in substitution for the two Willis Stands currently in Melbourne, which will become the property of Virgin, subject to the Applicants having a reasonable right of refusal in respect of any proposed Approved Shipping Stands. The proposed Approved Shipping Stands will be manufactured to the same specification compliance as the Willis Stands;
  - (g) with the necessary approval from CASA, three Licensed Aircraft Maintenance Engineers (**LAMEs**) employed by Virgin Tech may travel to the Delta Facility and supervise Delta in undertaking steps (c) to (f); and;
  - (h) the Respondents will use their best endeavours to procure that all reasonable access to the Delta Facility is granted to the Applicants' nominated representative so that steps (c) to (f) are carried out in the presence of the Applicants' nominated representative and, so far as reasonable and consistent with the applicable engine manufacturer's procedures for removal and the terms of the Engine Leases, the Respondents will cause those steps to be carried out in accordance with the directions of the Applicants' nominated representative.
6. In my view, the Redelivery Proposal is the most cost effective and expeditious option because it would permit the inspections, checks and other steps necessary to issue the FAA Form 8130-3 Authorised Release Certificate and other records referred to in paragraphs 7(b) and 7(c) of Schedule 2 to be performed while the Willis Engines are 'on wing'. If the Willis Engines were transported to the Delta Facility by air freight, it would be necessary to place the engines in a 'test cell' to undertake that work, which is a significantly more costly process. The two return 'ferry flights' will also be significantly less expensive than the costs of transporting all four of the Willis Engines by air freight, especially in circumstances where available air freight capacity, and charges, have been significantly affected by the COVID-19 pandemic.

7. While Deloitte, my team and I have already commenced the enquiries and background negotiations to implement the Redelivery Proposal, including having a call with Garry Failler of Willis on 4 August 2020 to discuss the proposal with him, the Adelaide VH-VUT Transfer step set out in paragraph 5(a) of the Redelivery Proposal cannot practically be commenced before 26 August 2020. This is because prior to that step being taken, the Respondents will need to:
- (a) obtain from CASA the necessary regulatory approvals to implement the Redelivery Proposal, including an extension of the Virgin Tech CASA approval to permit removal of the Willis Engines at the Delta Facility (under the supervision of the LAMEs). Virgin Australia International Airlines has previously obtained similar approvals from CASA for other maintenance activities in the USA, and I am informed by our Certificate Team Manager at CASA, and believe, that those approvals will be likely be granted within around 10 business days of an application being made.;
  - (b) conclude the negotiations for the release of VH-VUT from Adelaide Airport, in circumstances where Mr Algeri has informed me that Adelaide Airport is owed approximately \$7.6 million and is asserting a lien over Virgin property located at the airport;
  - (c) arrange for flight crew staffing of the two return VH-VUT ferry flights to the Delta Facility and identify the appropriate LAMEs to travel to the Delta Facility and work at that facility for a period of time. This task is significantly complicated by the COVID-19 pandemic. For example, staff returning from overseas are required by Australian law to quarantine in a hotel for a 14 day period upon return to Australia and may be subject to similar restrictions in the United States, which will among other things mean that it would be inappropriate to ask staff with significant family or other care commitments to assist with the aspects of the Redelivery Proposal requiring overseas travel. There will also be a number of regulatory matters that will need to be satisfied, including arranging for the pilots and flight crews to be granted appropriate visas to enter the United States. I understand that those visas are issued by the American Consulate in Sydney, which will likely require the relevant crew members to first travel to Sydney for that purpose; and
  - (d) plan the itinerary of the ferry flights of VH-VUT, noting that those will require a complex route to be flown involving stops at Fiji, Hawaii, Los Angeles and Atlanta, which may have different regulatory requirements in place in respect of the COVID-19 pandemic.
8. Having regard to my experience and industry practice, but noting that the current circumstances are unprecedented (having regard to the COVID-19 pandemic and the

resource constraints and other issues stemming from the insolvency of the Virgin Group), doing the best I can I estimate that it will take approximately 48 days from the Adelaide VH-VUT Transfer date for the Willis Property to be delivered, comprising approximately in each case:

- (a) 7 days to have VH-VUT readied for a trans-pacific flight to the United States (paragraph 5(a));
  - (b) 6 days to complete the first ferry flight to the Delta Facility (paragraph 5(b));
  - (c) 5 days for Delta to complete the 'on wing' inspections, remove the first two Willis Engines and install replacement engines and for VH-VUT to return to Melbourne (paragraph 5(c));
  - (d) 4-5 days for VH-VUT to be readied for its second ferry flight (paragraph 5(c));
  - (e) 6 days to complete the second ferry flight to the Delta Facility (paragraph 5(f));
  - (f) 5 days for Delta to complete the 'on wing' inspections and remove the last two Willis Engines (paragraph 5(f));
  - (g) 7 days for the remaining Willis Engines to be delivered by road to Coconut Creek, Florida, United States (with the first two Willis Engines having been delivered whilst VH-VUT was in the process of making its second ferry flight); and
  - (h) 7 days to allow for any potential delays or slippage in the timely completion of the steps of the Redelivery Proposal.
9. On that basis, I do not expect delivery of the Willis Property to the Applicants will be completed before 15 October 2020, being 48 days following the Adelaide VH-VUT Transfer date. That time estimate is subject to a number of factors outside the control of the Respondents (which the 7 day allowance for general delays does not account for), including among other things:
- (a) any flight restrictions due to the COVID-19 pandemic;
  - (b) the capacity of the Delta Facility;
  - (c) the reasonableness of the Applicants in accepting delivery of the Willis Property, including the proposal to provide replacement, equivalent specification Approved Shipping Stands (as contemplated by the Redelivery Proposal at paragraph 5(f)); and
  - (d) any issues with the Willis Engines that will require remediation at the Delta Facility.

**Swearing of this Affidavit**

- 10. I have not been able to swear this affidavit in proper form at the time that I have signed it due to the measures I have taken to minimise the spread of COVID-19.
- 11. I have been informed by Orfhlaith Maria McCoy, as the proposed witness to this affidavit, and believe, that the relaxation of formality with respect to the unsworn nature of this affidavit does not diminish the need for me to satisfy myself that the contents of this affidavit are true and correct. I have satisfied myself that that is the case.
- 12. I will formally swear this affidavit when circumstances allow and will instruct Clayton Utz to file the sworn version with the Court.

Affirmed by the deponent  
at Brisbane  
in Queensland  
on 5 August 2020  
Before me:

)  
)  
)  
)  
)

Signature of Darren William Dunbier

Signature of witness

Orfhlaith Maria McCoy, solicitor.

**SCHEDULE 1**

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

No. NSD 714 of 2020

**IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN  
100 686 226 & ORS**

**Applicants**

First Applicant: Wells Fargo Trust Company, National Association (as owner trustee)

Second Applicant: Willis Lease Finance Corporation



**SCHEDULE 2**

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

No. NSD 714 of 2020

**IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS****Respondents**

|                    |  |
|--------------------|--|
| First Respondent:  | VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741  |
| Second Respondent: | Virgin Australia Airlines Pty Ltd (Administrators Appointed)<br>ACN 090 670 965  |
| Third Respondent   | Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes, in their capacity as joint and several voluntary administrators of the First and Second Respondent |
| Fourth Respondent  | Tiger Airways Australia Pty Limited (Administrators Appointed)<br>ACN 124 369 008  |

**SCHEDULE 3**

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

No. NSD 714 of 2020

**IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS****Virgin entities in administration**

1. Virgin Australia Holdings Ltd (Administrators Appointed) ACN 100 686 226
2. Virgin Australia International Operations Pty Ltd (Administrators Appointed) ACN 155 859 608
3. Virgin Australia International Holdings Pty Ltd (Administrators Appointed) ACN 155 860 021
4. Virgin Australia International Airlines Pty Ltd (Administrators Appointed) ACN 125 580 823
5. Virgin Australia Airlines (SE Asia) Pty Ltd (Administrators Appointed) ACN 097 892 389
6. Virgin Australia Airlines Holdings Pty Ltd (Administrators Appointed) ACN 093 924 675
7. VAH Newco No.1 Pty Ltd (Administrators Appointed) ACN 160 881 345
8. Tiger Airways Australia Pty Limited (Administrators Appointed) ACN 124 369 008
9. Virgin Australia Airlines Pty Ltd (Administrators Appointed) ACN 090 670 965
10. VA Borrower 2019 No. 1 Pty Ltd (Administrators Appointed) ACN 633 241 059
11. VA Borrower 2019 No. 2 Pty Ltd (Administrators Appointed) ACN 637 371 343
12. Virgin Tech Pty Ltd (Administrators Appointed) ACN 101 808 879
13. Short Haul 2018 No. 1 Pty Ltd (Administrators Appointed) ACN 622 014 831
14. Short Haul 2017 No. 1 Pty Ltd (Administrators Appointed) ACN 617 644 390
15. Short Haul 2017 No. 2 Pty Ltd (Administrators Appointed) ACN 617 644 443
16. Short Haul 2017 No. 3 Pty Ltd (Administrators Appointed) ACN 622 014 813
17. VBNC5 Pty Ltd (Administrators Appointed) ACN 119 691 502
18. A.C.N. 098 904 262 Pty Ltd (Administrators Appointed) ACN 098 904 262
19. Virgin Australia Regional Airlines Pty Ltd (Administrators Appointed) ACN 008 997 662
20. Virgin Australia Holidays Pty Ltd (Administrators Appointed) ACN 118 552 159

21. VB Ventures Pty Ltd (Administrators Appointed) ACN 125 139 004
22. Virgin Australia Cargo Pty Ltd (Administrators Appointed) ACN 600 667 838
23. VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741
24. VA Hold Co Pty Ltd (Administrators Appointed) ACN 165 507 157
25. VA Lease Co Pty Ltd (Administrators Appointed) ACN 165 507 291
26. Virgin Australia 2013-1 Issuer Co Pty Ltd (Administrators Appointed) ACN 165 507 326
27. 737 2012 No.1 Pty. Ltd (Administrators Appointed) ACN 154 201 859
28. 737 2012 No. 2 Pty Ltd (Administrators Appointed) ACN 154 225 064
29. Short Haul 2016 No. 1 Pty Ltd (Administrators Appointed) ACN 612 766 328
30. Short Haul 2016 No. 2 Pty Ltd (Administrators Appointed) ACN 612 796 077
31. Short Haul 2014 No. 1 Pty Ltd (Administrators Appointed) ACN 600 809 612
32. Short Haul 2014 No. 2 Pty Ltd (Administrators Appointed) ACN 600 878 199
33. VA Regional Leaseco Pty Ltd (Administrators Appointed) ACN 127 491 605
34. VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934
35. VB Leaseco No 2 Pty Ltd (Administrators Appointed) ACN 142 533 319
36. VB LH 2008 No. 1 Pty Ltd (Administrators Appointed) ACN 134 280 354
37. VB LH 2008 No. 2 Pty Ltd (Administrators Appointed) ACN 134 288 805
38. VB PDP 2010-11 Pty Ltd (Administrators Appointed) ACN 140 818 266
39. Tiger International Number 1 Pty Ltd (Administrators Appointed) ACN 606 131 944
40. VAH Newco No. 2 Pty Ltd (In Liquidation) (Administrators Appointed) ACN 160 881 354
41. VB Investco Pty Ltd (In Liquidation) (Administrators Appointed) ACN 101 961 095