

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 14/08/2020 3:52:49 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: 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: 14/08/2020 3:52:55 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.



Affidavit

No. NSD 714 of 2020

Federal Court of Australia
District Registry: NSW
Division: General

Wells Fargo Trust Company, National Association (as owner trustee) and others named in schedule 1

Applicants

VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741 and others named in schedule 1

Respondents

Affidavit of: **Garry Failer**
Address: 4700 Lyons Technology Parkway, Coconut Creek, Florida, 33073, United States of America
Occupation: Senior Vice President of Materials & Services and Chief Technical Officer
Date: 10 August 2020

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Filed on behalf of (name & role of party) Applicants
Prepared by (name of person/lawyer) Noel McCoy
Law firm (if applicable) Norton Rose Fulbright Australia
Tel +61 2 9330 8000 Fax _____
Email noel.mccoy@nortonrosefulbright.com Ref 4015052

Address for service Level 5, 60 Martin Place, Sydney, NSW 2000 Email: noel.mccoy@nortonrosefulbright.com
(include state and postcode)

I, **Garry Failer** of, 4700 Lyons Technology Parkway, Coconut Creek, Florida, 33073, United States of America, Senior Vice President of Materials & Services and Chief Technical Officer, Willis Lease Finance Corporation duly affirm as follows:

- 1 This is the second affidavit I have made in these proceedings. In this affidavit, I refer to my affidavit affirmed 8 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 I make this affidavit from my own knowledge except where otherwise indicated. Where I make this affidavit from facts outside my personal knowledge, I am informed by the source stated and believe those facts to be true.
- 3 I refer to the Affidavit of Darren William Dunbier affirmed on 5 August 2020 (**Dunbier Affidavit**).
- 4 At paragraph 5(b) of the Dunbier Affidavit, it is stipulated the Delta Facility will be able to issue the FAA Form 8130-3 Authorised Release Certificate. The Delta Facility also has the capacity to issue the European Union Aviation Safety Agency (**EASA**) certification. At Annexure GF-1 is a copy of an extract from the Delta TechOps website in respect of its capabilities in services engines of the same make and model that are the subject of these proceedings, and a statement of Delta's EASA certification. Willis' principal concerns are to ensure the engines are delivered at the earliest possible date, and in accordance with the terms of the lease (including the FAA and EASA dual release). In light of the above Willis seeks that the Respondents procure both an FAA and EASA release from the Delta Part 145 shop.
- 5 In my experience, it would not be necessary for Virgin to:
 - (a) place the Engines in a 'test cell' if they were transported to the Delta Facility by air freight (see paragraph 6 of the Dunbier Affidavit). A test cell run is not required assuming that Virgin Australia provide the authorisation for the OEM EHM delivery report per the Records Open Item List (ROIL) as this data can be used in lieu of a test cell run; and
 - (b) undertake the C-check for the Engines in Australia. In my experience the Part 145 shop that is undertaking the assessment and dual release (which the Dunbier Affidavit identifies will be Delta – see paragraph 5(b) of the Dunbier Affidavit), will want to (and need to) undertake that process itself in order to issue

the FAA and EASA dual release tags. As such, the C-check proposed by Virgin will constitute unnecessary duplication.

- 6 From my experience of 40 years in aviation and in particular 17 years with major international airlines, the time frames specified in paragraph 8 of the Dunbier Affidavit, even allowing for some slippage, are overly generous. In particular, I consider that:
- (a) the time frame specified in subparagraph (a) is excessive in that it should not take 7 days to have VH-VUT readied for a trans-pacific flight to the United States. Approximately half that time should suffice;
 - (b) the time frame specified in subparagraphs (b) and (e) is excessive in that it should not take 6 days for the first and second ferry flights to the Delta Facility (acknowledging that the proposed route involves stops at Fiji, Hawaii, Los Angeles and Atlanta);
 - (c) the time frame specified in subparagraph (d) is excessive in that it should only take 2 to 3 days (as opposed to 4-5 days) for VH-VUT to be readied for its second ferry flight (acknowledging that it will be necessary to remove and replace the engines); and
 - (d) the time frame specified in subparagraph (g) is excessive in that it should only take approximately 1 day (as opposed to 7 days) to deliver the Engines from the Delta Facility to Coconut Creek, Florida, United States (**Coconut Creek**) (assuming the Engines will be transported by road).
- 7 Having regard to my experience and industry practice and the matters set out above, a more reasonable time frame for redelivery will be 30 September 2020.
- 8 I have obtained a quote in respect of the available air cargo for transport of the Engines to Dallas via Singapore Airlines as stated in the quote. At Annexure GF-2 is a copy of that quote. Note that this quote can change depending on date of transport and cargo space availability.
- 9 There are a number of Part 145 shops in Dallas such as BP Aero and JES to which Virgin could transport the Engines.
- 10 In respect of the costs of road transportation from Dallas to Florida, based on my experience, I would allow a further \$5,000 per engine for the transportation of the engines by road, assuming two engines per truckload.

Sworn by the deponent
at Coconut Creek, Florida, United States of
America on 10 August 2020
Before me:

)
)
)
)
)

Garry Failler

Signature of deponent



Signature of witness
Safiyya Khan, solicitor

This document was signed and witnessed over audio visual link in accordance with clause 2 of
Schedule 1 to the *Electronic Transactions Regulation 2017*.

Schedule 1

No. NSD 714 of 2020

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

Applicants

Second Applicant: **Willis Lease Finance Corporation**

Respondents

Second Respondent: **Virgin Australia Airlines Pty Ltd (Administrators Appointed) ACN 090 670 965**

Third Respondent: **Vaughan Neil Strawbridge, John Lethbridge Greig, Salvatore Algeri & Richard John Hughes (in their capacity as voluntary administrators of the First and Second Respondents)**

Fourth Respondent: **Tiger Airways Australia Pty Limited (Administrators Appointed) ACN 124 369 008**

Date: 10 August 2020

Annexure Certificate

No. NSD 714 of 2020

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

Wells Fargo Trust Company, National Association (as owner trustee) and others named in schedule 1

Applicants

VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741 and others named in schedule 1

Respondents

Annexure GF-1

This is the annexure referred to as **GF-1** in the affidavit of Garry Failer, affirmed 11 August 2020.

Before me:



Signature of witness

SARMYA KHAN

Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (NSW)

Filed on behalf of (name & role of party)	Applicants		
Prepared by (name of person/lawyer)	Noel McCoy		
Law firm (if applicable)	Norton Rose Fulbright Australia		
Tel	+61 2 9330 8000	Fax	+61 2 9330 8111
Email	vittorio.casamento@nortonrosefulbright.com	Ref	4015052
Address for service	Level 5, 60 Martin Place, Sydney NSW 2000		
(include state and postcode)	Email: vittorio.casamento@nortonrosefulbright.com		

Services [<https://www.deltatechops.com/services/>] >

Engine Maintenance [<https://www.deltatechops.com/services/engine-maintenance/>] > **CFM56-7B Engine**

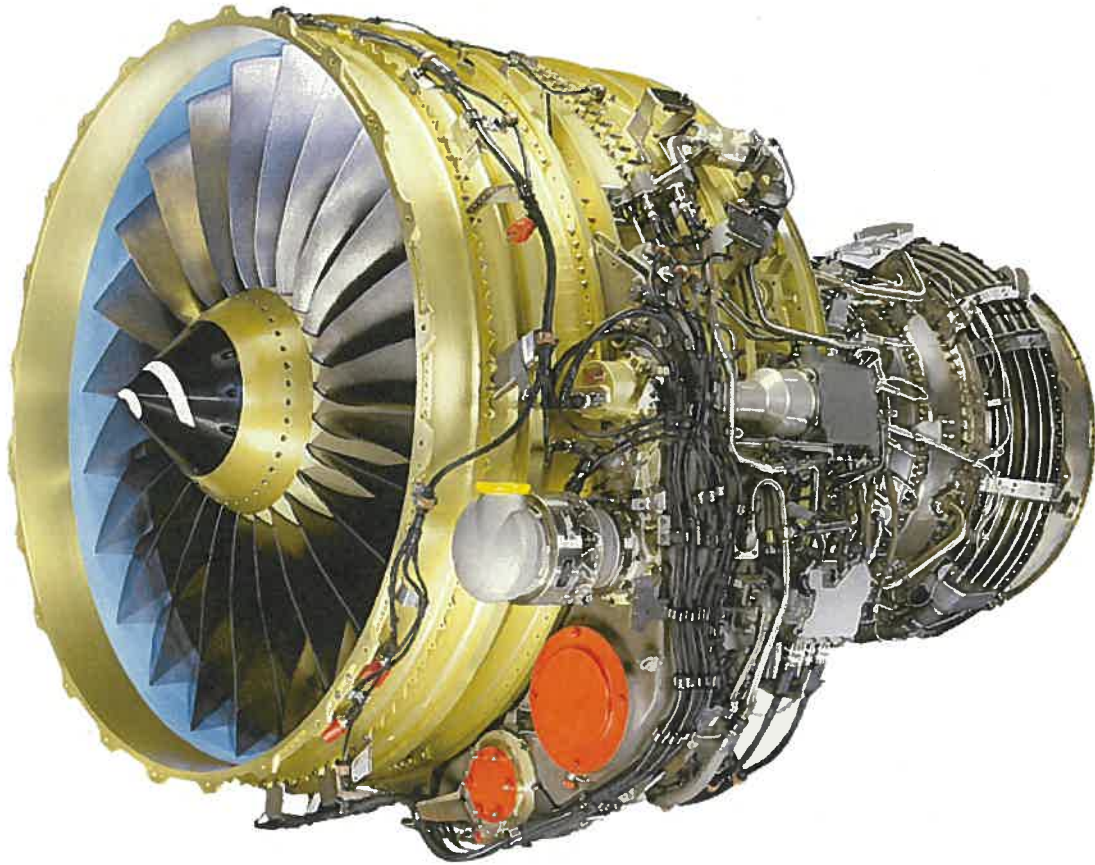
CFM56-7B Engine

The CFM56-7B is the exclusive engine for the Boeing Next-Generation single-aisle airliner. Delta TechOps has extensive experience servicing CFM56 models dating back to 1982.

SERVICES

- Modification, repair and overhaul
 - Full Restoration/Overhaul (All Modules)
 - Hospital Visit (Check/Repair)
 - Light Maintenance (Minimal penetration)
 - Performance restoration (Gas Path)
- Engine Test Cell runs
- 1st run warranty repairs
- [Repair service for engine components \[services/component-maintenance/\]](#), Full Authority Digital Engine Control (FADEC), Hydro Mechanical Unit (HMU), Line Replaceable Units (LRUs) including Quick Engine Change (QEC) and basic engine parts
- On-wing support
- Engine condition and trend monitoring
- Non-destructive testing and diagnostics
 - FPI (Fluorescent & Penetrant Inspection)
 - MPI (Magnetic Particle Inspection)
 - Immersion Ultra-Sonic NDT
 - RF and Eddy Current NDT

- Borescope
- [Engineering support \[/services/#section-engineering-services\]](#)
- AOG support worldwide, 24/365 – available to customers
- Provisioning of lease engines and spare parts through Delta TechOps' [Inventory Exchange support \[/services/#section-inventory-services\]](#)
- Customized [Complete Fleet™ \[/services/#section-complete-fleet\]](#) programs
- ISO 9001 certification
- FAA/EASA dual release capability
- FAR Part 145 and Part 121 repair authority



TECHNICAL SPECIFICATIONS

Max. thrust:	147kN
Bypass ratio:	Up to 6
Pressure ratio:	25.2:1
Length:	2600 mm
Diameter:	1828 mm
Weight:	1951 kg



U.S. APPROVAL CERTIFICATE

EASA.145.6599

Taking into account the provisions of Article 12 of Regulation (EC) 216/2008 of the European Parliament and of the Council and the bilateral agreement currently in force between the European Community and the Government of the United States of America, the European Aviation Safety Agency (EASA) hereby certifies:

DELTA AIR LINES, INC.

d/b/a Delta TechOps and/or DTO

FAA NUMBER: DAL2026A

7500 Airline Drive

Minneapolis-Saint Paul International Airport

Minneapolis, Minnesota 55450

United States of America

as a Part-145 maintenance organization approved to maintain the products listed in the FAA Air Agency Certificate and associated Operations Specifications and issue related certificates of release to service using the above reference, subject to the following conditions:

1. The scope of the approval is limited to that specified on the 14 CFR part 145 repair station Air Agency Certificate, and the associated Operations Specifications for work carried out in the United States (unless otherwise agreed in a particular case by EASA).
2. The approval scope shall not exceed the permitted EASA Part-145 ratings as detailed in Regulation EC (No) 1321/2014.
3. This approval requires continued compliance with 14 CFR part 145 and the differences as specified in the Maintenance Annex Guidance (MAG), including the use of the FAA Form 8130-3 for release/return to service of components up to and including power plants.
4. Certificates of return to service must quote the EASA Part-145 approval reference number quoted above and the 14 CFR part 145 Air Agency Certificate number.
5. Subject to compliance with the foregoing conditions, this approval shall remain valid until:

10 November 2020

unless the approval is surrendered, superseded, suspended or revoked.

Date of issue: **07 September 2018**

Signed

For EASA

Annexure Certificate

No. NSD 714 of 2020

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

Wells Fargo Trust Company, National Association (as owner trustee) and others named in schedule 1

Applicants

VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741 and others named in schedule 1

Respondents

Annexure GF-2

This is the annexure referred to as **GF-2** in the affidavit of Garry Failler, affirmed 11 August 2020.

Before me:



Signature of witness

SAFIYYA KHAN

Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (NSW)

Filed on behalf of (name & role of party)	Applicants		
Prepared by (name of person/lawyer)	Noel McCoy		
Law firm (if applicable)	Norton Rose Fulbright Australia		
Tel	+61 2 9330 8000	Fax	+61 2 9330 8111
Email	vittorio.casamento@nortonrosefulbright.com	Ref	4015052
Address for service	Level 5, 60 Martin Place, Sydney NSW 2000		
(include state and postcode)	Email: vittorio.casamento@nortonrosefulbright.com		



QUOTATION

Willis Lease

DSV Air & Sea Inc.
480 McClellan Highway
East Boston, Massachusetts
(617) 569-9800
(617) 569-9099

Date: Tuesday, August 4, 2020
Valid Through: Subject to Availability
Transport Mode: Air
Inco Term:
Frequency:
Carrier: Singapore Airlines

Estimated Transit: 6-7 Days
Hazardous:
Place / Port Loading: MEL
Place / Port Discharge: DFW

Engine Serial Numbers: 894902, 888473, 896999, 897193

Description of Service	Currency	Charge	Basis	Comments
Total Door to Door per Engine	USD	\$57,000.00	5,600 kgs	This rate is based on the current market rates provided by DSV on August 4, 2020. These rates are subject to change based on availability at time of booking.

Rates are subject to changes announced by carriers and subject to changes in fuel and security charges.

Thank you for the opportunity to serve your company,

DSV Representative: Daniel Donovan
Title: Engine Supervisor
Email: daniel.donovan@us.dsv.com
Website: www.dsv.com/us

Above quote does not include cargo insurance unless specifically mentioned herein. All requests for cargo insurance must be made to DSV Air & Sea Inc., in writing, prior to the commencement of transportation. When cargo insurance is requested, coverage will be provided subject to the terms and conditions of DSV Air & Sea Inc., Open Marine Cargo Policy in effect at the time of the shipment and it's terms and conditions including exclusions and restrictions are available for review upon request. Above rate quote is valid based on the current tariffs and market conditions. Unless otherwise indicated, payment is due upon receipt of invoice.