

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 21/09/2020 12:36:11 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: Chronology
File Number: NSD994/2020
File Title: VB LEASECO PTY LTD (ADMINISTRATORS APPOINTED) ACN 134 268 741 & ORS V WELLS FARGO TRUST COMPANY, NATIONAL ASSOCIATION (AS OWNER TRUSTEE) & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Dated: 21/09/2020 12:36:17 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.



Rule 36.55

No. NSD994/2020

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

On appeal from the Federal Court of Australia

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

Appellants

**Wells Fargo Trust Company, National Association (as owner trustee) and
another named in the schedule**

Respondents

Respondents' Chronology of Relevant Events

No.	Date	Event	Evidentiary reference
1.	24 May 2019	Willis Lease Finance Corporation (Willis) and VB LeaseCo Pty Ltd (VB LeaseCo) enter into an Engine Lease Support Agreement. Wells Fargo Trust Company (Wells Fargo), as lessor, enters, for the benefit of Willis, into a General Terms Engine Lease Agreement with VB Leaseco, as lessee. Virgin Australia Airlines Pty Ltd (Virgin Australia) provides	Affidavit of Dean Poulakidas sworn 30 June 2020 at [7], [8], [10] Exhibit DP-2 at

Filed on behalf of (name & role of party) Respondents
 Prepared by (name of person/lawyer) Noel McCoy
 Law firm (if applicable) **Norton Rose Fulbright Australia**
 Tel 02 9330 8133 Fax
 Email noel.mccoy@nortonrosefulbright.com Ref 4015052
Address for service Level 5, 60 Martin Place, Sydney NSW 2000
 (include state and postcode) Email: noel.mccoy@nortonrosefulbright.com

No.	Date	Event	Evidentiary reference
		Wells Fargo, as lessor, a guarantee and indemnity of each aircraft engine lease agreement and each transaction document entered into or to be entered into pursuant to the General Terms Engine Lease Agreement or a lease.	54, 65
2.	24 May 2019	Wells Fargo, as lessor, enters, for the benefit of Willis, into the Aircraft Engine Lease Agreement in respect of Engine 897193. VB Leaseco sub-leases Engine 897193 to Virgin Australia by entering into an Engine Sublease Agreement.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [13]–[14] Exhibit DP-2 at 125, 151
3.	14 June 2019	Wells Fargo, as lessor, enters, for the benefit of Willis, into the Aircraft Engine Lease Agreement in respect of Engine 896999. VB Leaseco sub-leases Engine 896999 to Virgin Australia by entering into an Engine Sublease Agreement.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [18]–[19] Exhibit DP-2 at 196, 220
4.	28 August 2019	Wells Fargo, as lessor, enters, for the benefit of Willis, into the Aircraft Engine Lease Agreement in respect of Engine 888473. VB Leaseco sub-leases Engine 888473 to Virgin Australia by entering into an Engine Sublease Agreement.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [23]–[24]

No.	Date	Event	Evidentiary reference
			Exhibit DP-2 at 265, 294
	13 September 2019	Wells Fargo, as lessor, enters, for the benefit of Willis, into the Aircraft Engine Lease Agreement in respect of Engine 894902. VB Leaseco sub-leases Engine 894902 to Virgin Australia by entering into an Engine Sublease Agreement.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [28]–[29] Exhibit DP-2 at 339, 364
5.	20 April 2020	The Third Appellants (Administrators) are appointed as joint and several voluntary administrators of the First, Second and Fourth Appellants and certain related entities (Virgin or Virgin Companies).	Affidavit of Vaughan Strawbridge sworn 23 April 2020 at [7]
6.	23 April 2020	The Administrators file an application (NDS464/2020) in the Federal Court of Australia seeking, among other things, an order extending the time to give a notice under s 443B(3) and that the Administrators are not personally liable under s 443A(1)(c) and 443B(2) of the Corporations Act.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [35]
7.	24 April 2020	The Federal Court of Australia makes orders, on the Administrators' and Virgin Companies' application, that include orders under s 443B(2) of the Corporations Act excusing the Administrators from liability for property leased, used or occupied until 26 May 2020	Affidavit of Salvatore Algeri sworn 17 July 2020 at [13](a)

No.	Date	Event	Evidentiary reference
		and extending the time to give a notice under s 443B(3) of the Act until 26 May 2020.	
8.	1 May 2020	Norton Rose Fulbright writes to Clayton Utz regarding the orders made on 24 April 2020. No response was received from Clayton Utz.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [37], [38] Exhibit DP-2 at 456
9.	1 May 2020	Clayton Utz circulates a draft agreement called an aircraft protocol agreement to aircraft lessors and their representatives, including Norton Rose Fulbright (Aircraft Protocol Agreement).	Affidavit of Vaughan Strawbridge sworn 11 May 2020 at [90] Affidavit of Salvatore Algeri sworn 22 May 2020 at [17] Affidavit of Dean Poulakidas sworn 30 June 2020 at [37], [39] Exhibit DP-2 at 458

No.	Date	Event	Evidentiary reference
10.	25 May 2020	The Federal Court of Australia makes orders, on the Administrators' and Virgin Companies' application, that include orders extending the date referred to in the 24 April orders from 26 May 2020 to 16 June 2020.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [42] Affidavit of Salvatore Algeri sworn 17 July 2020 at [13](d)
11.	30 May – 2 June 2020	The Administrators and Willis exchange emails regarding the Aircraft Protocol Agreement. Willis' email dated 2 June 2020, informs the Administrators that the proposed Aircraft Protocol Agreement is not acceptable to Willis and that Willis will not sign it. Willis further advises to have their engines returned to them immediately in accordance with the redelivery provisions in the engine lease agreements.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [43] Exhibit DP-2 at 479 Affidavit of Salvatore Algeri sworn 17 July 2020 at [22]
12.	4 June 2020	Willis writes to the Administrators stating that they wish for their engines to remain with Virgin Australia subject to the terms of their valid leases or, alternatively, renew their request that the Administrators return Willis' engines in accordance with the engine lease	Affidavit of Dean Poulakidas sworn 30 June 2020 at [44] Exhibit DP-2 at

No.	Date	Event	Evidentiary reference
		agreements.	481 Affidavit of Salvatore Algeri sworn 17 July 2020 at [22]
13.	9 June 2020	The Administrators write to Willis stating that they are not in a position to adopt the engine lease agreements because to do so would be prejudicial to the administration, other creditors and potentially the success of the Administrators' sale process for the Virgin Companies.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [44] Exhibit DP-2 at 482 Affidavit of Salvatore Algeri sworn 17 July 2020 at [23]–[24]
14.	10 June 2020	Willis sends an email to the Administrators stating that Willis expects the Administrators to comply with the engine lease agreements and applicable law, including the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, done at Cape Town on 16 November 2001 (CTC Protocol).	Affidavit of Dean Poulakidas sworn 30 June 2020 at [45] Exhibit DP-2 at 485 Affidavit of Salvatore Algeri sworn

No.	Date	Event	Evidentiary reference
			17 July 2020 at [26]
15.	16 June 2020	Norton Rose Fulbright write to Clayton Utz regarding taking possession of the engines and the Administrators obligations in respect of the CTC Protocol.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [46] Exhibit DP-2 at 488
16.	16 June 2020	The Administrators issue a notice purporting to be issued pursuant to section 443B(3) of the Corporations Act (443B(3) Notice) to the Respondents stating that the Administrators did not propose to exercise rights in relation to in relation to "the specified property in Schedule B" to the 443B(3) Notice.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [47]– [48] Exhibit DP-2 at 490 Affidavit of Salvatore Algeri sworn 17 July 2020 at [27]
17.	16 June 2020	According to Schedule B to the 443B(3) Notice, Willis' engines are located at Melbourne Airport (Engine 896999, Engine 897193 and Engine 888473) and Adelaide Airport (Engine 894902).	Affidavit of Dean Poulakidas sworn 30 June 2020 at [54] Exhibit DP-2 at

No.	Date	Event	Evidentiary reference
			495
18.	16 June 2020	Willis sends an email to the Administrators regarding the engine recovery process and lists the engine, engine stand and QEC kit serial numbers.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [47]–[48] Exhibit DP-2 at 506 Affidavit of Salvatore Algeri sworn 17 July 2020 at [27]
19.	18 June 2020	The Administrators send an email to Willis regarding the status of the engines, the 443B(3) Notice, and insurance and maintenance; offering to provide an estimate of costs and timing to remove and redeliver the engines; and including a table setting out the status of engines and stands and including the locations of the stands.	Exhibit DP-2 at 504
20.	18 June 2020	Norton Rose Fulbright writes to Clayton Utz regarding the s 443B(3) Notice asserting that the Administrators have a positive obligation to give possession of the equipment.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [48]–[49] Exhibit DP-2 at

No.	Date	Event	Evidentiary reference
			496–497
21.	19 – 30 June 2020	Willis, the Administrators and Virgin exchange email correspondence regarding engine removal, insurance, storage, preservation and transport, engine stand audit and locations, QEC kits and digital and physical records collation. The Administrators propose a discussion.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [52], [58], [65] Exhibit DP-2 at 502, 514 Affidavit of Salvatore Algeri sworn 17 July 2020 at [37], [39]–[41], [50]–[51] Exhibit SA-2 at 1–7, 16–17, 45–47, 60–65, 71–73
22.	19 June 2020	According to an email from the Administrators to Willis, the engine stands for Engine 897193 and 888473 are located in Delta Atlanta.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [56] Exhibit DP-2 at 502
23.	19 June	Norton Rose Fulbright write to Clayton Utz	Affidavit of

No.	Date	Event	Evidentiary reference
	2020	foreshadowing a court application. The letter provides that the engines and associated equipment that is subject to the engine lease agreements have not been made available for Willis' possession on the basis that all of Willis' engines are still "on the wing" of four different airframes, at least half of Willis' engine stands which were delivered to Virgin Australia are located outside of Australia at Delta's maintenance facility and no engine records had been received nor had there been any information on how the Administrators intended to return the records to Willis. Clayton Utz respond to the letter by email.	Dean Poulakidas sworn 30 June 2020 at [50]–[51] Exhibit DP-2 at 498, 500
24.	19 June 2020	The Administrators send an email to Willis informing Willis of alternative methods for the return of the engines and that Willis would need to remove the engines from the airframes at its own costs and direction.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [52] Exhibit DP-2 at 502
25.	22 June 2020	Clayton Utz write to Norton Rose Fulbright regarding the 443B(3) Notice, recovery of Willis' property and the CTC Protocol.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [53] Exhibit DP-2 at

No.	Date	Event	Evidentiary reference
			508
26.	22 June 2020	Delta sends an email to Willis claiming that Willis' engine stands for Engine 897193 and Engine 888473 are not located at Delta's facility.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [57] Exhibit DP-2 at 512–513 Affidavit of Salvatore Algeri sworn 17 July 2020 at [41]
27.	22 June 2020	Virgin corresponds with Delta to attempt to confirm the location of Willis' engine stands without success. The Administrators confirm those continued inquiries to Willis.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [39]–[41], [51] Exhibit SA-2 at 1–2, 45, 52–59
28.	24 June 2020	Willis writes to the Administrators requesting clarification as to the location of Willis' engine stands for Engine 896999 and Engine 894902 and for photo confirmation.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [58] Exhibit DP-2 at 514

No.	Date	Event	Evidentiary reference
29.	26 June 2020	The Administrators and the Virgin Companies enter into a transaction with Bain Capital for the acquisition of the Virgin Companies' business.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [20]
30.	29 June 2020	Willis writes to the Administrators requesting confirmation of all of Willis' engine stands. The Administrators confirm the location of the engine stands for Engine 896999 and Engine 894902.	Affidavit of Dean Poulakidas sworn 30 June 2020 at [66] Exhibit DP-2 at 512
31.	30 June 2020	The Administrators send an email to Willis requesting a telephone call.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [51] Exhibit SA-2 at 1-2
32.	30 June 2020	The Respondents commence proceedings (NSD714/2020). The parties attend a brief procedural hearing before the Honourable Justice Jagot.	
33.	1-17 July 2020	Further email correspondence is exchanged between Willis, the Administrators and Virgin, regarding engine insurance, maintenance, removal, preservation and transport, engine records, further document requests and	Affidavit of Garry Failler affirmed 8 July 2020 at [22], [31]

No.	Date	Event	Evidentiary reference
		confirmation that two engine stands are located at Delta's facility. Virgin and the Administrators correspond as to how to close out items in Willis' 'records open items list' (ROIL) by generating files or downloading data.	<p>Affidavit of Salvatore Algeri sworn 17 July 2020 at [32], [38], [52]–[53]</p> <p>Exhibit SA-2 at 1, 22–35, 86–101</p> <p>Affidavit of Derych Warner sworn 22 July 2020 at [9]</p> <p>Exhibit DW-1 at 10–14</p>
34.	3 July 2020	Delta confirm to Virgin that Willis' engine stands for Engine 897193 and Engine 888473 are located at Delta's facility by email. The Administrators relate Delta's confirmation to Willis by email and attach photographs of the engine stands.	<p>Affidavit of Salvatore Algeri sworn 17 July 2020 at [42]</p> <p>Exhibit SA-2 at 71–73</p>
35.	3 – 7 July 2020	The Administrators correspond with the lessors of the airframes that Willis' engines are attached to.	<p>Affidavit of Salvatore Algeri sworn 17 July 2020 at [43]–[47]</p> <p>Exhibit SA-2 at</p>

No.	Date	Event	Evidentiary reference
			77–85
36.	4 July 2020	Norton Rose Fulbright write to Clayton Utz regarding the sale of Virgin's business.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [33]–[34] Exhibit SA-2 at 13
37.	8 July 2020	The Administrators provide the Respondents with access to an online “data room” containing Operator Records. This includes Historical Operator Records (but not the HMU Records). The data room does not include any of the End of Lease Operator Records and Lease Inspection Records from Engine Shop.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [36], [38] Exhibit SA-2 at 27–30
38.	9 July 2020	Clayton Utz write to Norton Rose Fulbright regarding the collection of Willis' property and the sale of Virgin's business.	Affidavit of Salvatore Algeri sworn 17 July 2020 at [34] Exhibit SA-2 at 14–15
39.	13 July 2020	Wells Fargo and Willis file an Interlocutory Application seeking leave to proceed pursuant to section 440D(1)(b) of the Corporations Act	
40.	17 July	Willis prepares a ROIL in respect of each of	Affidavit of

No.	Date	Event	Evidentiary reference
	2020	the engines. The ROIL identifies the status of records provided by Virgin Australia. The ROIL is split into two classes, Operator Records and Lease Inspection Records from Engine Shop. Willis provides a copy of the ROIL to VB LeaseCo, Virgin Australia and the Administrators by email.	Derych Warner sworn 22 July 2020 at [7] Exhibit DW-1 at 2–10
41.	17 July 2020	VB LeaseCo, Virgin Australia and the Administrators file an Interlocutory Process seeking orders pursuant to sections 443B(8) and 447A of the Corporations Act and section 90-15 of the IPSC that the Administrators (i) be excused from liability in respect of the aircraft objects, and (ii) may exercise a lien over the aircraft objects.	
42.	19 July 2020	The Administrators send an email to Willis summarising the status of engines, stands and records.	Affidavit of Derych Warner sworn 22 July 2020 at [10] Exhibit DW-1 at 15–19
43.	31 July 2020	The primary judge hears the proceedings. His Honour indicates to the parties that he accepts Willis' position in relation to the construction of Article XI of the Aircraft Protocol that the Administrators are required to redeliver Willis' property generally in accordance with the lease. The primary judge directs the parties to propose a redelivery	Affidavit of Darren Dunbier affirmed 5 August 2020 at [7] Affidavit of Salvatore

No.	Date	Event	Evidentiary reference
		regime to give effect to that position, and adjourns the proceedings to 5 August 2020.	Algeri sworn 5 August 2020 at [15]
44.	4 August 2020	The Administrators, Virgin and Willis attend a telephone call to confer in relation to a redelivery proposal. Administrators for the first time depose to the existence of a lien being exercised by Adelaide airport.	Affidavit of Salvatore Algeri sworn 5 August 2020 at [15] and Annexure C
45.	5 August 2020	Willis sends an email to the Administrators regarding a redelivery proposal.	Affidavit of Salvatore Algeri sworn 5 August 2020 at [13] and Annexure B
46.	5 August 2020	Virgin Australia Holdings Limited announces to the Australian Securities Exchange that in accordance with the restructure being undertaken at the direction of the purchaser of the business (Bain Capital), the Virgin Companies will move to an all-Boeing 737 mainline fleet for domestic and short haul operations which will mean the cessation of use of ATR, Boeing 777, Airbus A330 and Airbus A320 aircraft.	
47.	5 August 2020	The 5 August 2020 hearing is stood over by consent to 10 August 2020.	
48.	7 August 2020	The last date on which the Administrators provided Historical Operator Records	Affidavit of Darren

No.	Date	Event	Evidentiary reference
		(specifically, the HMU certification for P/N 1853M56P14 S.N BECW0406 in respect of engine 896999).	Dunbier affirmed 14 August 2020 at [7]–[8]
49.	7 August 2020	Mr Ian Boulton of the Administrators prepares an example "record open items list" indicating how ferry flights to transit engines will affect records.	Affidavit of Darren Dunbier affirmed 14 August 2020 at [15] and Annexure B
50.	10 August 202	The 10 August 2020 hearing is stood over to 11 August 2020.	
51.	11 August 2020	Further hearing before the primary judge as to the form of orders to be made. Adjourned to 17 August 2020.	
52.	17 August 2020	Further hearing before the primary judge as to the form of orders to be made. Judgment reserved.	
53.	24 August 2020	In an email sent at the request of the Associate to the primary judge, Clayton Utz notify the Associate that the redelivery regime proposed in the Dunbier Affidavit of 5 August 2020 as the most efficient method of effecting redelivery is no longer feasible.	Affidavit of Salvatore Algeri sworn 7 September 2020 at [10] and Annexure B
54.	3 September 2020	The primary judge makes orders and gives reasons for judgment.	
55.	4	Deeds of Company Arrangement proposed	Affidavit of

No.	Date	Event	Evidentiary reference
	September 2020	by Bain Capital for the Virgin Companies are approved at the second meetings of creditors.	Salvatore Algeri sworn 7 September 2020 at [9(e)]
56.	8 September 2020	The primary judge hears and dismisses the Appellants' stay application.	

Schedule

No. NSD994 of 2020

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

On appeal from the Federal Court of Australia

Appellants

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

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

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

Respondents

Second Respondent: Willis Lease Finance Corporation

Date: 21 September 2020