

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 28/07/2020 10:50:37 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: Court Book
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: 29/07/2020 8:59:42 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.

Court Book Index



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

NSD 714 of 2020

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

Part 1 – Pleadings			
No	Document	Date	Page number
1.	Originating application	30 June 2020	1
2.	Interlocutory application	13 July 2020	14
3.	Interlocutory process (Respondents)	17 July 2020	18
4.	Amended originating application	26 July 2020	23
5.	Statement of Agreed Facts	28 July 2020	36

Part 2 – Affidavits			
No	Document	Date	Page number
<i>Applicants' affidavits in chief</i>			
6.	Affidavit of Dean Poulakidas	29 June 2020	46
7.	Affidavit of Garry Failler	8 July 2020	62
<i>Respondents' affidavits in chief</i>			
8.	Affidavit of Salvatore Algeri	17 July 2020	72
9.	Affidavit of Darren Dunbier	17 July 2020	95
<i>Applicants' affidavit in reply</i>			
10.	Affidavit of Derych Warner	22 July 2020	106

Part 3 – Document Bundle (exhibits, annexures and tender documents)

Reference key:

Tender List Reference	Affidavit	Evidence
Applicants	Dean Poulakidas (DP)	Exhibit DP-2 (DP-2)
	Garry Failler (GF)	Annexure GF-1 (GF-1) Annexure GF-2 (GF-2) Annexure GF-3 (GF-3) Annexure GF-4 (GF-4) Annexure GF-5 (GF-5)
	Derych Warner (DW)	Exhibit DW-1 (DW-1)
Respondents	Salvatore Algeri (17 July 2020) (SA)	Exhibit SA-2 (SA-2)
	Darren Dunbier (DD)	Annexure A (DD-1) Annexure B (DD-2)

No	Document	Date	Tendering party	Affidavit reference	Exhibit/Annexure Reference	Page number
A. Chronological Bundle						
11.	Engine Lease Support Agreement (ELSA)	24/05/19	Applicants	DP [7]	DP-2	117
12.	General Terms Engine Lease Agreement (GTA)	24/05/19	Applicants, Respondents	DP [8], DD [16]	DP-2	128
13.	Aircraft Engine Lease Agreement in respect of Engine 897193	24/05/19	Applicants, Respondents	DP [13], SA [22]	DP-2	188
14.	Engine Sublease Agreement in respect of Engine 897193	24/05/19	Applicants, Respondents	DP [14], SA [22]	DP-2	214
15.	Deed of Security Assignment in respect of Engine 897193	24/05/19	Applicants, Respondents	DP [15], SA [22]	DP-2	243
16.	Guarantee Confirmation in respect of Engine 897193	24/05/19	Applicants, Respondents	DP [16], SA [22]	DP-2	257
17.	Delivery receipt in respect of Engine 897193	24/05/19	Applicants, Respondents	DP [17], SA [22], DD [11]	DP-2	258
18.	Aircraft Engine Lease Agreement in respect of Engine 896999	14/06/19	Applicants, Respondents	DP [18], SA [22], DD [11]	DP-2	259
19.	Engine Sublease Agreement in respect of Engine 896999	14/06/19	Applicants, Respondents	DP [19], SA [22]	DP-2	283

20.	Deed of Security Assignment in respect of Engine 896999	14/06/19	Applicants, Respondents	DP [20], SA [22]	DP-2	312
21.	Guarantee Confirmation in respect of Engine 896999	14/06/19	Applicants, Respondents	DP [21], SA [22]	DP-2	326
22.	Delivery receipt in respect of Engine 896999	14/06/19	Applicants, Respondents	DP [22], SA [22]	DP-2	327
23.	Aircraft Engine Lease Agreement in respect of Engine 888473	28/08/19	Applicants, Respondents	DP [23], SA [23], DD [11]	DP-2	328
24.	Engine Sublease Agreement in respect of Engine 888473	28/08/19	Applicants, Respondents	DP [24], SA [12]	DP-2	357
25.	Deed of Security Assignment in respect of Engine 888473	28/08/19	Applicants, Respondents	DP [25], SA [22]	DP-2	386
26.	Guarantee Confirmation in respect of Engine 888473	28/08/19	Applicants, Respondents	DP [26], SA [22]	DP-2	400
27.	Delivery receipt in respect of Engine 888473	28/08/19	Applicants, Respondents	DP [27], SA [22]	DP-2	401
28.	Aircraft Engine Lease Agreement in respect of Engine 894902	13/09/19	Applicants, Respondents	DP [28], SA [22], DD [11]	DP-2	402
29.	Engine Sublease Agreement in respect of Engine 894902	13/09/19	Applicants, Respondents	DP [29], SA [22]	DP-2	427
30.	Deed of Security Assignment in respect of Engine 894902	13/09/19	Applicants, Respondents	DP [30], SA [22]	DP-2	456

31.	Guarantee Confirmation in respect of Engine 894902	13/09/19	Applicants, Respondents	DP [31], SA [22]	DP-2	470
32.	Delivery receipt in respect of Engine 894902	13/09/19	Applicants, Respondents	DP [32], SA [22]	DP-2	471
33.	Letter from NRF to Clayton Utz	01/05/20	Applicants	DP [37]	DP-2	472
34.	Email from Clayton Utz to NRF and Aircraft Protocol attachment	01/05/20	Applicants	DP [39]	DP-2	474
35.	Email correspondence between Dean Poulakidas and Mukhtader Mohammed	30/05/20 – 2/06/20	Applicants, Respondents	DP [43], SA [22] and [28(a)]	DP-2	495
36.	Letter from Willis to Deloitte	04/06/20	Applicants, Respondents	DP [44], SA [22] and [28(b)]	DP-2	497
37.	Letter from Deloitte to Willis	09/06/20	Applicants, Respondents	DP [44], SA [23]	DP-2	498
38.	Email from Brian Hole to Mukhtader Mohammed	10/06/20	Applicants, Respondents	DP [45], SA [26] and [28(b)]	DP-2	501
39.	Email correspondence between Noel Rogers and Gordon Chan and photo attachments	16/06/20 – 29/06/20	Applicants, Respondents	DP [58] and [56], SA [29], [40], [49], [50] and [51]	DP-2	504
40.	Letter from NRF to Clayton Utz	16/06/20	Applicants	DP [46]	DP-2	514

41.	Letter from Clayton Utz to NRF and the Notice	16/06/20	Applicants, Respondents	DP [48] and [54], SA [27]	DP-2	516
42.	Letter from NRF to Clayton Utz	18/06/20	Applicants	DP [49]	DP-2	522
43.	Letter from NRF to Clayton Utz	19/06/20	Applicants	DP [50]	DP-2	524
44.	Email from Clayton Utz to NRF	19/06/20	Applicants	DP [51]	DP-2	526
45.	Email from Gordon Chan to Garry Failer	19/06/20	Applicants, Respondents	DP [52], [55] and [62]	DP-2	528
46.	Letter from Clayton Utz to NRF	22/06/20	Applicants	DP [53]	DP-2	534
47.	Email from Steven Boecker to Bob Matson	24/06/20	Applicants	DP [57]	DP-2	538
48.	Email from Declan Kinnane to Ian Boulton	25/06/20	Respondents	SA [37]	SA-2	540
49.	Email from Darren Dunbier to Declan Kinnane	25/06/20	Respondents	SA [39]	SA-2	546
50.	Email from Darren Dunbier to Delta staff	30/06/20	Respondents	SA [41]	SA-2	553
51.	Email from Gordon Chan to Noel Rogers	30/06/20	Respondents	SA [51]	SA-2	557
52.	Email correspondence between Gordon Chan and Garry Failer	01/07/20 – 10/07/20	Respondents	SA [32], [38]	SA-2	569

53.	Email correspondence between Virgin staff and Administrators' staff	02/07/20	Respondents	SA [41]	SA-2	583
54.	Email to Darren Dunbier from Delta staff with photo attachments	3/07/20	Respondents	SA [42]	SA-2	588
55.	Email from Gordon Chan to Garry Failler with photo attachments	3/07/20	Respondents	SA [42]	SA-2	594
56.	Letter from NRF to Clayton Utz	4/07/20	Respondents	SA [33]	SA-2	599
57.	Letter from Clayton Utz to NRF	9/07/20	Respondents	SA [34]	SA-2	600
58.	Email from Ian Boulton to Andy Symons	10/07/20	Respondents	SA [38]	SA-2	602
59.	Email from Gordon Chan to Declan Kinnane	13/07/20	Respondents	SA [53]	SA-2	615
60.	Letter from Schenker Australia to Virgin Australia	17/07/20	Respondents	DD [16(c)]	DD-2	618
61.	Email from Declan Kinnane to Darren Dunbier	17/07/20	Applicants	DW [9]	DW-1	619
62.	Records open items list (888473)	17/07/20	Applicants, Respondents	SA [38], DW [7]	SA-2, DW-1	624
63.	Records open items list (894902)	17/07/20	Applicants, Respondents	SA [38], DW [7]	SA-2, DW-1	625
64.	Records open items list (896999)	17/07/20	Applicants, Respondents	SA [38], DW [7]	SA-2, DW-1	626
65.	Records open items list (897193)	17/07/20	Applicants, Respondents	SA [38], DW [7]	SA-2, DW-1	627
66.	Email from Ian Boulton to Declan Kinnane	19/07/20	Applicants	DW [10]	DW-1	628

B. Non-chronological bundle						
<i>Searches and certificates</i>						
67.	Australian Securities and Investments Commission (ASIC) company search for VB Leaseco Pty Ltd (Administrators Appointed)	22/06/20	Applicants	DP [6]	DP-2	633
68.	ASIC company search for Virgin Australia Airlines Pty Ltd (Administrators Appointed)	22/06/20	Applicants	DP [6]	DP-2	652
69.	Priority Search Certificate number 1360017	06/05/20	Applicants	DP [33(a)]	DP-2	686
70.	Priority Search Certificate number 1360024	06/05/20	Applicants	DP [33(b)]	DP-2	692
71.	Priority Search Certificate number 1360023	06/05/20	Applicants	DP [33(c)]	DP-2	698
72.	Priority Search Certificate number 1360022	06/05/20	Applicants	DP [33(d)]	DP-2	724
<i>Aircraft engine, engine stand and records related documentation</i>						
73.	CFM56 Engines Transportation Guide	--/02/2016	Applicants	DP [60], GF [16]	DP-2, GF-1	733
74.	FAA Form 8130-3	N/A	Applicants	GF [27]	GF-3	804
75.	EASA Form One	N/A	Applicants	GF [27]	GF-4	805
76.	FAA Form 337	N/A	Applicants	GF [27]	GF-5	806

77.	888473 Templates	N/A	Applicants	DW [22]	DW-1	808
78.	894902 Templates	N/A	Applicants	DW [22]	DW-1	821
79.	896999 Templates VAA	N/A	Applicants	DW [22]	DW-1	839
80.	896999 Templates Tiger	N/A	Applicants	DW [22]	DW-1	852
<i>Witnesses' resumes</i>						
81.	Resume of Garry Failler	--/--/17	Applicants	GF [9]	GF-2	859
82.	Resume of Darren Dunbier	17/07/20	Respondents	DD [2]	DD-1	862
83.	Resume of Derych Warner	20/07/20	Applicants	DW [5]	DW-1	863