

**IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY**

No. V621 of 2005

**IN THE MATTER OF ANSETT AUSTRALIA LIMITED
(ACN 004 209 410) & ORS (in accordance with the
Schedule attached) (All Subject to a Deed of
Company Arrangement)**

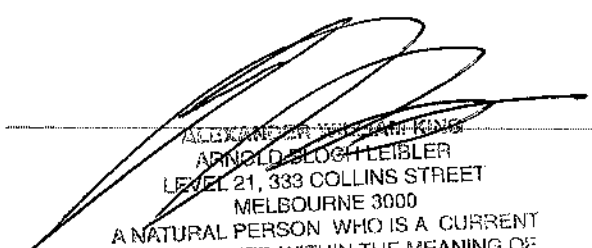
and

**MARK ANTHONY KORDA and MARK FRANCIS
XAVIER MENTHA (as Deed Administrators of the
Companies)**

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "**MAK-30**" produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit dated 12 September 2005.

Before me:


ALEXANDER HILLIARY KING
ARNOLD BLOCH LEIBLER
LEVEL 21, 333 COLLINS STREET
MELBOURNE 3000
A NATURAL PERSON WHO IS A CURRENT
PRACTITIONER WITHIN THE MEANING OF
THE LEGAL PRACTICE ACT 1996

**Exhibit "MAK-30"
Affidavit of Mark Anthony Korda sworn
1 November 2001 (excluding exhibits)**

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIAN DISTRICT REGISTRY

NO. V 3051 of 2001

IN THE MATTER of HAZELTON AIR CHARTER PTY LIMITED (A.C.N. 065 221 356), HAZELTON AIR SERVICES PTY LIMITED (A.C.N. 000 242 928) and HAZELTON AIRLINES LIMITED (A.C.N. 061 965 642) (All Administrator Appointed)

AND

MICHAEL JAMES HUMPHRIS in his capacity as administrator of HAZELTON AIR CHARTER PTY LIMITED (A.C.N. 065 221 356), HAZELTON AIR SERVICES PTY LIMITED (A.C.N. 000 242 928) and HAZELTON AIRLINES LIMITED (A.C.N. 061 965 642) (All Administrator Appointed)

Plaintiff

AND

MARK FRANCIS XAVIER MENTHA and MARK ANTHONY KORDA in their capacities as administrators of the companies listed in the Schedule attached (All Administrators Appointed)

Defendants

AFFIDAVIT OF MARK ANTHONY KORDA

DEPONENT: Mark Anthony Korda
SWORN: 1 November 2001

On 1 November 2001, I MARK ANTHONY KORDA, Chartered Accountant, of 360 Elizabeth Street, Melbourne in the State of Victoria, say on oath:

1 I am a Chartered Accountant and a member of the firm Andersen, Chartered Accountants ("Andersen"). I am a senior partner of its Corporate Recovery Services Division. I am a registered official liquidator. I am a member of the Insolvency Practitioners Association of Australia. I am a member of the

Prepared by:
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Ref: LZ:1205150
(Leon Zwier) #110874

Institute of Chartered Accountants. I have been practising in the area of corporate insolvency, receivership and financial reconstructions for in excess of 14 years.

- 2 Save where I say to the contrary, the matters deposed to in this Affidavit are deposed to from my own knowledge of the facts. Where I depose to matters from information and belief, I believe those matters to be true. I am authorised by Mark Francis Xavier Mentha to make this Affidavit on his behalf. I have also relied on accounting information provided to me by Colin Egan, a member of the Ansett Administration accounting team.

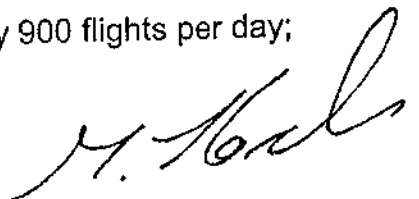
AFFIDAVITS FROM "MOU APPROVAL" PROCEEDINGS V3045 & V3046

- 3 I have read a copy of the affidavit of Mark Mentha sworn 8 October 2001 in Proceeding No.V3045 and the exhibits referred to ("Mark Mentha's first affidavit"). I have also read a copy of the further Affidavit of Mark Mentha sworn 10 October 2001 in Proceeding No.V3045 and the exhibits referred to ("Mark Mentha's second affidavit").

COMPARATIVE SIZE OF ANSETT GROUP and Hazelton

- 4 In paragraph 16 of Mark Mentha's first affidavit he deposed to some relevant features of the Ansett Group prior to administration. In summary, the Ansett Group:

- (a) Employed approximately 16,000 people;
- (b) Operated regionally, nationally and internationally including serving 130 domestic destinations by approximately 900 flights per day;



- (c) Had approximately 130 owned or leased aircraft.

To these matters I would add that Ansett's total consolidated revenue from rendering services was:

- (d) \$3,169,286,000 in the year ended 30 June 2001; and
 (e) \$3,230,869,000 in the year ended 30 June 2000.

- 5 I have been provided with a copy of an Information Memorandum for the sale of business and assets of the Hazelton Companies dated October 2001 prepared by the Hazelton Administrator ("the Hazelton Information Memorandum").

Now produced and shown to me and marked "MAK1" is a copy of the Hazelton Information Memorandum. I request this Exhibit be kept confidential because it contains detailed information concerning the Hazelton Companies which information is not available to the public at large but has only been made available to those parties who have agreed to keep the content of the document confidential.

- 6 I have perused the Hazelton Information Memorandum. Based upon the Hazelton Information Memorandum and by way of comparison between the Hazelton Companies and the Ansett Group, the Hazelton Companies:

- (a) Employed approximately 283 people (full-time);
 (b) Operated only in regional New South Wales;
 (c) Had 13 smaller aircraft.




The Hazelton companies earned total ticket revenue from rendering services of:

- (d) \$58,019,000 in the year ended 30 June 2001; and
- (e) \$60,728,000 in the year ended 30 June 2000.

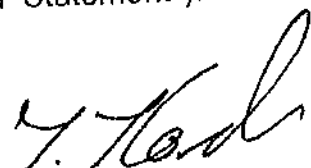
(prior to end April 2001 the Hazelton Companies were not controlled by Ansett).

USE OF \$32 MILLION WAGES ADVANCE

- 7 I refer to Mark Mentha's first and second affidavits in the MoU proceeding. In those affidavits, Mark Mentha refers to \$32 million advanced by Air New Zealand to meet wages that were outstanding. Of the \$32 million advanced by Air New Zealand to meet wages, \$12 million was advanced during the period of office of Mark Mentha and I (as administrators of the Ansett Group Companies) and Mr Humphris (as administrator of the Hazelton companies). The money was allocated between us on the basis of Hazelton's proportion of the total payroll which was 1.7%. This arrangement was confirmed in Sims Lockwood's letter dated 19 October 2001 to Mark Mentha and I, a copy of which is now produced and shown to me marked "MAK2".

ANALYSIS OF ASSETS AND LIABILITIES

- 8 On 29 October, 30 October and 31 October 2001, the parties met to attempt to produce an agreed methodology to produce an agreed confidential statement of assets and liabilities. Now produced and shown to me marked "MAK3" is a copy of the agreed statement ("the Agreed Statement"). I

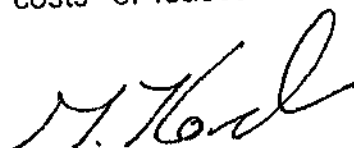



request this Exhibit be kept confidential because it contains estimates of the values of assets and liabilities which if published may prejudice the outcome of the potential sale of businesses and assets of the Hazelton Companies and the Ansett Companies.

- 9 The figures relating to the Hazelton Companies and the Ansett Companies referred to in the exhibits to the Agreed Statement have not been verified by the Administrator that did not prepare them. The discussions between the Administrators' representatives and advisers focused on the methodology adopted by the respective Administrators. The estimates now set out in the Agreed Statement differ considerably from Mark Mentha's previous estimates.
- 10 The two most significant variations are the increase in the Ansett liabilities generally (because of the changed methodology) and the increase in the Hazelton employee entitlements (because the Hazelton Administrator changed his calculation by 9% today).

INCREASE IN ANSETT LIABILITIES


- 11 The increase in Ansett liabilities arises solely because I have now adopted the same methodology as the Hazelton Administrator has adopted in calculating the Hazelton Companies' estimated liabilities in this proceeding.
- 12 The Hazelton Administrator's methodology is a conservative "worst case" liquidation basis. What I mean by this, is that it is a scenario based on conservative assumptions that aviation assets cannot be realised for any more than say 40% of their present valuation and "break costs" of leases



cannot be mitigated by agreement or compromised by a Deed of Company Arrangement. I have not adopted precisely the same methodology in my Ansett liquidation scenario because I do not now have sufficient information to do so. For example, because of the vast numbers of aircraft leases of the Ansett aircraft I have not been able to obtain precise details of all of the "break costs" of these leases. However, I note that in relation to the three Hazelton Companies' aircraft leases my staff have reviewed, the "break costs" (US\$8 million) are about double the unpaid lease payments (US\$4 million). I have made no provisions in the Ansett Companies' liabilities for "break costs". If I applied a like ratio to that which appears in the Hazelton Companies' calculations, it is possible that the "break costs" of the Ansett Group aircraft leases will further increase the estimated liabilities of this sum by a further \$600 million. By way of further example because of the large number of aircraft owned or leased by the Ansett Group I do not presently have any valuations, unlike the Hazelton Administrator. I have relied upon "desk top" valuations prepared of owned or finance leased aircraft discounted by up to 25%.

PROPERTY LEASES

- 13 There is also disagreement as to the methodology adopted by me in calculating Ansett liabilities to lessors of property. I have adopted the Hazelton Administrator's "worst case" liquidation scenario and included as a liability all of the payments to be made under all the property leases. Even though the Hazelton Administrator's methodology is predicated as a "worst case" liquidation scenario, because there are about 570 property leases, it is



not possible to determine the likelihood of re-leasing those properties, the likely new rental, whether any of the rents are presently below market or whether any person may be willing to pay a premium for those properties. Moreover, in many large corporate insolvency administrations, creditors have previously accepted Deeds of Company Arrangements which limit the claims of lessors to some agreed and equitable formula. In a "worst case" liquidation scenario, no allowance should be made for the possibility of curtailing aircraft lessors and landlords' claims.

HAZELTON'S NEW INCREASED EMPLOYEE ENTITLEMENTS

- 14 The Hazelton Administrator initially (at paragraph 4 of Humphris' second MoU affidavit and paragraph 3 of Humphris' second affidavit) calculated the Hazelton Companies' employee entitlements at \$6.95 million.
- 15 However, In the Agreed Statement, the Hazelton Companies' employee entitlements have increased by about 9% from the earlier estimate. (We have not been given the data to verify the increase and would not have had time in any event).
- 16 If the Hazelton Companies' employee entitlements are greater than first estimated, then I am prepared to increase my earlier "open offer" accordingly to ensure that all of the employees of the Hazelton Companies and the Ansett Companies are treated equitably.



OTHER AREAS OF DISAGREEMENT

17 There are other estimates of liabilities included in the Ansett Group ("worst case" liquidation scenario) with which the Hazelton Administrator takes issue namely:

17.1 Income tax assessment liability;

17.2 Inter company loans;

17.3 Global rewards liability;

17.4 Potential litigation claims.

INCOME TAX ASSESSMENT

Now produced and shown to me and marked "MAK3A" is a copy of a letter from the Australian Taxation Office to Mark Mentha and me dated 22 October 2001 which sets out the basis for my "worst case" liquidation estimate of the liability.

INTER COMPANY LOANS

18 There are a number of Ansett subsidiaries domiciled in jurisdictions outside Australia including:

18.1 Ansett Leasing (HK) Limited (a company incorporated in Hong Kong);

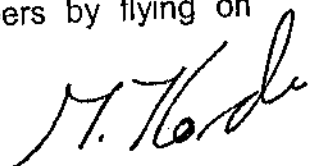
18.2 Ansett International Airfreight Inc (a company incorporated in the USA);



- 18.3 Ansett Equipment Limited (a company incorporated in the Cayman Islands);
- 18.4 Tranz Air (New Zealand) Limited (a company incorporated in New Zealand);
- 18.5 Transpacific Enterprises Inc (a company incorporated in the USA)
(collectively "the Overseas Ansett Subsidiaries")
- 19 The Overseas Ansett's Subsidiaries are not under the control of the Ansett Administrators and therefore these amounts ought properly to be taken into account.
- 20 Further, the Overseas Ansett Subsidiaries are, based on the books and records of the Ansett Group, owed about \$174 million by the Ansett Group. Whilst it may be possible by agreement or alternatively pursuant to the terms of a Deed of Company Arrangement to compromise these claims, if I am to adopt the Hazelton Administrator's "worst case" liquidation scenario methodology then this liability ought properly to be taken into account.

GLOBAL REWARDS LIABILITY

- 21 The Ansett Group prior to the administration operated a frequent flyer program for the benefit of members of that program known as the Global Rewards Program. Members of the Global Rewards Program entered into agreements with the Ansett Group whereby points were accumulated by members on certain flight sectors in accordance with the terms of those agreements. Points were also accumulated for members by flying on



partner airlines. Points were also accumulated for members by using services and products provided by other partners such as Westpac and Diners Club. Based on preliminary calculations of Colin Egan, I believe that there are about 70 billion unused frequent flyer points in existence. The frequent flyer members may have significant claims, on a "worst case" liquidation scenario. In Mark Mentha's affidavit he made no provision for the frequent flyer creditors. I have now had preliminary advice from Arnold Bloch Leibler that the frequent flyer members may be creditors in the Ansett Administration for as yet an unascertained sum.

POTENTIAL LITIGATION CLAIMS

- 22 The estimated contingent liability for the various proceedings (which will now prove in the administration or the liquidation) is an estimate which based upon inquiries I have made with Colin Egan I believe to reasonably represent a "worst case" liquidation scenario.

OUTCOME OF ADMINISTRATION

- 23 Mark Mentha and I have been negotiating with four interested parties in relation to a sale of the Ansett mainline business namely:

- 23.1 A consortium led by Lindsay Fox and Solomon Lew ("the Fox Lew Group");
- 23.2 Ansett Pilots ("AN Pilots");
- 23.3 Singapore Airlines ("SIA");



24 The Fox Lew Group has made an offer in writing to acquire the mainline business ("the Fox/ Lew Offer").

Now produced and shown to me and marked "MAK3B" is a copy of the Fox/ Lew Offer. I humbly request that this Exhibit remain confidential. It would be manifestly unfair to the Fox Lew Group if the other bidders or stakeholders had access to it. The Fox/ Lew Offer has also been made on the basis that it will remain confidential to the Administrators.

25 If the Fox/ Lew Offer or any better offer is accepted and performed and the Ansett Group is sold as a going concern all of the Ansett Group priority creditors will be repaid their entitlements in full. Moreover, even if the Government makes advances pursuant to the SEESA Scheme which rank *pari passu* with all of the other employee entitlements, these SEESA payments are also likely to be repaid in full on a sale of the Ansett mainline business as a going concern.

SEESA

26 The Government pursuant to the *Air Passenger Ticket Levy (Collection) Act 2001* established a Special Employee Entitlement Scheme for Ansett Employees ("SEESA") pursuant to which Government guaranteed the payment to Ansett Group employees of the following entitlements:

26.1 all unpaid wages including unpaid amounts in respect of paid leave already taken and allowances such as shift allowances and overtime, Z days, time in lieu owing and unpaid member superannuation contributions of Redundant Employees;

AA

M. Hood

- 26.2 all unpaid annual leave entitlements (including leave loading) of Redundant Employees;
- 26.3 all unpaid long service leave entitlements of Redundant Employees;
- 26.4 all unpaid pay in lieu of notice owing in excess of 4 weeks for Redundant Employees; and
- 26.5 unpaid redundancy entitlements of Redundant Employees up to a maximum of 8 Week's Pay,

(in each case as determined in accordance with any Industrial Instrument).
("the Guaranteed Entitlements").

- 27 The Government has recently agreed to vary SEESA and to pay to the Ansett Administrators the Guaranteed Entitlements other than pay in lieu of notice of 8,000 employees soon to be made redundant ("the SEESA payments").
- 28 The terms of the repayment of the SEESA payments is being discussed.
Now produced and shown to me and marked "MAK3BA" is a working draft deed which may record the Government's intentions in that regard. I do not know.

PROPOSAL TO SUBORDINATE

- 29 On 31 October 2001, I made a Submission to the Government concerning the SEESA payments seeking support for a special arrangement concerning the repayment of all amounts and monies to be advanced to Mark Mentha and me pursuant to the SEESA Scheme. The Submission to the

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M. Mentha

Government has been made on the understanding that it will remain confidential although it will be released to the Leader of the Opposition and on request to creditors on the Committee of Creditors.

Now produced and shown to me and marked "MAK3C" is a copy of the Submission made to Government dated 31 October 2001. I request that this Exhibit remain confidential.

OFFERS MADE

- 30 Mr Humphris has suggested the sum of \$150 million should be apportioned by reference to total unsecured liabilities estimated on his liquidation estimates. I am concerned that Ansett creditors will be disadvantaged by this. It is only one preliminary estimate of relative size. Estimates of unsecured debts can vary widely depending upon matters of judgment and opinion. Use of a "liquidation approach" or a "going concern" approach makes an enormous difference to estimates, as has been demonstrated here. The level of unsecured debt bears little necessary relationship to the Air New Zealand settlement or to the claims released pursuant to it or the duration of time (120 days) that the Hazelton Companies had a relationship with Air New Zealand or Ansett Group.
- 31 The Air New Zealand settlement was reached on an undifferentiated "Group" basis. For this reason, our proposals as to apportionment of the \$150 million have treated the Hazelton companies as undifferentiated parts of the Group. (This is how we will treat other Ansett subsidiaries e.g. Traveland, Show Group).



Now produced and shown to me marked "MAK4" are copies of the following correspondence passing between the respective solicitors:

- (a) Letter dated 26 October 2001 from Arnold Bloch Leibler to Holding Redlich;
- (b) Letter dated 29 October 2001 from Arnold Bloch Leibler to Holding Redlich;
- (c) Letter dated 30 October 2001 from Holding Redlich to Arnold Bloch Leibler.

32 The reason our "group" approach centres on the meeting of employee entitlements is set out on a separate exhibit now produced and shown to me marked "MAK5". I request that this exhibit remain confidential.


33 In addition to the unsecured liability comparison (which I believe is inappropriate) and the employee/group approach (which I believe is appropriate) other measures of apportionment in size only are:

Basis of Apportionment	Ansett %	Hazelton %
Total annual revenue (30 June 2000)	98.2	1.8
Total annual revenue (30 June 2001)	98.2	1.8
Allocation of \$12 million NZ wages advance	98.3	1.7
Total liabilities excluding all real property and aircraft leases from liquidation scenario	98.8	1.2


before further allowance is made for:

- 33.1 the relative strengths of the Ansett Group claims to the Hazelton Companies' claims against Air New Zealand, and directors; and
- 33.2 the relative period of time the Hazelton Companies were associated with the Air New Zealand Group.

SWORN by MARK ANTHONY KORDA
at Melbourne in the State of Victoria this
1st day of November 2001

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) _____
)

Before me:



LEON ZWIER
Arnold Bloch Leibler
Level 21 333 Collins Street
Melbourne VIC 3000

A natural person who is a current practitioner
within the meaning of the Legal Practice Act
1996