

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-49**" produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit dated 12 September 2005.

Before me:

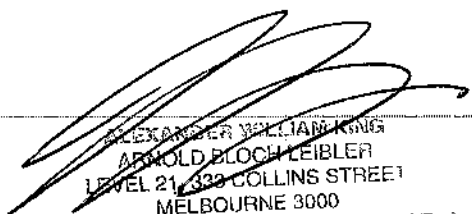

ALEXANDER WILLIAM KING
ARNOLD BLOCH LEIBLER
LEVEL 21, 333 COLLINS STREET
MELBOURNE 3000
A NATURAL PERSON WHO IS A CURRENT
PRACTITIONER WITHIN THE MEANING OF
THE LEGAL PRACTICE ACT 1996

Exhibit "MAK-49"
Affidavit of Leon Zwier sworn 27 December 1001

MAK-991

FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
FILED
28 DEC 2001
FEES PAID

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIAN DISTRICT REGISTRY

No. V3106 of 2001

IN THE MATTER OF:

ANSETT AUSTRALIA LIMITED (A.C.N. 004 209 410) & ORS (in accordance with the
Schedule attached) (All Administrators Appointed)

And

MARK FRANCIS XAVIER MENTHA AND MARK ANTHONY KORDA (as
Administrators of the Companies)

Plaintiffs

AFFIDAVIT OF LEON ZWIER

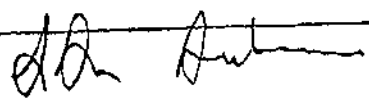
DEPONENT : Leon Zwier

SWORN : 27 December 2001

On 27th December 2001, I **LEON ZWIER**, Solicitor of Level 21, 333 Collins Street,
Melbourne in the State of Victoria, say on oath:

1 I am a Partner of Arnold Bloch Leibler, Solicitors, in Melbourne. I have the care
and conduct of this matter on behalf of the Plaintiffs. I am authorised to make
this Affidavit on behalf of the Plaintiffs. I make this affidavit in support of the
Application of the Plaintiffs for the relief sought in this Application.

Prepared by:
ARNOLD BLOCH LEIBLER
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE VIC 3000



Solicitor's Code: 54
DX 455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: LZ:DMM:01-1213869

- 2 Save where I say to the contrary, the matters deposed to in this Affidavit are deposed to from my own personal knowledge of the facts. Where I depose to matters from information or belief, I believe those matters to be true.

ANSETT COMPANIES UNDER ADMINISTRATION

- 3 There are 41 companies in the Ansett Group ("the Ansett Group") in respect of which Mark Mentha and Mark Korda ("the Administrators") have been appointed voluntary administrators.
- 4 For the purpose of this affidavit I refer to the meeting of creditors to be convened for each of those 41 companies pursuant to Section 439A of the Corporations Act as the Second Meeting of Creditors.

EXTENSIONS OF CONVENING PERIOD FOR THE SECOND MEETING OF CREDITORS

- 5 On 1 October 2001, in proceeding no. 3034 of 2001 ("the Extension Application"), the Honourable Justice Goldberg ordered, on application by the Administrators inter alia, that the convening period for the Second Meeting of Creditors of each of the companies comprised in the Ansett Group (other than Ansett Australia and Air New Zealand Engineering Services Pty Ltd (ACN 089 520 696 ("ANZES"))) be extended to 12 December 2001. The substantive grounds in support of that application are set out in an Affidavit of Mark Mentha in the Extension Application.
- 6 On 23 October 2001, in proceeding No. V3052 of 2001 ("the Further Extension Application"), the Honourable Justice Goldberg ordered, on

Mark Mentha

application by the Administrators inter alia, that the convening period for the Second Meeting of Creditors of ANZES also be extended to 12 December 2001. The substantive grounds in support of that application are set out in the Affidavit of Leanne Kylie Chesser sworn 23 October 2001 in the Further Extension Application.

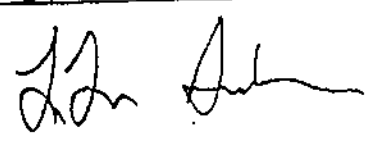
7 On 5 December 2001, in proceeding no. 3079 of 2001 ("the Third Extension Application"), the Honourable Justice Goldberg ordered, on application by the Administrators inter alia, that the convening period for the Second Meeting of Creditors of each of the companies comprised in the Ansett Group be further extended until 22 January 2002. The substantive grounds in support of that application are set out in an earlier Affidavit sworn by me on 29 November 2001 in the Third Extension Application.

SUMMARY OF ANSETT GROUP ASSETS & LIABILITIES

8 I am told by Damian Templeton, an employee of Andersen who is assisting the Administrators, that the major assets and liabilities of the Ansett Group are as follows:

Major Assets

•	Proceeds from Air New Zealand Settlement (less claims of the Hazelton Administrator)	\$150 million
•	Debtors and other aviation assets	\$100 million
•	Property (freehold and leasehold)	\$300 million
•	Equity in aircraft, rotables, spares, regions, engineering plant	\$300 million



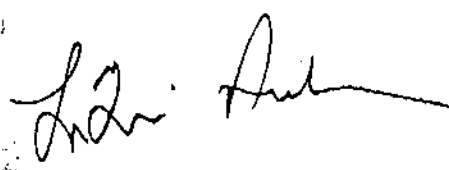
Liabilities

•	Employee Entitlements as at 12 September 2001 (Part of the entitlements have been paid)	\$730 million
•	Fuel suppliers	\$20 million
•	Hire Car Companies	\$1.5 million
•	Financiers	\$100 million +
•	Telecommunication Suppliers	\$16 million
•	Miscellaneous Others (Golden Wing Members, trade suppliers, frequent flyer point holders, coupon creditors)	\$1.1 billion +

9 The Administrators have sold the Ansett Mainline business to a consortium lead by Solomon Lew and Lindsay Fox ("Tesna"). When the sale of the Ansett Mainline business is completed, Tesna will acquire certain of the assets and will assume responsibility for certain employee liabilities. I am also told by Damian Templeton that the estimated realisation of assets referred to above is predicated upon the Tesna sale completing and the "untested" valuations of aviation assets. If the Ansett Group is liquidated the liabilities may increase significantly.

COMMITTEES OF CREDITORS

10 At paragraphs 40 to 44 (inclusive) of Mark Mentha's affidavit sworn 8 October 2001 in proceedings No V3045 of 2001 ("the MOU proceeding"), Mark Mentha deposed to the estimated size and composition of the Committees of Creditors in the Ansett Group. Since that time, these estimates have been slightly revised.



11 I am told by Damian Templeton that there are 32 different members of the Committees of Creditors in the Ansett Group. I am further told by Damian Templeton that on current estimates, the Committees of Creditors comprise the following major creditors of the Ansett Group who each have the following estimated exposures:

CREDITOR REPRESENTATIVE	CREDITOR ORGANISATION	EXPOSURE AUD (estimated)
DAVE OLIVER	Australian Manufacturing Workers' Union	
ALAIN CHRUN	Credit Lyonnais (subject to realisation of aircraft)	420,890,000
BILL SHORTEN	The Australian Workers' Union	12,500,000
COLIN MASON	Caltex Australia Limited	12,000,000
SCOTT KERSHAW	Qantas Airways	9,960,001
DAVID BROWN	QBE Insurance (Australia) Ltd	
DAVID COX	AAT Kings	
DENNIS TEEN	Australia Post	450,000
DOUG DUNLOP	Ansett Pilots Association	
FOTIOS EGGLEZOS	BP Australia	3,460,848
GEOFF ARTHUR	National Express Group (Australia) Pty Ltd	
GEORGE PROOS	Avis Australia	1,481,165
GRANT SABIN	Bureau of Meteorology	346,765.82

Andri Sub

CREDITOR REPRESENTATIVE	CREDITOR ORGANISATION	EXPOSURE AUD (estimated)
IAIN LANG	Australian Licensed Aircraft Engineers Association	-
JOHN ALLEN	Transport Workers' Union	140,100,000
JOHN MIRANDA	CPM Aust Pty Ltd	-
JOHN PYERS	Transport Industries Insurance	1,420,000
COLIN COAKLEY	Flight Attendants Association of Australia	74,500,000
KEVIN POTTER	National Australia Bank	80,000,000 (approximately)
STEVE WIDDOP	Mobil Oil Australia Pty Ltd	4,100,000
LINDA WHITE	Australian Services Union	-
MARK BISSET	Future Brand FHA	764,291
PETER ALLEN	JS McMillan Pty Ltd	-
PETER DUFFY	Unsecured Creditor - Non Union Employee	59,000
PETER HOLLOWAY	Air New Zealand	-
SAMANTHA SHARIF	Airservices Australia	1,245,337
STEPHEN BYRON	Canberra International Airport	385,962
STEPHEN PARBERY	Prentice Parbery Barilla	-
TONY WHEELNS	Commonwealth Department of Transport and Regional Services	70,003
VICTORIA CHESSE	Telstra	15,868,000
LAWRIE COX	Australian Federation of Air Pilots	-

John Allen

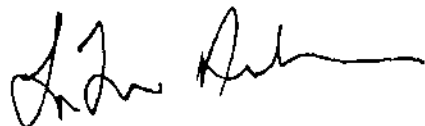
CREDITOR REPRESENTATIVE	CREDITOR ORGANISATION	EXPOSURE AUD (estimated)
PETER BYRNE	Australian Airports Association	-
TOTAL		AUD 798,865,607

12 I am further told by Damian Templeton that there are approximately 7,000 presently identified creditors of the entire Ansett Group apart from:

- (a) Employees (approximately 16,000 as at 12 September 2001);
- (b) Frequent Flyer Members who have accumulated unused frequent flyer points (approx 2.7 million);
- (c) Golden Wing Members (approximately 1.3 million) (nearly all Golden Wing Members will also be Frequent Flyer Members);
- (d) The holders of un-presented airline tickets with a face value of between AUD \$250 million and AUD \$300 million ("the Coupon Creditors"). (The number of Coupon Creditors is incapable of estimation at this time, however it may be as large as 300,000 in number.)

REQUIREMENTS UNDER SECTION 439A OF THE CORPORATIONS ACT & REGULATION 5.6.12 OF THE CORPORATIONS REGULATIONS

13 Pursuant to Section 439A(3) of the Corporations Act 2001 ("the Act"), the Administrators must convene the Second Meeting of Creditors by:

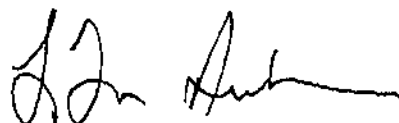


- (a) giving written notice of the meeting to as many of the company's creditors as reasonably practicable; and
- (b) causing notice of the meeting to be published:
 - (i) in a national newspaper; or
 - (ii) in each State or Territory in which the company has its registered office or carries on business, in a daily newspaper that circulates generally in that State or Territory;

at least 5 business days before the meeting.

14 Pursuant to Section 439A(4) of the Act, the notice convening the Second Meeting of Creditors must be accompanied by a copy of:

- (a) a report by the Administrators about each company in the Ansett Group's business, property, affairs and financial circumstances; and
- (b) a statement setting out the Administrators' opinion about each of the following matters:
 - (i) whether it would be in the creditors' interests for the Ansett Group to execute a deed of company arrangement;
 - (ii) whether it would be in the creditors' interests for the administration to end;



(iii) whether it would be in the creditors' interests for the Ansett Group to be wound up;

and the Administrators' reasons for those opinions; and

(c) if a deed of company arrangement is to be proposed, a statement setting out details of the proposed Deed.

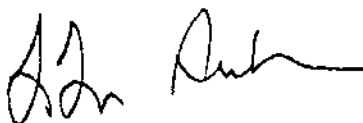
15 Pursuant to Regulation 5.6.12(1) & (2) of the Corporations Regulations 2001 ("the Regulations"), the Administrators must give notice in writing of the meeting by:

- (a) delivering it personally;
- (b) sending it by pre-paid post;
- (c) faxing it (if the person has a facsimile transmission number); or
- (d) lodging it with the document exchange (if the person has a document exchange number to which notices may be sent to the person).

ESTIMATED COSTS & PRACTICAL DIFFICULTIES OF STRICT COMPLIANCE WITH SECTION 439A(3) OF THE ACT & REGULATION 5.6.12 OF THE REGULATIONS

16 For the purpose of voting at the Second Meeting of Creditors, the Administrators intend to treat each of the following classes of creditors as creditors, namely:

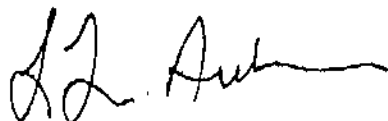
- (a) Frequent Flyer Point holders (estimated 2.7 million);



- (b) Golden Wing Members (estimated 1.3 million);
- (c) The holders of tickets which were unused as at 12 September 2001 (estimated 500,000);
- (d) Lessors of aircraft;
- (e) Landlords (estimated 540);
- (f) Employees in relation to their entitlements (estimated 16,000);
- (g) Ordinary trade suppliers (estimated 7,000); and
- (h) Financiers (estimated 34).

17 I am told by the Mark Mentha that the documentation to be enclosed in the Notice to Creditors in anticipation of the Second Meeting of Creditors in hard copy may constitute hundreds of pages given that for each of the 41 companies comprising the Ansett Group in administration, each company has its own report and separate draft outline of a proposed Deed of Company Arrangement and proxy forms.

18 Rothfield Print Management have provided to Andersen an estimate for a large scale mail-out to 25,000 persons. The estimate is approximately \$178,000 for postage, printing and handling costs, and it assumes that each person is to be provided with 150 pages of material. Therefore, assuming there are 4 million persons to be notified, the cost could be as high as approximately \$28 million ("the estimate"). However, it is likely that the estimate would be reduced due to



the economies of such a large scale mail-out. Further, the 4 million persons may be reduced to approximately 3 million due to the overlap between Golden Wing Members and Frequent Flyer Members.

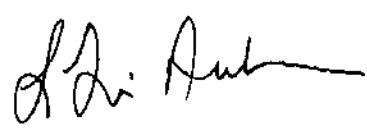
19 I am told by Mark Mentha that even if each of the 4 million persons receive a written notice of the Second Creditors Meeting, he does not presently expect more than about 5000 creditors to appear in person at the Second Meeting of Creditors. I am also told by Mark Mentha that the Administrators intend to 'web cast' the Second Meeting of Creditors, so that all creditors around Australia can observe it.

ALTERNATIVES TO PROPOSED ORDERS & DIRECTIONS

20 The Administrators have identified four alternative methods for providing notice of the Second Creditors meeting to all the creditors of the Ansett Group. The four options are described below:

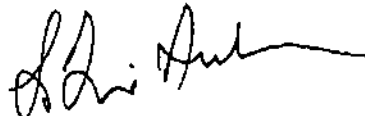
THE ADMINISTRATORS' OPTION

21 The Administrators place the notice of the Second Creditors Meeting and the Reports to Creditors, outlines of Deed of Company Arrangements and any other relevant documents ("Accompanying Material") on the following websites: <http://www.ansett.com.au/administrator> and <http://www.abl.com.au/administrator> ("the Ansett Websites"). Further, a large advertisement would then be placed in the following newspapers (in the size previously used in the MOU proceeding and in proceeding no. V3083 of 2001 ("the \$195 million proceeding")):



- (a) Sydney Morning Herald;
- (b) Sydney Daily Telegraph;
- (c) The Age;
- (d) Brisbane Courier Mail;
- (e) Adelaide Advertiser;
- (f) Perth West Australian;
- (g) Canberra Times;
- (h) Northern Territory News;
- (i) Hobart Mercury;
- (j) Australian;
- (k) Australian Financial Review; and
- (l) Herald Sun;

on one occasion at least two weeks before the Second Creditors Meeting. ("the Ansett Advertisement") The Ansett Advertisement would give notice to all creditors of the date of the Second Creditors Meeting and that Accompanying Material is available on the Ansett Websites, and that if any creditor requires a hard copy of the documentation it can obtain such a copy by calling the Administrators hotline ("the Ansett Hotline"). The costs of the Ansett



Advertisement is estimated to be \$60,000 (by contrast an advertisement in the Law Notice section ordinarily placed in an administration would cost approximately \$6,000). This option is the Administrators' preference ("the Administrators' Option").

THE LETTER NOTICE OPTION

22 An alternative option is to place the notice and Accompanying Material on the Ansett Websites (as above), and post to each of the Identified creditors a one page notice by ordinary pre-paid post advising them that a copy of the notice and Accompanying Material can be obtained from the Ansett Websites or by calling the Ansett Hotline number, together with the Ansett Advertisement ("the Letter Notice Option").

THE FULL NOTICE OPTION

23 A further alternative is to send to each of the creditors by pre-paid post a copy of the notice and Accompanying Material and to place the usual advertisement in the Law Notice of the newspapers ("the Full Notice Option").

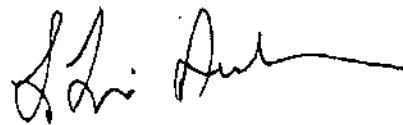
THE SELECTION OPTION

24 A fourth option is to send a copy of the notice and accompanying material to the 7000 ordinary trade creditors, and to each of the relevant trade unions, the ACTU and the credit card financiers, and to place the notice and Accompanying Material on the Ansett Websites together with the Ansett Advertisement for the



benefit of the remaining creditors (frequent flyer point holders, Golden Wing Members and Coupon Creditors) ("the Selection Option").

- 25 There are advantages and disadvantages of each option. The advantages of the Administrators' Option is that it is the easiest, most cost effective and efficient method of advising creditors generally of the Second Meeting of the Ansett Group. It would save the Ansett creditors millions of dollars in postage, thousands of hours of labour handling and the costs of large scale printing. Further, it provides a method for each of the creditors who express an interest in the Second Creditors Meeting to obtain a hard copy of the documents if they require one.
- 26 The disadvantages of the Administrators' Option is that arguably there is potentially non-compliance with a strict and literal interpretation of s439A of the Act and the Regulations. However, in the context of the Ansett Administration the Administrators contend that it is "reasonable" notice within the meaning of s439A(4) of the Act. There are some creditors who may not read the Ansett Advertisement or who may not understand it.
- 27 The advantages of the Letter Notice Option, is that it is a stricter form of compliance with s439A of the Act and the Regulations. However, it is not as cost effective as the Administrators' Option and although it is less costly than the Full Notice Option, the postage, labour and printing costs will still be very significant.

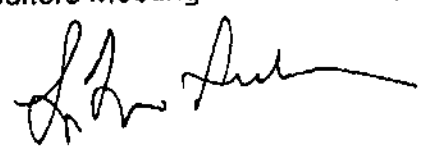


28 The advantage of the Full Notice Option is that the Administrators would strictly comply with s439A of the Act and the Regulations in that each creditor would receive a Notice and Accompanying Materials. However, it would cost millions of dollars in printing, postage and labour.

29 Although the Selection Option has appeal, the disadvantage is that not all employees are members of a union, and there is no obligation on the financiers to notify credit card members of the meeting. Further, this option is discriminatory, and the Administrators have previously adopted a non-discriminatory attitude viz the various types of creditors. It is however the Administrators next favoured option.

DOUBLE JEOPARDY

30 There is also a problem for the Administrators should their recommendation to adjourn the Second Meeting of Creditors be accepted. If it is adjourned, the Administrators are obliged pursuant to the Act and Regulations to give further notice in writing to all creditors of the date, time and place of the proposed adjourned meeting. The Administrators intend to do so in using precisely the same mechanism as this Honourable Court determines is appropriate. This means that the notice to the creditors will need to be duplicated within approximately 30 days after the Second Creditors Meeting on 29 January 2002.

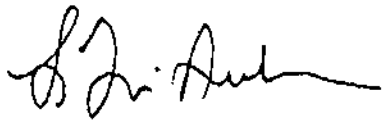


PREVIOUS WEBSITE STATISTICS

- 31 I am told by Ian Buchanan, the Web Environment Manager for Arnold Bloch Leibler, that when the application relating to the MOU proceeding was placed on the Ansett Websites and advertised, the Websites attracted thousands of "visitors" with approximately 45,000 major hits, and more than a million pages of information was downloaded.
- 32 In contrast, in early December 2001, when the 195 million proceeding was placed on the Ansett Websites and advertised, the Ansett Websites attracted a few thousand visitors, with approximately 2,000 hits and about 20,000 pages of information was downloaded.

NOTICE OF THIS APPLICATION

- 33 On the morning of Friday 21 December 2001, I sent by facsimile a letter giving notice of this Application and the reasons for it to each of:
 - (a) The Australian Securities and Investment Commission ("ASIC");
 - (b) Mr Max Casen of Clayton Utz, solicitors for Tesna;
 - (c) Mr Josh Bornstein of Maurice Blackburn Cashman, solicitors for the ACTU and for 13 of the Unions.
- 34 I am told by Damian Templeton that the letter was also distributed by email by him to each of the members of the Committees of Creditors on Friday 21 December 2001.



35 The contents of the letter are set out below (omitting formal parts):

"As you know, I act on behalf of the Ansett Administrators.

The Ansett Administrators informed the Federal Court on 20 December 2001 that they presently intend to hold the second meeting of creditors of the Ansett Group on 29 January 2002.

For the purposes of that meeting the Ansett Administrators intend to treat each of the following classes of creditors as creditors for the purposes of voting namely:-

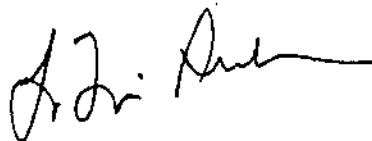
- (a) Frequent flyer point holders (2.6 million);*
- (b) Golden Wing members (1.3 million);*
- (c) The holders of tickets which were unused as at 12 September 2001;*
- (d) Lessors of aircrafts;*
- (e) Landlords;*
- (f) Employees in relation to the their entitlements;*
- (g) Ordinary trade suppliers; and*
- (h) Financiers*

Of course the quantum of the claims is yet to be determined. In accordance with the regulations the Ansett Administrators will make a "just estimate" in relation to unliquidated or contingent claims. The Ansett Administrators intend to have regard to the books of Ansett in doing so.

The present intention of the Ansett Administrators is to comply as best they can with their obligations under Section 439A but, in doing so, the Administrators will acknowledge that it is difficult to provide more detailed information. In the circumstances the Ansett Administrators will recommend a deed of company arrangement in due course but also propose to adjourn the second meeting of creditors for a period of about 45 days to enable more detailed reports to be prepared and circulated.

The second meeting of creditors on 29 January 2002 will principally deal with the following matters namely:-

- (a) A general report;*



- (b) Approval of the Tesna transaction; and
- (c) Approval of fees.

As I indicated to the Court on 20 December 2001 ultimately it will be a matter for the creditors to determine whether or not they wish to adjourn the second meeting.

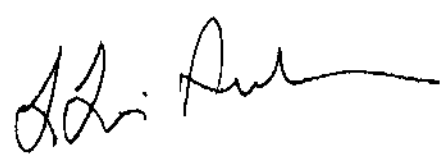
However, having regard to the large numbers of creditors who ought to receive notice of the meeting and having particular regard to the requirements of Section 439A(3)(a) the Ansett Administrators intend to issue an application today seeking directions in relation to how the second meeting of creditors should be convened and held. For example, the Ansett Administrators are concerned that if they are obliged to write to each and every frequent flyer point holder Golden Wing member and other creditor the costs of doing so (in terms of postage alone) will exceed millions of dollars. Moreover, the documentation to be enclosed in hard copy may constitute hundreds of pages given that there are about 40 companies in administration and each company has its own report and separate draft outline of a deed. It will be difficult for the Ansett Administrators to identify which of the creditors should receive which of the reports.

The purpose of this letter is to give you as much notice as is reasonably possible of the application which will be issued today. It will be made returnable on 4 January 2002 before Justice Goldberg in the Federal Court. Kindly note that the Ansett Administrators do not intend to identify a "contradictor" to oppose the making of the directions and orders.

The Ansett Administrators will advertise the hearing in legal notices in newspapers, that is by a relatively inexpensive process which will cost about \$6,000. (By contrast, the large scale advertising for the previous \$195 million application was about \$60,000).

Would you be kind enough to call either Leon Zwier (0407 815 136) or Kirsten Frew over the holiday period should you wish to discuss the matter further. Later today we will formally serve the applications."

36 I am told by Damian Templeton that Notice of this Application will also be made in national newspapers on 27 December 2001. A copy of the proposed wording is set out below:



"Important Notice to All Ansett Creditors


By Application filed with the Federal Court on 21 December 2001, the Ansett Administrators seek directions which will allow them to give notice of the Second Meeting of Creditors currently scheduled for 29 January 2002 by posting the Notice and accompanying material on the Ansett Administrators' websites rather than by ordinary pre-paid post. The Application will be heard in the Federal Court of Australia, 305 William Street, Melbourne at 10.15am on Friday 4 January 2002.

The Application and supporting affidavit material is available on the following websites:

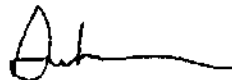
<http://www.ansett.com.au/administrator> or <http://www.abl.com.au/administrator> or by calling the Administrators hotline 13 13 55 "

37 I also caused a draft of this Affidavit to be placed on the Ansett Websites on 24 December 2001 to give as much notice of the issues was reasonably possible.

SWORN by LEON ZWIER at Lorne in the State of Victoria on 27th December 2001

) 
)
)

Before me:



ANITA FRAYMAN
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