

IN THE MATTER OF:

ANSETT AUSTRALIA LTD
(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)

Plaintiffs

AFFIDAVIT

(Order 14, rule 2)

On 30 September 2005 I, **MARK ANTHONY KORDA**, Chartered Accountant, of Level 24, 333 Collins Street, Melbourne in the state of Victoria **MAKE OATH AND SAY** that:

- 1 I refer to my affidavits sworn 21 June 2005 ("**First Affidavit**") and 12 September 2005 ("**Second Affidavit**") and to the affidavit of Alexander William King affirmed 23 September 2005 ("**King Affidavit**"), a copy of which I have read. Words, phrases and acronyms defined in my Second Affidavit have the same meaning in this affidavit.
- 2 I make this further affidavit in support of this Application in which we seek orders or directions pursuant to sections 447A and 447D of the Act and the inherent jurisdiction of the Court as to the course we, as Deed Administrators, ought to follow in connection with the proposed pooling of the assets and liabilities of the Ansett Group into one Ansett Group Company.
- 3 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information or belief, I believe those matters to be true. I am authorised by Mentha to make this affidavit on



his behalf. References in this affidavit to "we", "us" "our" or "ourselves" are references to Mentha and me.

ASIC requests for additional information

- 4 By letter dated 19 September 2005 to Arnold Bloch Leibler, lawyers for the plaintiffs, the Australian Securities & Investments Commission ("**ASIC**") sought additional information about issues raised by this Application and certain matters in my Second Affidavit ("**ASIC Request**"). Now produced and shown to me and marked exhibit "**MAK-52**" is a copy of the ASIC Request. (A copy of the ASIC Request is exhibit "AWK-15" to the King Affidavit. However, a further copy of the ASIC Request is exhibited to this affidavit for the sake of convenience.)
- 5 Subsequently, ASIC requested that we estimate the costs likely to be incurred by the Ansett Group Companies and entities were they to continue to be separately administered and not Pooled ("**Separate Administrations Costs Estimate**").
- 6 ASIC has also posed the question whether it would be appropriate for the Court to order Pooling in this Application without the need for the Pooling Meetings.
- 7 In this affidavit I deal with each of the extant matters raised in the ASIC Request and I set out our Separate Administrations Costs Estimate and our estimate of the costs likely to be incurred in connection with the proposed Pooling Meetings ("**Pooling Meetings Costs Estimate**").

ASIC Request (para 1): AAE compromise

- 8 Further to paragraphs 212 to 217 of my Second Affidavit, in which I briefly set out the reasons we believe that the compromises documented in the AAE Pooling Deed (exhibit "MAK-5" to my Second Affidavit) ("**AAE Compromise**") are in the best interests of the Ansett Group as a whole, I say the following in relation to the AAE Compromise.




Summary of AAE creditor claims

9 To the best of our knowledge, based on our Investigations, there are five alleged creditors of AAE: AEF, the Commonwealth (through the ATO), National, CBA and BNP ("AAE Creditors").

10 The amounts claimed by the AAE Creditors are:

AAE Creditor	Amount claimed (approximate)
AEF	\$14,050,000
Commonwealth (via ATO)	\$3,500,000
National	up to \$179,600,000
CBA	\$20,000,000
BNP Paribas	\$20,000,000
Total	up to \$237,150,000

11 As at 15 August 2005 the financial position of AAE was as follows (amounts rounded to the nearest \$1,000):

Asset/expense	Receipts to date	Yet to realise/incur	TOTAL
	AUD'000	AUD'000	AUD'000
Boeing 767 aircraft (5)	28,323	0	28,323
Fokker 50 aircraft (4)	9,856	0	9,856
Boeing B767-277 Digital Flight Simulator	151	300	451
Spare engines (7)	14,307	1,558	15,865
Insurance	(1,507)	(17)	(1,524)
Idle Maintenance	(7,198)	(1,150)	(8,348)
Heavy maintenance	(3,154)	0	(3,154)
Other, including remarketing, valuation and Administration cost	(2,600)	(200)	(2,800)
Contingency	0	(669)	(669)
Estimated assets available for creditors	38,178	(178)	38,000

There have been no material changes in the financial position of AAE since the preparation of the above table. Accordingly, we estimate that, but for Pooling, ultimately \$38 million is likely to be available for distribution to the AAE Creditors, although that estimate does not take account of any amount which might flow into AAE if the MOU monies are apportioned, nor does it take account of the likely future costs of continuing to separately administer AAE (ie, if AAE is not Pooled).




Summary of the AAE Pooling Deed

- 12 In the course of preparing for, and since the issue of this Application it became clear to us that unless the claims of the AAE Creditors were compromised (including non-AAE-related claims between the Ansett Group and National ("**Ansett/National Claims**")), then lengthy, complex and costly litigation would inevitably ensue between the Ansett Group and the National, and probably also between AAE and one or both of CBA and BNP.
- 13 The AAE Pooling Deed will, subject to satisfaction of its conditions precedent, effect a compromise of the claims against AAE of all of the AAE Creditors (except for the Commonwealth's claim as an AAE Creditor) and the Ansett/National Claims.
- 14 The AAE Pooling Deed provides, in simple terms, that in consideration for:
- (a) each of National, BNP and CBA ("**AAE Bank Creditors**") agreeing to vote in favour of Pooling at the AAE Pooling Meeting; and
 - (b) each of the AAE Bank Creditors agreeing to vote in favour of the Pooling of all other Ansett Group Companies of which any of the AAE Bank Creditors is also a creditor; and
 - (c) each of the AAE Bank Creditors (save for National) agreeing not to lodge a proof of debt or proofs of debt or like claim or claims against AAL or any other Ansett Group Company following Pooling; and
 - (d) each of the AAE Bank Creditors agreeing to support and/or not object to the deregistration of each Ansett Group Company following Pooling; and
 - (e) certain releases between the parties to the AAE Pooling Deed, including releases of the Ansett National Claims,
- then AAL will pay from the Pooled assets of the Ansett Group, as expenses properly incurred in the Administration of the Ansett Group:
- (f) to National, \$7 million; and
 - (g) to CBA, \$10 million, and
 - (h) to BNP, \$10 million.




Effect of the AAE Compromise on the Ansett Group

- 15 If the AAE Compromise is approved and AAE is Pooled then, based on the above estimate of assets available to AAE Creditors, \$38 million (cash) will be assigned by AAE to AAL. AAL will then pay a total of \$27 million from the pool of assets to the AAE Bank Creditors. The net benefit to AAL will be \$11 million, being the difference between \$38 million and \$27 million.
- 16 We consider that the AAE Pooling Deed is in the best interests of Ansett Group creditors generally for the following reasons, at least:
- (a) In our opinion, by settling the AAE Bank Creditors' claims and the Ansett/National Claims the relevant Ansett Group Companies and entities will avoid:
- (i) costly and protracted litigation in relation to the Ansett/National Claims; and
 - (ii) costly and potentially protracted litigation in relation to the AAE Creditors' claims against AAE (in particular, as between or involving all of the AAE Bank Creditors); and
 - (iii) costly and protracted litigation in relation to the apportionment of the MOU monies received by the Ansett Group under the MOU (see paragraphs 105-132 of my Second Affidavit); and
 - (iv) having to raise, reconcile, finalise and/or obtain creditor approval for pre- and post-Administration charges in respect of the provision of financial and other support to AAE by other Ansett Group Companies (for example, through the provision of warranties and the payment of expenses such as insurance, and the provision of services such as maintenance). The "charge-backs" process is likely to be impossible or impracticable to accurately undertake in respect of pre-Administration events and, in any event, is likely to be costly and time consuming.
- (b) The financial benefits of the AAE Compromise to the Ansett Group as a whole are, in our opinion, satisfactory. AAL will receive an estimated



\$11 million from AAE for distribution to Ansett Group Priority Creditors. In contrast, if AAE is not Pooled we estimate AAL would receive distributions from AAE of between \$3-5 million. The difference between the estimates of \$3-5 million and \$11 million arises largely by reason of the settlement of the Ansett Group's claim against National in respect of the sweeping of \$10.75 million in post-Administration receipts from Ansett Group company accounts (being one of the Ansett/National Claims).

ASIC Request (para 2): our causing the Ansett Group Companies to vote in favour of pooling

- 17 ASIC "would like to know how [we] will be able to determine the value of the votes which [we] propose exercising on behalf of the Deed Creditors", in circumstances in which we seek orders permitting us to cause each of the Ansett Group Companies to vote, to the value of intercompany loans, in favour of pooling (see paragraph 13(a) of my Second Affidavit) despite the fact that I have deposed that we have formed the opinion that the intercompany loan balances are either impossible or impracticable to accurately reconstruct and reconcile (see paragraph 54 of my Second Affidavit). See paragraph 2 of the ASIC Request.
- 18 I refer to paragraph 53 of my Second Affidavit, in which I deposed that the 2000 Audited Accounts and the 2001 Unaudited Accounts had been our best ready source of information in relation to Ansett Group intercompany loan accounts, and to paragraph 199(a) of my Second Affidavit, in which I deposed that we have used the 2000 Audited Accounts and the 2001 Unaudited Accounts as a starting point, particularly in relation to the intercompany loan accounts. In other words, the 2000 Audited Accounts and the 2001 Unaudited Accounts are the best evidence presently available to us of the value of the Ansett Group intercompany loan accounts, absent the reconstruction and reconciliation exercise described in paragraphs 52 to 59 of my Second Affidavit.

ASIC Request (para 3): additional Distribution Tables

- 19 ASIC has requested that Distribution Table 3 on page 73 of my Second Affidavit be augmented to include a third scenario, namely "where there is no

pooling and where the Court does not approve the compromise documented in the AAE Pooling Compromise Deed". ASIC considers that "provision of such a table would assist creditors (and ASIC) in evaluating the various possibilities". See paragraph 3 of the ASIC Request.

- 20 We have prepared a replacement Distribution Table 3 in response to ASIC's request. However, because the Distribution Tables should be read together, set out below are all of the Distribution Tables (including replacement Distribution Table 3, and additional versions of Distribution Tables 2 and 2A which take account of the "no pooling, no AAE Pooling Compromise Deed approval" scenario requested by ASIC and reflected in replacement Distribution Table 3). I explain below how the Distribution Tables are inter-linked (using Kendell as an example) from the point of estimated net realisations in the Asset Holding Entities as set out in Distribution Table 1 through to ultimate distributions from those Entities or the Pool of assets under the various scenarios set out in Distribution Table 3.

Distribution Table 1

1. Asset Holding Entities, Employee Entitlements and Surplus over Entitlements (if applicable)								
	The Westsky Trust \$m	AIL \$m	The Pelican Trust \$m	Show Group \$m	AAE \$m	Kendell \$m	AAL \$m	Total \$m
BEFORE INTERCOMPANY DISTRIBUTIONS								
Estimated Net Realisations	2.23	1.90	5.57	9.63	38.00	25.72	506.95	590.00
Gross Employee Entitlements		0.16	0.25	0.87		9.36	749.36	760.00
Surplus over Emp'ee Ent's	2.23	1.74	5.32	8.76	38.00	16.36	0.00	72.41

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Distribution Tables 2 & 2A (Scenario 2)

2. Distribution of Surplus (over Employee Entitlements)

Scenario 2.

Distribution - Round 1.					Related Party Receipts		Third Party Receipts
Dist'ns to Related Party Creditors	Funds Avail (after Priority Cr's) \$m	Non-Priority Third Party Crs \$m	Non-Priority Related Party Crs \$m	Dist'n to Related Party Creditors \$m	AAL \$m	AAHL \$m	Third Party \$m
The Westsky Trust *	2.23	668.09	63.10	0.19	0.04		
AAL (from The Westsky Trust)						0.15	2.04
AAHL (from The Westsky Trust)							
AIL	1.74	221.06	290.68	0.99	0.02		
AAL (from AIL)						0.97	0.75
AAHL (from AIL)							
The Pelican Trust	5.32	0.86	4.50	4.46	4.46		0.86
AAL (from The Pelican Trust)							
Kendell	16.36	36.63	162.70	13.35	1.21		
AAL (from AIL)						12.15	3.01
AAHL (from AIL)							
Showgroup	8.76	6.75	24.96	6.89	3.00		
AAL (from AIL)						3.89	1.86
AAHL (from AIL)							
AAE	38.00			11.00	11.00		27.00
AAL (via Deed of Compromise)							
Total	72.41	933.39	545.94	36.89	19.73	17.16	35.52

* The Westsky Trust - third party creditors include those of AHL via the Class C Cross-Guarantee

2. A) Further Distribution of Intercompany Receipts

Distribution - Round 2. etc.	
Dist'ns to Related Party Creditors	Funds Avail (from above) \$m
AAL	19.73 - straight to Priority Creditors
AAHL	
AAHL distribution would be:	
- AAL	2.70 - being portion of AAHL funds that flow back to AAL (via interco) and straight to Priority Creditors via approx 100 "round robin" iterations
- AAL Priority Creditors	0.96 - being \$329m/\$4.958m - which is the pro-rata portion of distribution to AAL Priority Creditors via a nonpriority distribution of Class B
- AAL, AAHL third party	13.50 - being amount to third party non-Priority Creditors of Class B (being AAL and AAHL) via a NON priority distribution of Class B
	17.16
Total	36.89

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Additional Distribution Tables 2 & 2A (Scenario 4)

2. Distribution of Surplus (over Employee Entitlements)

Scenario 4.

Distribution - Round 1.					Related Party Receipts		Third Party Receipts
Dist'ns to Related Party Creditors	Funds Avail (after Priority Cr's) \$m	Non-Priority Third Party Crs \$m	Non-Priority Related Party Crs \$m	Dist'n to Related Party Creditors \$m	AAL \$m	AAHL \$m	Third Party \$m
The Westsky Trust *	2.23	668.09	63.10	0.19	0.04	0.15	2.04
AAL (from The Westsky Trust)							
AAHL (from The Westsky Trust)							
AIL	1.74	221.06	290.68	0.99	0.02	0.97	0.75
AAL (from AIL)							
AAHL (from AIL)							
The Pelican Trust	5.32	0.86	4.50	4.46	4.46		0.86
AAL (from The Pelican Trust)							
Kendell	16.36	36.63	162.70	13.35	1.21	12.15	3.01
AAL (from AIL)							
AAHL (from AIL)							
Showgroup	8.76	6.75	24.96	6.89	3.00	3.89	1.86
AAL (from AIL)							
AAHL (from AIL)							
AAE	38.00	147.50	14.00	2.91		2.91	35.09
AAHL (via AEF adjusted for \$380k)							
Total	72.41	1,080.89	559.94	28.81	8.73	20.08	43.60

* The Westsky Trust - third party creditors include those of AHL via the Class C Cross-Guarantee

2. A) Further Distribution of Intercompany Receipts

Distribution - Round 2. etc.

Dist'ns to Related Party Creditors	Funds Avail (from above) \$m
AAL	8.73 - straight to Priority Creditors
AAHL	
AAHL distribution would be:	
- AAL	3.15 - being portion of AAHL funds that flow back to AAL (via interco) and straight to Priority Creditors via approx 100 "round robin" iterations
- AAL Priority Creditors	1.13 - being \$329m/\$4.958m - which is the pro-rata portion of distribution to AAL Priority Creditors via a non- priority distribution of Class B
- AAL, AAHL third party	15.80 - being amount to third party non-Priority Creditors of Class B (being AAL and AAHL) via a non-priority distribution of Class B
	20.08
Total	28.81




Replacement Distribution Table 3

3. Ansett Group End Distribution Tables													
Scenario	Pooling With AAE Compromise Scenario 1.				Ilo Pooling With AAE Compromise Scenario 2.				Pooling With Ilo AAE Compromise Scenario 3.				Ilo Pooling With Ilo AAE Compromise Scenario 4.
Distributions to Employees	Overall Rtn to Employees: \$m	Total Employees Claims: \$m	Number of Employees (with o/s \$) to be paid:	Cents in the Dollar to Employees:	Overall Rtn to Employees: \$m	Total Employees Claims: \$m	Number of Employees (with o/s \$) to be paid:	Cents in the Dollar to Employees:	Overall Rtn to Employees: \$m	Total Employees Claims: \$m	Number of Employees (with o/s \$) to be paid:	Cents in the Dollar to Employees:	Overall Rtn to Employees: \$m
AIL	0.16	0.16	0	100.00c	0.16	0.16	0	100.00c	0.16	0.16	0	100.00c	0.16
The Pelican Trust	0.23	0.25	7	92.00c	0.25	0.25	7	92.34c	0.25	0.25	7	100.00c	0.25
Kendell	9.21	9.36	66	98.40c	9.36	9.36	66	100.00c	9.24	9.36	66	100.00c	9.36
Show Group	0.76	0.87	11	87.36c	0.87	0.87	11	100.00c	0.77	0.87	11	100.00c	0.87
AAE	629.31	749.38	9,431	83.98c	615.58	749.38	9,431	82.15c	645.76	749.36	9,431	86.17c	609.23
Total	639.67	760.00		84.17c	626.22	760.00		82.40c	656.16	760.00		86.34c	619.87
Distributions to Third Party Creditors	Payments to go to Third Party Crs: \$m	Total Third Party Crs Claims: \$m	Number of Third Party Crs to be paid:	Cents in the Dollar to Third Party Crs:	Payments to go to Third Party Crs: \$m	Total Third Party Crs Claims: \$m	Number of Third Party Crs to be paid:	Cents in the Dollar to Third Party Crs:	Payments to go to Third Party Crs: \$m	Total Third Party Crs Claims: \$m	Number of Third Party Crs to be paid:	Cents in the Dollar to Third Party Crs:	Payments to go to Third Party Crs: \$m
AAHL *													
The Westsky Trust **													
AIL					13.50	3,697.02	31,296	0.37c					15.80
The Pelican Trust					2.04	668.09	245	0.31c					2.04
Kendell					0.75	221.06	86	0.34c					0.75
Show Group					0.86	0.86	79	99.19c					0.86
AAE ***					3.01	36.63	745	8.21c					3.01
Total	27.00	up to 215	3	12.50c	27.00	up to 215	673	27.62c					1.86
	27.00				49.01	4,645.41	33,137						35.09
													at 147.5
													4,777.91
													33,138

* AAHL - includes distributions to AAHL native third party creditors and to AAL third party creditors via their Class B Cross Guarantee claim on the assets of AAHL

** The Westsky Trust - includes distributions to Westsky native third party creditors and to AHL third party creditors via their Class C Cross Guarantee claim on the assets of The Westsky Trust

*** AAE (Scenario 4 only) - the distribution under Scenario 4, to third party creditors includes a distribution to AEF third party creditor as a result of AEF being related party creditor recipient of AAE distribution. Note the balance of funds flows to AAHL (as parent company of AEF (as AEF has no other known liabilities))

4. Global Receipts (Employees, SEES and Non-Priority Creditors)

Summary of Specific Stakeholder Positions:	Pooling (with AAE Compromise) Scenario 1. \$m	No Pooling (with AAE Compromise) Scenario 2. \$m	Pooling (No AAE Compromise) Scenario 3. \$m	No Pooling (No AAE Compromise) Scenario 4. \$m
Group employees:				
Group employees receive:	639.7	626.2	656.2	619.9
out of total of:	760.0	760.0	760.0	760.0
which is a % rtn of (on average):	84.2%	82.4%	86.3%	81.6%
Group employees shortfall	120.3	133.8	103.8	140.1
SEES:				
SEES receive:	307.1	298.6	317.7	294.5
out of total of:	383.8	383.8	383.8	383.8
which is a % rtn of:	80.0%	77.8%	82.8%	76.7%
SEES shortfall	76.7	85.2	66.1	89.3
Non Priority third party Party Creditors				
Non Priority third party Creditors receive:	27.0	49.0	0.0	59.4

Distribution Table 1 (Kendell example)

- 21 Table 1 shows that the estimated net realisations for Kendell are \$25.72 million. The estimate is net of Kendell-specific post-Administration expenses incurred to date (save for post-Administration liabilities or expenses of the type referred to in paragraphs 86 to 104 of my Second Affidavit) but does not take into account all costs yet to be incurred in Kendell's administration, such as the likely future costs of continuing to separately administer Kendell.
- 22 Table 1 also shows that the gross employee entitlements in Kendell are \$9.36 million. (These are Priority Creditor claims.)
- 23 Table 1 also shows that for Kendell the surplus over employee entitlements is \$16.36 million, being the difference between estimated net realisations and gross employee entitlements, which amount is carried over into Distribution Table 2.

Distribution Table 2 (Scenario 2: no Pooling but AAE Compromise) (Kendell example)

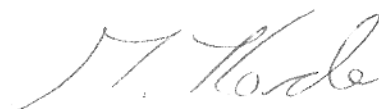
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- 24 Table 2 shows the funds available to non-Priority Creditors of Kendell as \$16.36 million. This amount was carried over from Distribution Table 1.
- 25 Table 2 also shows that the estimated value of claims of non-Priority third party Creditors of Kendell is \$36.63 million.
- 26 Table 2 also shows that the estimated value of claims of non-Priority related party Creditors of Kendell is \$162.7 million. (AAL claims \$14.7 million. AAHL claims \$148 million.)
- 27 Column 4 of Table 2 shows that, on the basis of a pro-rata distribution, non-Priority related party Creditors of Kendell will receive \$13.35 million. Columns 5 and 6 of Table 2 ("Related Party Receipts") show the breakdown of this amount between AAL and AAHL, who will receive respectively \$1.21 million and \$12.15 million on a pro-rata basis. These amounts are carried into Distribution Table 2A, together with other related party creditor distribution amounts for all of the other companies, for further distribution to Ansett Group creditors.
- 28 Finally, column 7 of Table 2 shows that the estimated pro-rata distribution to non-Priority third party Creditors of Kendell is \$3.01 million, which amount is carried over into Distribution Table 3.

Distribution Table 2A (Scenario 2) (Kendell example)

- 29 Distribution Table 2A shows the total of all related party creditor receipts for AAL and AAHL under Scenario 2, carried over from the total of Columns 5 and 6 of Distribution Table 2, including amounts received from a distribution from Kendell.
- 30 Therefore, under Scenario 2, the total amount received by AAL via related party creditor receipts is estimated to be \$19.73 million. This amount will be distributed directly to Priority Creditors of AAL pursuant to the priority regime in the AAL DOCA (noting that AAL has a surplus of estimated employee entitlements over estimated net realisations, as shown in Distribution Table 1).



31 Further, the total amount received by AAHL via related party creditor receipts is estimated to be \$17.16 million. This amount will be distributed as follows:

- (a) \$2.70 million will be distributed back to AAL via claims in respect of intercompany loans, which amount will be distributed in full directly to AAL Priority Creditors for the reasons noted above.
- (b) \$0.96 million will be distributed indirectly to AAL Priority Creditors following a pro-rata distribution to non-Priority Creditors in accordance with the Class B Cross-Guarantee.
- (c) \$13.50 million will be distributed pro-rata to AAL and AAHL non-Priority third party Creditors in accordance with the Class B Cross-Guarantee. This amount is carried over into Distribution Table 3 under Scenario 2.


Distribution Table 2 (Scenario 4: no Pooling and no AAE Compromise) (Kendell example)

32 In respect of Kendell, distribution Table 2 is unchanged under Scenario 4. However, although not relevant to Kendell, as can be seen from Table 2, distributions to other Ansett Group companies are affected under Scenario 4, which takes account of the financial effects of the AAE Compromise.

Distribution Table 2A (Scenario 4) (Kendell example)

33 Distribution Table 2A shows the total of all related party creditor receipts for AAL and AAHL under Scenario 4, carried over from the total of Columns 5 and 6 of Distribution Table 2.

34 Assuming Scenario 4, the total amount received by AAL via related party creditor receipts is estimated to be \$8.73 million. This amount will be distributed directly to Priority Creditors of AAL pursuant to the priority regime in the AAL DOCA (noting that AAL has a surplus of estimated employee entitlements over estimated net realisations, as shown in Distribution Table 1).

35 The total amount received by AAHL via related party creditor receipts is estimated to be \$20.08 million. This amount will be distributed as follows:

- (a) \$3.15 million will be distributed back to AAL via claims in respect of intercompany loans, which amount will be distributed in full directly to AAL Priority Creditors for the reasons noted above.
- (b) \$1.13 million will be distributed indirectly to AAL Priority Creditors following a pro-rata distribution to non-Priority Creditors in accordance with the Class B Cross-Guarantee.
- (c) \$15.80 million will be distributed pro-rata to AAL and AAHL non-Priority third party Creditors in accordance with the Class B Cross-Guarantee. This amount is carried over into Distribution Table 3 under Scenario 4.

Replacement Distribution Table 3 (Kendell example)

36 Replacement Distribution Table 3 shows likely distributions to Priority and non-Priority Creditors under four different scenarios (as opposed to the two scenarios set out in Distribution Table 3 on p73 of my Second Affidavit).

37 In respect of Kendell the estimated distributions in each scenario are as follows:

- (a) Scenario 1: Kendell Priority Creditors are likely to receive distributions of \$9.21 million from AAL whilst Kendell non-Priority third party Creditors will not receive any distribution.
- (b) Scenario 2: Kendell Priority Creditors would be paid in full, receiving a distribution of \$9.36 million from Kendell, and Kendell non-Priority third party Creditors are likely to receive a maximum distribution of \$3.01 million from Kendell, which is carried over from Distribution Table 2, column 7. Also under Scenario 2, via related party distributions under the Class B Cross-Guarantee, AAHL non-Priority third party Creditors are likely to receive a maximum distribution of \$13.50 million, which figure is carried over from Distribution Table 2A.

- (c) Scenario 3: Kendell Priority Creditors are likely to receive distributions of \$9.24 million from AAL, whilst Kendell non-Priority third party Creditors will not receive any distribution.
- (d) Scenario 4: Kendell Priority Creditors would be paid in full, receiving a distribution of \$9.36 million from Kendell, and Kendell non-Priority third party Creditors are likely to receive a maximum distribution of \$3.01 million from Kendell, which is carried over from Distribution Table 2, column 7 under Scenario 4. Also under Scenario 4, via related party distributions under the Class B Cross-Guarantee, AAHL non-Priority third party Creditors are likely to receive a maximum distribution of \$15.80 million, which figure is carried over from Distribution Table 2A.

Changes to distribution tables in my Second affidavit

38 I refer to and repeat paragraphs 198 to 211 of my Second Affidavit, which continue to apply regardless of the replacement and addition of some of the Distribution Tables, as set out above, save as follows:


- (a) Replacement Distribution Table 3 shows four scenarios, not only the two mentioned in paragraphs 198 and 199(b).
- (b) Distribution Table 2, as set out in my Second Affidavit, shows Unsecured Third Party Creditors claims in The Westsky Trust as \$23.74 million and unsecured related party creditors at \$12.75 million. The note below Distribution Table 2 in my Second Affidavit states that for The Westsky Trust "third party creditors include those of AHL as part of the Class C Cross Guarantee". Despite this note, and in error, third party and related party creditor claims from AHL arising under the Class C Cross Guarantee were not included in Distribution Table 2. Distribution Table 2 as set out in this affidavit shows the correct amount of third party and related party non-priority creditors claims in the Westsky Trust, being \$668.09m and \$63.10m respectively. This change causes flow on effects through all distribution tables under scenario 2 and as a consequence:




- (i) In paragraph 201 of my Second Affidavit, the amount \$20.35 million should be \$19.73 million and the amount \$17.13 million should be \$17.16 million;
 - (ii) In paragraph 202 of my Second Affidavit, the amount \$17.13 million should be \$17.16 million.
 - (iii) In paragraph 205 of my Second Affidavit, the amount \$626.6 million should be \$626.2, the amount \$298.9 should be \$298.6, and the amount \$48.4 million should be \$49.0 million.
 - (iv) In paragraph 207 of my Second Affidavit, the amount \$21.4 million should be \$22.0 million;
 - (v) In paragraph 209(a) of my Second Affidavit, the amount \$13.47 million should be \$13.50 million, and the amount 0.36 cents should be 0.37 cents.
 - (vi) In paragraph 209(b) of my Second Affidavit, the number 239 should be 245, the amount \$1.45 million should be \$2.04 million, and the amount 6.11 cents should be 0.31 cents.
 - (vii) In paragraph 211(a) of my Second Affidavit the amount \$21.4 should be \$22.0 million.
- (c) I also note that, in paragraph 208 of my Second Affidavit the reference to AHL should be to AAHL.

ASIC Request (para 4): Pelican and Westsky Trusts

- 39 The basis on which the Court may make orders under the Act in relation to the affairs of the Pelican and Westsky Trusts will be set out in the plaintiffs' written submissions.

Separate Administrations Costs Estimate

- 40 Despite our experience in corporate insolvency and financial reconstructions (see paragraphs 4 to 6 of my Second Affidavit), in our opinion it is extremely difficult to estimate accurately the costs likely to be incurred by the Ansett Group Companies and entities where they to continue to be separately administered and not Pooled. However, for the reasons set out below our Separate Administrations Costs Estimate is in the range of \$9.9 million to at least \$24 million. Further, based on our experience, any such estimate of costs is more likely to increase than decrease as the relevant tasks are undertaken.
- 41 I refer to and repeat paragraphs 19(b) and 52 to 59 of my Second Affidavit in relation to pre-Administration "charge-backs" in which I deposed (paragraph 56) that the likely cost of auditing and proving each loan balance to reconstruct the entire Ansett Group inter-company account is between \$2 million and \$4 million.
- 42 I refer to paragraphs 19(c) and 60 to 72 of my Second Affidavit in relation to uncertainty about ownership of Ansett Group assets. At this stage it is impossible for us to estimate accurately the likely costs of and incidental to resolving the minimum necessary ownership issues. That said, in our opinion and based on our experience, we estimate that the costs of seeking the directions (and related litigation) referred to in paragraph 66 of my Second Affidavit could be in the range of \$100,000 to \$500,000.
- 43 I refer to paragraphs 19(e) and 86 to 94 of my Second Affidavit in relation to post-Administration "charge backs" in which I deposed (paragraph 94) that significant time and costs would need to be expended to reconstruct those "charge backs", even though accurate records have been kept during the period of the Administrations. That said, in our opinion and based on our experience, we estimate that the costs of reconstructing the post-Administration "charge-backs" could be in the range of \$150,000 to \$250,000 .



- 44 I refer to paragraphs 19(f) and 95 to 98 of my Second Affidavit in relation to the apportionment of certain costs incurred in the Administrations, which costs have so far been funded out of AAL, in which I deposed (paragraph 97) that it will be necessary to undertake an "arm's length, commercial terms" apportionment across the Ansett Group of all of the costs incurred by AAL in relation to non-AAL transactions. At this stage it is impossible for us to estimate accurately the likely costs of and incidental to that exercise. That said, in our opinion and based on our experience, we estimate that the costs could be in the range of \$150,000 to \$250,000.
- 45 I refer to paragraphs 19(g) and 99 of my Second Affidavit in relation to the resolution of Ansett Group tax issues. At this stage it is impossible for us to estimate accurately the likely costs of and incidental to resolving those tax issues. That said, in our opinion and based on our experience, we estimate that the costs of undertaking the review of all of those issues referred to at paragraph 99 of my Second Affidavit, including obtaining legal advice and seeking Court directions (if necessary) could be in the range of \$ \$500,000 - \$5 million
- 46 I refer to paragraphs 19(h) and 100 to 104 of my Second Affidavit in relation to the conduct of a formal proof of debt process for each Ansett Group Company, in which I deposed (paragraph 104) that the likely administration cost of conducting that formal proof of debt process is between \$2 million and \$4 million, and that legal costs of and incidental to calling for, assessing and (if so advised) rejecting those proofs are likely to be in excess of \$5 million.
- 47 Since swearing my Second Affidavit I have attempted to formulate a better estimate of the likely costs of the formal proofs of debt process. Based on Distribution Table 3 (Scenario 2) there are at least 42,653 Deed Creditors who may be entitled to a distribution from the relevant Ansett Group Company or entity. (This does not include Global Rewards Creditors or Golden Wing Creditors; see paragraph 211(c) of my Second Affidavit.) Formal proofs of debt would be called from those Deed Creditors, at least. Allowing for administrative cost of assessing claims and disputes, we



estimate that the cost of the proof of debt process could be in the range of \$5.5 million to \$10 million including legal fees.

48 I refer to paragraph 19(i) and 105 to 132 of my Second Affidavit in relation to the allocation of the MOU Monies between the Ansett Group Companies, in which I deposed (paragraphs 19(i) and 131) that it would be impracticable if not impossible for us to apportion the MOU Monies without seeking the Court's directions, there being a real risk that if we were to apportion the MOU Monies without the Court's guidance, that apportionment would be imprecise and give rise to potentially costly disputes and litigation. At this stage it is impossible for us to estimate accurately the likely costs of and incidental to apportioning the MOU Monies. That said, in our opinion and based on our experience in the Hazelton litigation, we estimate that the costs of and incidental to seeking the directions (and related litigation) referred to at paragraph 19(i) of my Second Affidavit could be in the range of \$1.5 million to at least \$3 million.

49 Given the potential for conflicts of interest and duty in the performance of our role as Deed Administrators and the nature of the intercompany issues that would need to be resolved were Pooling not to occur, it is possible, perhaps likely, that one or more special purpose administrators would need to be appointed to one or more Ansett Group Company or entity. At this stage it is impossible for us to estimate accurately the likely costs (if any) of those processes; however, it is conceivable the costs could exceed \$1,000,000.


Pooling Meetings Costs Estimate

50 Based on our experience in conducting creditors' meetings, we estimate that, including the preparation of reports to Deed Creditors of each Ansett Group company tailored specifically to explain the effects of Pooling on those Deed Creditors, the costs of venue hire, legal fees and staff costs, the costs of convening and holding the Pooling Meetings is likely to be in the range of \$200,000 - \$300,000.



SWORN at Melbourne in the State of
Victoria on this 30th day of September
2005.

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Before me:



CAROLINE ANNE GOULDEN
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 1998

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

No. VID 621 of 2005

IN THE MATTER OF:

**ANSETT AUSTRALIA LTD
(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)**

Plaintiffs

AFFIDAVIT - CERTIFICATE OF COMPLIANCE

(Order 14, rule 5A)

I, **CAROLINE ANNE GOULDEN**, certify to the Court that the affidavit of **MARK ANTHONY KORDA** sworn on 30 September 2005 filed on behalf of the plaintiffs complies with Order 14, rule 2 of the Federal Court Rules.

Date: 30 September 2005

A handwritten signature in black ink, appearing to read 'C. Goulden', with a long horizontal stroke extending to the right.

CAROLINE ANNE GOULDEN
Solicitor for the plaintiffs

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