

AUSCRIPT AUSTRALASIA PTY LTD

ABN 72 110 028 825

Level 4, 179 Queen St MELBOURNE Vic 3000  
(GPO Box 1114 MELBOURNE Vic 3001)  
Tel:(03) 9672-5608 Fax:(03) 9670-8883

**AUSCRIPT**

**TRANSCRIPT OF PROCEEDINGS**

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O/N 16101

**FEDERAL COURT OF AUSTRALIA**

**VICTORIA DISTRICT REGISTRY**

**GOLDBERG J**

**No VID 621 of 2005**

**IN THE MATTER OF ANSETT AUSTRALIA LIMITED**

**MELBOURNE**

**10.39 AM, FRIDAY, 26 MAY 2006**

**DAY ONE**

**MR A. KING appears for the plaintiff**  
**MR S. GARDINER appears for the Commonwealth of Australia**  
**MR D. STAR appears for the ACTU**  
**MR T. LUXTON appears for ASIC**  
**MR D.J. WILLIAMS appears for WTH Pty Ltd**

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MR A. KING: Your Honour, I appear for the plaintiffs. I am sorry, I have failed to fill in my appearance slip.

5 HIS HONOUR: It has been filled in for you, Mr King.

MR KING: Thank you.

HIS HONOUR: Yes?

10 MR T. LUXTON: If it pleases the Court, I appear for the Australian Securities and Investments Commission.

HIS HONOUR: Thank you, Mr Luxton.

15 MR S. GARDINER: If your Honour pleases, I appear on behalf of the Commonwealth of Australia.

HIS HONOUR: Mr Gardiner.

20 MR D. STAR: Your Honour, I appear on behalf of the Australian Council of Trade Unions and 11 affiliated unions whose employees were part of the Ansett Group.

HIS HONOUR: Yes, thank you, Mr Star.

25 MR D.J. WILLIAMS: If your Honour pleases, I appear for WTH Pty Ltd in its capacity as contradictor.

HIS HONOUR: Yes, Mr Williams. Yes, Mr King.

30 MR KING: Thank you, your Honour. Your Honour, today the deed administrators seek substantive orders in relation to 32 of the Ansett group of companies and entities. If I may, I will refer to them as the non-asset holding companies.

HIS HONOUR: Yes.

35 MR KING: Can I just go through the list of companies, so that we are as clear as we can be about which companies are in and outside that group.

40 HIS HONOUR: I think in the initial list I got, there were two included who shouldn't have been, or excluded who should have gone in. I forget which now.

MR KING: Two have come out.

HIS HONOUR: Yes.

45 MR KING: AHL and Kendall.

HIS HONOUR: Yes.

MR KING: But, if I could go through the list in this way. We started with 41 companies and entities. Today, we seek orders in respect of 32. Add to that list Ansett Aviation Equipment, which has already been dealt with, AAE, and we get to 5 33. The eight remaining companies are the six companies which have previously been identified in the material as asset holding entities, or potentially asset holding entities, and I will run through that list in a moment. The last two companies are Ansett Holdings Limited, otherwise known as AHL, and the company into which the assets are proposed to be pooled, namely Ansett Australia Limited, known as AAL. 10 That makes up the 41.

HIS HONOUR: Yes.

MR KING: For the sake of completeness, I will just run through that list of asset 15 holding entities, as they have been defined in the previous material. And they are Ansett Australia Holdings Limited, known as AAHL, Ansett International Limited, known as AIL, Kendall Airlines Aust Pty Limited, known as Kendall. There are then the two trusts, Westsky Trust and Pelican Trust, the corporate trustee of which is a company called Bodas - B-o-d-a-s - Pty Limited. The last of the six entities and 20 companies is a company called ANST Show Pty Limited, which used to be known as Show Group Pty Limited, and which is referred to as Show Group.

The orders, as I said, sought today, in relation to voting a casting vote and notification are only sought in relation to companies in respect of which the 25 administrators, based on their investigations, hold the opinion that there would be no return to non-priority creditors in either a pooling or a no pooling situation.

HIS HONOUR: So, there is no disadvantage - - -

MR KING: Correct, your Honour. 30

HIS HONOUR: - - - to the creditors.

MR KING: For the reasons - I said non-priority creditors. I should have said all 35 creditors of those companies, for the simple reason that those companies hold no assets, as far as the administrators can determine, and as your Honour noted based on the evidence presented in the application last year, at paragraph 111 of your reasons, if I can go to that. In the paragraphs just prior to paragraph 111, your Honour dealt with the conflict or the conflicts that faced the administrators in respect of the asset 40 holding entities, and then continued at 111 as follows:

*The administrators, as administrators of 34 of the companies -*

and can I just stop there and say, we have gone from 34 back to 32, because of the 45 inclusion in this list of AHL and also AIL.

HIS HONOUR: Yes, I follow that.

MR KING:

5       *The administrators, as administrators of 34 of the companies, do not face this conflict as a matter of practical reality, as it does not disadvantage the creditors of each of those 34 companies, if the administrators vote in favour of pooling at any meeting of the creditors of that company, or those companies.*

10       The administrators have filed and served and rely upon the affidavits last year, and if I might just record them for the purposes of today, affidavits of one of the deed administrators, Mark Korda, on 21 June 2005, 12 September 2005, 30 September 2005, and 13 October 2005. Affidavits affirmed by me, but to procedural issues, not to issues of substance, dated 23 September 2005 and 18 October 2005. There were then your Honour's reasons for judgment and subsequent to that, and to the directions  
15       hearing on 31 March this year. The deed administrators have filed and served and seek to rely upon two further affidavits, being an affidavit of Mark Korda, sworn 15 May 2006, and an affidavit of Sebastian Hams, sworn 24 May 2006.

20       If I could just remind the Court of the nature of the orders, the voting, casting vote and notification orders to be sought in relation to the non-asset holding companies. The first is that to the extent that each non-asset holding company is entitled to vote as a deed creditor, as defined in each of the relevant DOCAs, at meetings of creditors of those companies proposed to be called to consider pooling resolutions, that the deed administrators may properly cause each of those non-asset holding companies to  
25       vote in favour of the resolutions designed to effect the pooling of those companies' assets into Ansett Australia Limited or AAL. And, that is the first order as proposed today.

30       The second is that the deed administrators for the purposes of those meetings may properly exercise casting votes, as chairmen of those meetings, in favour of the pooling resolution. And, that is proposed order 2 today. The third proposed order is that in connection with those first two orders, part 5.3(a) of the Act is to operate in relation to each of the non-asset holding companies, as if section 445F(2) of the Act, provided that notice of the meetings may be given by posting on certain websites  
35       notice of those meetings, and by calling details of the said websites and meetings to be published in a national newspaper, and each jurisdiction in which the asset carried on or carries on business in a daily newspaper that circulates generally in those jurisdictions at least five days before the meetings. And if I could just remind the Court, that is the regime that was set out in clause 17 of the DOCAs.

40       HIS HONOUR: Yes, I remember that.

45       MR KING: The material upon which the deed administrators rely to found their application for those orders noting that absent the fact of the companies not having any assets, and having regard to the provisions of the Act, is that in these companies, the administrators believe there are no assets, and therefore that the creditors of those companies would not be disadvantaged if the companies were pooled, as opposed to not pooled.

HIS HONOUR: And presumably, the effective pooling is to engender a saving in costs in administration.

5 MR KING: That is correct, your Honour. And I would take your Honour to a  
paragraph in Mr Korda's 15 May affidavit in that regard. The relevant paragraphs are  
paragraphs 14 to 16, but in particular, paragraph 16. Mr Korda deposes as to  
practical and costs advantages to be obtained by pooling sooner rather than later the  
10 remaining non-asset companies. Principally, simplification of the administrations as  
a whole. He goes on to say that once pooled as soon as possible, an application will  
be made to deregister those companies. The deregistration may not be in the very  
near future, because there may be other reasons why deregistration may need to be  
delayed for practical purposes, but there are nonetheless costs efficiency and  
15 administrative savings likely to flow from the pooling and subsequent deregistration  
of those companies.

And as Mr Korda deposes to, that includes the reduction in volume and complexity  
of creditor related work to be done in relation to those companies in the future; things  
as benign as notification, creation of minutes and filing. To use an example, every  
20 time a document is printed in relation to these companies, it is often the case that you  
have to print a list of 41 of them. It may be that we can now start printing lists of six  
of them, whether that saves paper - - -

25 HIS HONOUR: Yes, I follow that.

MR KING: For all of these reasons, we seek the orders today in relation to those 32  
companies, with a view to proceeding with 445F meetings to propose those  
resolutions as soon as possible or practical. The form of the resolutions proposed are  
set out in the draft orders forwarded to the parties and to your Honour's associate. It  
30 might be convenient to go to those orders. Do you have a copy available?

HIS HONOUR: This is annexure A?

35 MR KING: Correct, your Honour.

HIS HONOUR: Yes, I have got that.

MR KING: The first resolution was really designed to state the intentions of the  
parties in case there should be any technical slip in the conduct of these - the passage  
40 of these resolutions to - - -

HIS HONOUR: So you have got your own severance provision.

45 MR KING: In effect.

HIS HONOUR: Yes, I understand that.

MR KING: The machinery resolution, if I can put it that way, is order 2, or resolution 2:

5           *That the deed be varied in the manner set out in the document titled, Proposed Amendments To -*

and then you insert the name of the relevant company, and in this case it is, of course, the non-asset holding companies -

10       *available at each of the websites stated so as to effect the pooling of -*

again, the relevant company's assets -

15       *into AAL and allow that relevant company's creditors to make claims against AAL instead of that company.*

It is a convenient point there to note that one of the issues that ASIC has helpfully raised is the question of whether or not there should be in the resolution ultimately to be put to the creditors of AAL, and I believe also in this resolution 2, some reference to the fact that the pooling will be dependent upon the creditors of AAL voting to become the pool in respect of each of those companies. The administrators have no objection to making an amendment to the proposed resolution to make that clear. The orders sought today, otherwise, deal only with, I might call them housekeeping issues of reserving costs and allowing liberty to apply.

25

HIS HONOUR: So what that will then leave outstanding is ultimately whether you can get a Court order approving pooling for AHL and AAL?

MR KING: And the other six asset-holding entities.

30

HIS HONOUR: And the other six asset-holding companies, of course.

MR KING: Yes. Could I take your Honour to how the administrators propose to deal with those companies. In Mr Korda's affidavit, sworn 15 May, and here I refer to paragraphs 17 through to 25. In fact, if I could go back a step, please.

35

HIS HONOUR: Yes. Well, I have read the affidavit.

MR KING: On 31 March, counsel for the administrators indicated that:

40

*We would seek to deal with the proposed pooling of Ansett Aviation equipment further to execution of the deed. Seek the orders -*

which I have just spoken of -

45

*Prepare, file and serve further material in relation to the issues we call the erosion issue, the trust issue and the notification issue, and then proceed to a further hearing and determination of those issues in this application.*

As is said in the affidavit, the pooling of AAE proceeded. That allowed the payment of a fifth dividend to Ansett group priority creditors, namely, former employees and the Commonwealth in the amount of almost \$30 million and, of course, a significant component of that as a result of the AAE pooling. The steps that the administrators have taken since your Honour's judgment in terms of the erosion and trust issues are set out in Mr Korda's affidavit. And as is said there the administrators have undertaken a preliminary allocation of two sets of costs.

The first is the estimated separate administration's costs which your Honour will recall were estimated to be approximately 10 to \$24 million or more. The second set of costs, or charges, in respect of which the administrators have undertaken a preliminary allocation are the post-administration charge-backs. Again, your Honour may recall that part of the cost incorporated in the estimated separate administration's costs component was to undertake the allocation of those post-administration charge-backs. From memory, the figure estimated was 150 to \$250,000 would be incurred in undertaking that process. Well, the administrators have started on that process.

In an effort to determine whether, when these various separate administration costs and historical costs that would need to be sorted out, if the companies continued to be separately administered, in an effort to determine whether those costs will ultimately erode the assets of the potentially asset-holding entities down to zero, such as to put them in the same position as the non-asset-holding entities.

HIS HONOUR: Yes, I follow that.

MR KING: The results of the administrators allocations, on a preliminary basis, are these. When the estimated separate administration's costs are allocated it has a substantial effect on the asset positions of all of the asset-holding entities, yet none of them are eroded to zero. Given that the administrators have taken the next step of picking what I will call the easiest of the separate administration costs exercises, which is the allocation of the post-administration charge-backs because records have been kept of those and it is a case of divvying them up. The results of that are telling. And Kendall is a good example.

First, in summary, after those post-administration charge-backs are nominally levied against the companies responsible for them, of the six asset-holding entities, and I am excluding there for the moment AAL and AHL, of the six entities, being AAHL, AIL, Kendall, the two trusts and Show Group.

HIS HONOUR: ANST Show Group.

MR KING: Thank you. The deed administrators present estimate is that three of those will be eroded to zero. And it may be that if once further steps are taken to allocate those costs and other costs, that the effect, impact, is an erosion to zero. How the deed administrators propose to proceed is as follows. Mr Korda deposed in his affidavit that he would proceed with those analyses and if, at a later date, if appropriate, seek directions based on that evidence. But it strikes the deed

administrators that there is a very good prospect that the pooling of the Ansett group can be effected without the need to yet trouble the Court for further orders in relation to those companies and it is on this basis.

5 Your Honour's reasons have provided a very helpful and comprehensive set of guidelines, with respect, for the administrators to follow in terms of what they can do and not do in respect of voting at meetings or dealing with the potential residual for assets in the asset-holding companies. The administrators, though, are in a position to prepare reports to the creditors of those companies in which they can provide an  
10 estimate in discharge of their obligation to make disclosure, as would be required for a 439A report, and to estimate to the creditors of those companies, including those who are potentially disadvantaged by pooling, the return that those creditors are likely, or possibly, might obtain if pooling does not proceed.

15 HIS HONOUR: Which gives them an opportunity to determine their own destiny.

MR KING: Correct. To use AAHL as an example - I should say, as a preparatory matter, the administrators know that absent a direction, they cannot vote the intercompany vote, or exercise a casting vote in those meetings. However, based on  
20 their experience, they apprehend that notwithstanding they are not in a position to exercise that vote, the votes exercised by creditors entitled to vote and present at the meeting might nonetheless - - -

HIS HONOUR: Carry the day.

25 MR KING: - - - carry the day. If that is the case, provided the administrators have properly disclosed the range of possibilities and issues there that might arise, include the ownership of the 501 Swanston Street proceeds, the extent to which there might be an allocation of MOU funds, were companies to be separately administered into  
30 the future. As long as those - and directions and litigation were to ensue about those matters, which are things that your Honour referred to in your judgment. As long as those matters are properly disclosed to the creditors of those companies, the deed administrators, to use your Honour's words, leave the position for each of those companies in the hands, or the destiny of the position of those companies in the  
35 hands of the creditors. The - I would like to use AAHL as an example. AAHL has liabilities for approximately 4 billion dollars.

HIS HONOUR: 4 - - -

40 MR KING: Billion.

HIS HONOUR: - - - billion.

45 MR KING: I am instructed that AALs share of those debts is around about 2 billion dollars, so about half of the debts in AAHL belonged to AAL. On the other side of the ledger, after the allocation of separate administration costs, post-administration charge-backs, and even a consideration of whether or not AAHL has an interest in the proceeds of the sale of the Melbourne CBD properties, it may well be that AAHLs

net asset position, available for the benefit of non-priority creditors, is in the hundreds of thousands, or small millions. Set against liabilities of 4 billion - -

5 HIS HONOUR: It is a funny expression, small millions. It is all relative, I suppose.

MR KING: It is all relative, your Honour. But set against liabilities of 4 billion, it may be that even with those millions, the potential high point of the return to creditors in AAHL, absent pooling, might be .1 cent in the dollar, or .2 cents in the dollar, or point .05 cents in the dollar.

10 IS HONOUR: So, it tends to verge on the de minimus?

MR KING: Correct, your Honour. Now, as your Honour noted in the reasons for judgment, what is de minimus for one creditor might be anything but for another. And I will come to the notification aspect of that. But it - calling in aid their experience in administrations and complex administrations, and the likelihood that they will be able to fully disclose to creditors that they stand to receive a very small, in terms of cents in the dollar, distribution in some years hence, on a separately administered basis, the deed administrators feel that it is in the interests of the group as a whole, and also in the interests of the creditors of each of the separate companies to, if you like, roll their arm over, at creditors meetings, and (c) if the group will pool.

At section 445F, of course, allows the adjournment of a meeting, and that is a backstop, if you like, for the administrators, such that if an issue arises in respect of one or another pooling meeting, they are at liberty to adjourn the meeting and come back for directions. But, it may well be that that becomes unnecessary. At least, in terms of providing a mechanism for the pooling of those nominally asset-holding entities. It may well be that the administrators come back at the end of the day for some form of order to approve the process which has taken place, based on the material which has been put to creditors, and the resolutions that have been passed so as to immunise the deed of administrators on a proper basis from claims that might be made in the future, but provided it is left in the hands of the creditors in the meantime, based on a full disclosure by the administrators, the administrators apprehend that pooling might well be affected through the votes of the creditors, much more sooner than would be the case if further orders needed to be sought.

35 HIS HONOUR: That is for future consideration, I suppose.

MR KING: That is right, your Honour. So, there is a very clear demarcation between the position in respect of the 32 non-asset holding entities, in which the administrators have proposed to - the fact that, in their opinion, the creditors would not be disadvantaged by pooling, and those creditors in - of the asset holding, or potentially asset holding companies, who may be disadvantaged by pooling.

45 HIS HONOUR: Yes, I follow that.

MR KING: I would like, if I may, briefly to address some issues which ASIC have raised. The first was a concern, and the Commonwealth have, if I may say this,

adopted ASICs issues paper, and the contradictor has raised some of the points as well, and so I will try to deal with those points as they have been raised, and no doubt the parties will make submissions as they see appropriate in response. One question that arose is whether 501 Swanston Street Proprietary Limited may have a right of indemnity out of trust assets, at least in respect of those debts constituting liabilities incurred by the company in its trustee capacity, in respect that those assets, which the deed administrators think are owned by AAL, but may in part be owned by AAHL.

If so, it is said by ASIC, the affected creditors may be entitled to benefit from 501 Swanston Street's lien over trust assets for the purpose of meeting their debts in full, or ratably, if there is a shortfall, even after the class of creditors is limited to trust creditors. I believe I am actually using the contradictor's form of expression there. The concern is, it is said, that unless some special order is made preserving those creditors' rights, if the proceeds of sale of the trust assets are added to the pool, those rights would be lost if the pooling of 501 Swanston Street were to proceed. And as such, it is said there is a potential class of 501 Swanston Street's creditors, who may be disadvantaged by pooling.

HIS HONOUR: How remote is that possibility, though?

MR KING: I think it is more that there is a practical response to it, which is this. The sole shareholder of 501 Swanston Street is AAL, and as best the administrators can determine, the sole creditor of 501 Swanston Street is AAL, and that is because the only debts of 501 Swanston Street arise in respect of post-administration events, being the administration of that company under the AAL umbrella - - -

HIS HONOUR: Yes.

MR KING: - - - in the course of the administration, the Ansett Group as a whole. And the administrators would propose to deal with any debt due to AAL by 501 Swanston Street on the basis that it is a priority expense incurred in the administration of AAL, under section 556(1)(a), or 556(1)(d). So, to adopt the practical approach, which as been adopted to date, in the same way that AAL has funded the operation of all of the companies, in a sense, subject to post-administration charge backs on separate administrations, the debts of 501 Swanston Street fall within that basket.

HIS HONOUR: Yes.

MR KING: The next issue that ASIC raised was whether or not non-priority unsecured creditors of Ansett Australia Limited are likely to be disadvantaged by the proposed orders, and any pooling which may follow.

HIS HONOUR: The orders today?

MR KING: The orders today. In light of the existence of a particular cross - the deed of cross-guarantee, as a result of the operation of which non-priority, unsecured creditors in AAL are also likely to be potentially disadvantaged non-priority

unsecured creditors in AAHL. Perhaps the easiest way to explain it, is to go to one of the exhibits to Mr Korda's most recent affidavit. Does your Honour have that affidavit handy? And particularly, exhibit MAK71.

5 HIS HONOUR: Yes, I do.

MR KING: If your Honour goes to page, I think it is 14 of the exhibit but 13 of the report.

10 HIS HONOUR: Yes.

MR KING: You will see at the top of that page "Note that" and then there are a couple of bullet points.

15 HIS HONOUR: That is on page 14?

MR KING: I believe so, or 13, which - - -

HIS HONOUR: Yes.

20

MR KING: 14, thank you. It is the second bullet point with which we are concerned at the moment. The background to the assertion in the first two lines of that bullet point is set out in Mr Korda's 12 September 2005 affidavit which, of course, is the very large affidavit on which the application was largely based. And, in simple terms, the point is that because AAL and AAHL are parties to this deed of cross-guarantee, in a distribution the creditors of AAL may well have a right to claim as creditors in AAHL. Therefore, to the extent that AAHL is an asset holding entity and has, to use that phrase again, you know, some hundreds of thousands or small millions left over for its unsecured non-priority creditors, AAL creditors might stand to benefit out of that.

25

30

The way we would - we acknowledge the issue and thank ASIC for having raised it. But what we would say about that is the orders sought today don't trespass upon that in any way. And that issue can be dealt with, if it needs to be dealt with, either by correspondence between the parties so as to satisfy ASIC of any concern, or in any report to the creditors of AAL or AAHL which the administrators might prepare.

35

HIS HONOUR: Yes.

40 MR KING: That dealt with the position of non-priority unsecured creditors, though the ASIC and the Commonwealth have both asked about the position of creditors of AAL generally; in particular, the Commonwealth sought some information about the extent to which the Commonwealth's position would be affected as a creditor of whatever type in AAL. The answer really to that question is, of course, the administrators can only give their assessment based on their opinions. They can warrant nothing, and they can promise nothing in a sense, other than what they have set out in their material to date.

45

5 Suffice to say this, if you look at the general position for the reasons set out in the material last year as reflected in your Honour's judgment, the overall benefits of pooling are to the substantial benefit of the former employees of Ansett and the Commonwealth in the guise of Sees Proprietary Limited. And to the extent that the Commonwealth is an affected creditor or an affected non-priority creditor in a guise other than as Sees, the benefit to the Commonwealth on the Sees side of the ledger in the administrator's opinion is far greater.

10 Now, that is not to ignore the fact that the Commonwealth is more than one entity, but that is the overall effect. We would say though, in any event, no substantive orders are sought in respect of AAL today so that is another issue which can be dealt with as between the parties.

15 HIS HONOUR: When they arise.

MR KING: We would also submit that the position of AALs creditors is not, in fact, affected by any of the orders made today in respect of any connection between AAL and those 32 non-asset holding companies. Parties have raised queries about the notification issues and, in fairness, Mr Korda said in his affidavit that we intended to file further material in relation to that for the reasons that I have explained about the course the administrator has proposed to take. In respect of reporting and going straight to pooling meetings, we have not filed any further material on notification and instead rely upon what was previously put, again in an overall level.

25 There are really two modes of notification: what I might call the notification in the form sought, and the standard notification. We seek the notification in the abbreviated form sought in respect of the 32. But in respect of the non-asset holding entities, both to reflect concerns your Honour had at para 136 of the judgment and also questions raised by some of the parties here. In respect of those creditors of potentially asset holding entities who might be disadvantaged by pooling, the deed administrators would propose to give notice to such creditors in one of two ways. The first is the normal way which is simply the sending out of a 439A style report which effectively - - -

35 HIS HONOUR: Include them individually?

MR KING: That is right. Now, that is likely to be the course adopted in respect of those companies such as a show group or a Pelican where there is a small number of non-priority creditors who may, in fact, stand to receive something more than a negligible return on a cents in the dollar basis. And it is also manageable because the numbers of creditors of those companies are relatively small. So the method that the administrators propose to adopt there is to specifically - I think to use the word in your Honour's judgment - notify by sending a report as though it were any second meaning of creditors.

45 HIS HONOUR: Yes.

MR KING: The administrators will not be able to descend to the detail of estimating the dollar return to creditors, but they will, of course, be able to say the likely return is X cents in the dollar. And then, as in any administration, it would be for the creditor to determine - - -

5

HIS HONOUR: But they will raise the issue for the consideration of the creditors.

MR KING: That is right, and to direct it specifically to the creditor by issue of a report.

10

HIS HONOUR: Yes.

MR KING: What I have called a standard report. The other - there is a middle way which the administrators might adopt in the process of considering the logistics here and we would seek, if you like, the views of the parties to this application where in respect of a company, for example, like AAL or AAHL where there are tens of thousands of creditors, a large number of whom might stand to receive a very small increment of .1 cent in the dollar. There the administrators may well send a one page note noting that in a pooling scenario that creditor would get - that there would be no return to creditors in that creditor's position. And in a no pooling scenario, there might be a return of - to use the example .1 cents or .05 cents in the dollar; and then referring that creditor specifically advised by the one page note to a website where the necessary information is set out.

15

20

25 Your Honour, in our submission, that would address the concern expressed by you at para 136 of giving specific notice to people who might be affected without imposing an unreasonable burden on the administration in sending out perhaps tens of thousands of reports of 60, 70, 80 pages long.

30

HIS HONOUR: Yes, I follow that.

MR KING: Yes. Your Honour, there were just two other matters; in fact, one other matter which I need to address arising out of a concern expressed by ASIC. ASIC asked about the absence of a schedule of the proposed amendments to these orders.

35

You may recall that in the orders submitted in November last year as part of the application there was a long list of orders because it dealt with the trusts and various other matters, and at the end of which there was a schedule of the proposed variations. On reflection, a schedule of proposed variations not in context of the deed is more likely to confuse than clarify, and so we think the better course is to simply refer the relevant creditors to the websites.

40

HIS HONOUR: Yes, thank you.

MR KING: They are the submissions for the plaintiffs.

45

HIS HONOUR: Yes. Mr Star, what is the attitude of the ACTU and the unions?

MR STAR: The ACTU and the relevant affiliated unions support the orders sought by the administrators in relation to the 32 non-asset holding companies. As your Honour is aware, the ACTUs position has been to seek to achieve the best possible result for the most number of employees. On the basis of the administrator's material  
5 there are no employees at all who are adversely affected by the pooling of the non-asset holding companies, and the ACTU and the relevant unions think the proposed course of action in relation to the asset holding companies is a reasonable course proposed and it is a course of action which my clients will watch closely.

10 HIS HONOUR: Yes. Thank you. Mr Gardiner?

MR GARDINER: Your Honour, the Commonwealth, on the basis of the affidavit material which has been filed and in regard to the submissions made by Mr King today does not oppose the orders which have been proposed.

15 HIS HONOUR: Thank you. Mr Luxton?

MR LUXTON: Your Honour, Mr King has run through a number of the matters which we have raised in correspondence with the administrators and the  
20 administrators' solicitors. If I could just refer to a couple of them in some further detail. Firstly, in relation to the question of the second bullet point on page 14 of Exhibit MAK41, again that first sentence makes reference to non-priority unsecured creditors of AAL being likely to be potentially disadvantaged creditors of AAHL. It is ASICs submission that further information is required, or further explanation is  
25 required in relation to that.

HIS HONOUR: But that is a matter to be - you say to be put forward before the creditors - are you talking about the - the orders today are sought for the pooling of the 32 companies.

30 MR LUXTON: Yes, your Honour.

HIS HONOUR: I am not quite sure that I follow. AAE has gone through, hasn't it?

35 MR LUXTON: I understand so. Yes.

HIS HONOUR: So you are not seeking to resurrect the AAE issue at all?

40 MR LUXTON: No, your Honour.

HIS HONOUR: Right. What are you saying? In any future reports that should be made - that should be amplified?

45 MR LUXTON: Well, your Honour, to the extent that it has any impact on today's orders, I submit that further information is required. It may well be that it does have no impact in relation to today's orders.

5 HIS HONOUR: I don't know that it has got - the orders which are sought today are simply to make a direction that, at the meetings, the deed administrators can vote in a particular way and exercise a casting vote, and orders are sought in relation to the notification of the meeting. I don't understand it is of any part of the orders which are sought today, are in effect for me to settle the form of report.

MR LUXTON: No, your Honour. That is not ASICs submission in that regard. As I understand it, AAHL is not the subject of today's orders in any event.

10 HIS HONOUR: No, that is right. I think what ASIC is saying, it is prudent to raise it, but it is a matter that Mr King presumably will take on board with the administrators. But I note your concern and if, when the matter comes before me in relation to AAHL or AAL or the successive holding entities, the administrators are on notice of ASICs concern.

15 MR LUXTON: Yes, your Honour, and ASICs concern today was whether any non-priority unsecured creditors of AAL were likely to be disadvantaged by the proposed orders and any pooling which may follow.

20 HIS HONOUR: Well, I think on the material that is unlikely, is it not?

MR LUXTON: I think that would be - that is correct, your Honour.

25 HIS HONOUR: Yes.

30 MR LUXTON: Thank you. A further matter, your Honour, in accordance with paragraph 111 of your Honour's reasons concerning the question of disadvantage, and this is again in relation to AAL, so it is a matter which may properly be dealt with down the track. But it is submitted that further information is required as to whether any creditors of AAL would be or could be disadvantaged by the pooling of any non-asset holding entities into AAL, and the reason for that, your Honour, it may be a fine point. But if the non-asset holding entities are pooled into AAL they are not adding anything to the pool by way of assets.

35 What they are adding is further liabilities, as I understand it, both by way of priority creditors and non-priority creditors. So potentially, although it may be a small difference, potentially the existing priority creditors of AAL may be affected adversely by the addition of further - - -

40 HIS HONOUR: Well, is ASIC opposing the orders for pooling?

45 MR KING: Your Honour, I think I could assist at this point about that submission. That is a matter, of course, which ASIC raised, and the - and we appreciate the point. As Mr Luxton says there is a theoretical potential that there are priority creditors of the non-asset holding companies who, once pooled into AAL, are intended on the proposals to have the same rights to prove in AAL as they did in the non-asset holding company. So to the extent that there is such a priority creditor, I think ASICs concern is that that priority creditor might be elevated above the general body of

creditors in AAL to the detriment of the AAL creditors, in particular the priority creditors in AAL, in the sense that the inclusion of the non-asset holding company priority creditor entitlements will dilute the pool available to pay priority creditors in AAL.

5

The short answer to that is that, much in the same way as with 501 Swanston Street, to the extent there are priority creditors of the non-asset holding companies, they are the deed administrators or AAL in respect of activity taken post-administration.

10 HIS HONOUR: Yes.

MR KING: So those costs would be taken up as 556(1)(a) or 556(1)(d) priority expenses, again at an overall level, and given that overall benefits of pooling recognised in the judgment based on the material from last year, the answer to ASICs question, we believe, is that there will be no detriment. However, as your Honour points out, it is not necessarily - in fact, this point was made in respect of the previous point about the deed of cross-guarantee. It is not a point, in our submission, which affects the orders sought today, and it is a matter which the administrators can take on note, and as necessary deal with in the reports to the creditors of AAL or AAHL to be produced.

15

20

HIS HONOUR: Yes. Well, I think what Mr Luxton - it is prudent and sensible for Mr Luxton to raise the matters - thank you, Mr King - Mr Luxton, for you to raise. I don't think in the circumstances, subject to anything further you may wish to say, they impinge upon the form of the orders which are sought to say that they may have a consequence down the track if not taken up by the administrators.

25

MR LUXTON: Yes, in relation to - - -

30 HIS HONOUR: But the administrators are certainly on notice of the issues which you have raised.

MR LUXTON: Thank you, your Honour. In relation to 501 Swanston Street, my learned friend has already dealt with that - or raised that matter. ASIC was concerned as to the financial position of 501 Swanston Street Proprietary Limited and to learn more about it and in particular in relation to any potential right of indemnity. And I understand from Mr King's submissions that there is only one effective creditor which is AAL.

35

HIS HONOUR: Yes. Well, again, he has explained that to you. Again, the administrators are on notice of ASICs concern about that. And, again, though I don't think it impinges upon the form of the orders that are sought today, it may have a consequence down the track, it may not.

40

MR LUXTON: There is one further matter that has come to my attention this morning, your Honour, and that is in relation to any potential deed of cross-guarantee that 501 Swanston Street Proprietary Limited may be involved in or may be a party to.

45

HIS HONOUR: Potential deed or actual deed?

5 MR LUXTON: I understand that there may be a deed of cross-guarantee.

HIS HONOUR: A further - there is an existing deed of cross-guarantee. I thought you said potential deed. I may have misunderstood you.

10 MR LUXTON: It is something that has been raised this morning, your Honour.

HIS HONOUR: You mean a future deed - - -

15 MR LUXTON: Sorry, not a future deed of cross-guarantee, your Honour, an existing deed of cross-guarantee.

HIS HONOUR: Well, there is an existing deed of cross-guarantee and that has been referred to in the material in the past and it has been one of the complex issues that has had to be considered by the administrators in determining the extent of who is a creditor and for what amount with in the group. But what is your concern about it?

20 MR LUXTON: Possibly, if there is a right of indemnity whether those - any funds that arise under the right of indemnity may be caught by the deed of cross-guarantee and, in effect, the position of any - - -

25 HIS HONOUR: Yes. Well, Mr King, again, has explained the consequence of that this morning. I don't think that is a matter, again, that impinges upon the forms of the orders sought today.

30 MR LUXTON: Thank you, your Honour. Again, in relation to the notice point that has again been raised by Mr King this morning, respectfully, in accordance with paragraph 160 - sorry, 136 of your Honour's reasons, ASIC submits that:

*Notice of any pooling meeting should be given specifically to those creditors who may be disadvantaged by the proposed resolutions.*

35 HIS HONOUR: Yes. Well, on the material before me there is no evidence that any will be disadvantaged by the proposed resolution - - -

40 MR LUXTON: Not - yes. Sorry, your Honour.

HIS HONOUR: Again, that is a matter for further down the track, I think.

MR LUXTON: In relation to AAL, I think, in particular.

45 HIS HONOUR: Indeed. Indeed, it is.

MR LUXTON: There was a further matter that ASIC raised in relation to the proposed form of the resolution referring to the requirement that AAL be called

before the creditors of these pooling companies, could actually make a claim against AAL. And Mr King has already indicated to the Court that those amendments will be made. So ASIC doesn't take that position - that matter any further.

5 HIS HONOUR: Yes, thank you.

MR LUXTON: And lastly, your Honour, ASIC repeats the submission that it made, I think at the hearing in October last year, that any draft resolution, except for newspaper advertisements, should have a schedule which sets out the proposed  
10 amendments to the relevant deed.

HIS HONOUR: You mean in relation to the 32 companies.

15 MR LUXTON: Yes, your Honour.

MR KING: Your Honour, if I could deal with that this way. It might be useful to have to hand exhibit MAK71.

20 HIS HONOUR: I have got that.

MR KING: Which is the report, if you like, the vanguard report, the template we have used for AAE. And the reports which will follow to the other creditors - the creditors of the other Ansett group of companies will adopt a very similar pattern in two respects. You will see that part 3 of the report gives a background to the pooling  
25 application and there the administrators have sought to summarise the reams of material which were put in evidence in this application. And, of course, that is where the immediate issue about the deed of cross-guarantee arises and we will address that as appropriate. And the reason I make mention of that is because there will be a similar section in each of the other reports. But if you look to the last appendix of  
30 this report it is the AAE deed of company arrangement which is showing the pooling variations.

HIS HONOUR: Has that got a page number on it?

35 MR KING: It is a stand-alone document of some 50 pages right at the end of the exhibit. So, in fact, if you go to the exhibit it is about half-way through, or just slightly less than half-way through on about page 35, 36, you will see a reference to appendix 6, a cover sheet.

40 HIS HONOUR: Yes, I have got that.

MR KING: And then behind that cover sheet, appendix 6, is the deed of company arrangement for AAE in the form that was proposed and passed unanimously - sorry, incorporating the amendments which were proposed and passed unanimously by the  
45 creditors of that company. The point I sought to make before was if you pluck out the amendments and put them in a schedule as a stand-alone document they don't have the context of the deed.

HIS HONOUR: In order to understand, then, you would need to refer back to the deed.

5 MR KING: Correct, and there are two ways of notifying creditors of that. There is the abbreviated notice fashion, an example of which is the orders we have sought today, where you can see such a document, for example, from Wridgways or Rocket Cargo or any of the companies. You can see such a document on the websites. And then for those creditors where, having regard to your Honour's reasons, the administrators consider that they should separately and specifically notify, i.e. by sending, in effect, a 439A report. Then those administrators will get a document that looks a bit like this which has the whole deed with the amendments - - -

HIS HONOUR: With the amendments marked up.

15 MR KING: That is right. So, in our submission, there is no need for the proposed amendments to be annexed to the orders sought to be made today.

HIS HONOUR: Yes, thank you for that. Anything further you want to say, Mr Luxton?

20 MR LUXTON: No, your Honour. I mean, if it is proposed that the amended deeds will be annexed to any notice to creditors, then that would be - - -

HIS HONOUR: Well, no, no, it is going to be annexed to a notice to creditors who will be potentially disadvantaged by it, because otherwise it is available on the website which, I think in the circumstances, is satisfactory.

MR LUXTON: Yes, your Honour, I was assuming that the notice wasn't going to be sent to creditors who wouldn't be disadvantaged in any event.

30 MR KING: Again, I do need to clarify. There are those creditors who won't be disadvantaged and the best example is the creditors of the companies in respect of which the orders are sought today.

35 HIS HONOUR: Yes.

MR KING: There will be those creditors who, to use an example, on the material that is currently filed, employees in Show Group who might stand to lose a not insignificant sum. There are a small number of those creditors and it is relatively inexpensive to produce a 100 page document and send it to those creditors. There is, then, a middle category which are potentially disadvantaged creditors of a company such as AAHL with 40,000 creditors, creditors who might stand to be disadvantaged to as little as .1 or .05 cents in the dollar.

45 HIS HONOUR: They will be directed to the website.

MR KING: They will get a one pager saying - - -

HIS HONOUR: Which will put them on notice. No, I understand. Yes, anything further, Mr Luxton?

MR LUXTON: No, your Honour.

5

HIS HONOUR: Thank you, for that. I think that leaves you, Mr Williams.

MR WILLIAMS: Yes, your Honour. The contradictor doesn't oppose the orders, your Honour. It is accepted by the contradictor that with the possible exception of 501 Swanston Street - and I will come back to that, if I may, very briefly - there is no potential for disadvantage to the creditors of any of those companies. And on that basis we see no objection to the orders that are sought today.

10

HIS HONOUR: Yes, thank you.

15

MR WILLIAMS: That is not to say that we accept the course that is proposed for the future in relation to the other company. We will adopt a wait and see approach in relation to that. It is only really yesterday that we became aware that it was not proposed that the application would be assisted with in relation to those companies. The course that is now proposed in relation to those asset holding companies appears to be that there will be no scrutiny, or potentially no scrutiny, by the Court of that process because the administrators have taken the view that they don't need, or probably won't need to exercise any vote.

20

HIS HONOUR: They are going to stand aside.

25

MR WILLIAMS: And that being so the opportunity that might otherwise have existed for some scrutiny of that process including the notice process may be lost. Mr King has indicated that he will take a consultative approach to that including, no doubt, with us and that is obviously something that we welcome.

30

HIS HONOUR: That is probably a good idea because at the end of the day if there were, for example, no consultative process and it went through with the administrator standing aside it would be open to any disaffected creditor to come to the Court to set side the resolution.

35

MR WILLIAMS: That is what we want to avoid, your Honour, is a creditor feeling disaffected in that way and feeling that it has had its rights trampled by a democracy of the majority who are either disinterested or acting altruistically in respect of a small amount of money that they choose that they won't pursue.

40

HIS HONOUR: Yes, well, I don't have - apart from what is specified in the - part 5.3A of the Act - I don't have a supervisor jurisdiction to monitor every step in the process.

45

MR WILLIAMS: No.

HIS HONOUR: Unless the parties bring matters before the Court.

MR WILLIAMS: That is right, your Honour. I simply say this because until yesterday when we had a very helpful conversation with Mr King in which he explained the approach that has been adopted, in the way that he has explained to  
5 your Honour this morning, we had assumed that the orders being sought today were the first step in a process of seeking orders in respect of all of the companies but that he was simply picking off the easiest targets first in a way that we fully understand and accept because the 32 companies that are picked out today are companies which - in respect of which the creditors can't be disadvantaged by pooling.

10 Any potential disadvantage in fact lies on the other side of the equation. It is worth bearing in mind, your Honour, that the effect of all of these 32 companies voting for pooling, if they do so, is not to result in pooling because they are not voting to pool with each other but they are voting to pool with AAL and it takes two to tango.  
15 There will not be pooling unless and until the creditors of AAL, in due course, vote to accept them into the pool.

HIS HONOUR: Yes, well, it is an incremental process, of course.

20 MR WILLIAMS: Yes and it is really at that other end of the process that we see the potential for the sort of conflicts arising that we discussed on the previous occasion. And for the sort of - for individual creditors to potentially be disadvantaged by, as I said, a vote of those who either have no interest either way because they get zero  
25 either way, or who take an altruistic or don't care view, because of the small amount of money involved. That they will waive whatever right they have to potentially get a small amount of money at some distant time in the future and accept a certainty of zero now which is really the reality of it.

HIS HONOUR: Yes, I understand that.

30 MR WILLIAMS: So, as I say, your Honour, we will wait and see about that but we don't want to be seen to have endorsed any particular approach in relation to those companies by simply not opposing the orders today in relation to - - -

35 HIS HONOUR: Well, all you are being asked to do today is to express an attitude towards the specific orders which are sought.

MR WILLIAMS: Yes, your Honour.

40 HIS HONOUR: I think it is a sensible forum for dialogue and debate as has occurred that Mr King is on notice of other issues which he will no doubt take back to the administrator.

45 MR WILLIAMS: Yes, your Honour and a good part of that dialogue, I think, was based on the assumption or expectation on our part and perhaps others at the table, that this was the first stage in a Court process in relation to those other companies. We now understand that is not so and so the matters that we have raised b

HIS HONOUR: It may not be.

MR WILLIAMS: It may not be so, that is right, your Honour. It may or may not be  
5 that there is a need to come back at the end and seek Court approval of the entire  
process.

HIS HONOUR: Yes, I understand.

MR WILLIAMS: And I understand Mr King is leaving his position open about that  
10 and we understand that. And so, your Honour, really the only residual issue that we  
have - we don't take a notification point. We don't have any issue with the  
notification regime proposed in relation to these 32 companies because we take the  
view that there is no creditor who is potentially detrimentally affected and therefore  
we don't see any merit in additional costs being expended in the process.

15

HIS HONOUR: Yes.

MR WILLIAMS: The only residual issue is 501 Swanston Street and I have heard  
20 what your Honour has said in response to Mr Luxton's matters in relation to that. We  
had similar questions. Mr King has indicated from the bar table that there is - there  
are no creditors of 501 Swanston Street pre-administration and that the only creditor  
is AAL and it is only in relation to post administration chargebacks, in effect, that it  
becomes a creditor. And if that is so then our concern evaporates.

25 The residual concern that we have though is on Mr King acknowledging this morning  
that 501 Swanston Street is a party to a pre-existing deed of cross-guarantee the  
effect of which, we wonder, may be to create all of the other parties to that deed of  
cross-guarantee as potential creditors of 501 Swanston Street to the extent that they  
might be permitted to call on that cross-guarantee and to have access to the sale  
30 proceeds of the building - - -

HIS HONOUR: But doesn't 501 hold them on trust?

MR WILLIAMS: Well, yes, your Honour and then the question would be whether it  
35 was a proper trust activity for 501 Swanston Street to have executed that deed of  
cross-guarantee. And if it was then the mere fact that it held those assets on trust  
may not be a barrier to the other companies party to that deed having access, in  
effect, to those assets because, if it was a proper trust activity for 501 to have  
executed that deed of cross-guarantee, then there is a potential about which, I might  
40 say, we know nothing because we are quite in the dark about the circumstances in  
which that deed was executed as I suspect are the administrators because of the  
difficulties in the entire administration.

45 But there is a potential that some rights - that some of the companies may have had  
and we really can't say any more than that because we don't know the detail - may be  
lost unless there is some preservation of those rights contained in the order by which  
- or the method by which 501 Swanston Street was incorporated into the pool. Now,  
one could presumably fashion an order which would have the effect of pooling 501

Swanston Street into the pool but without defeating any trust rights or liens which it might have if they were to be transferred across. Now, we haven't sought to formulate such an order.

5 HIS HONOUR: But did you - any pooling of 501 Swanston Street to pool its assets, presumably, doesn't pool its trust assets.

MR WILLIAMS: Well, that gives rise to another problem then, your Honour, which is what does happen to those trust assets.

10

HIS HONOUR: Well, I thought that was the matter that was in the process of being given further consideration.

MR WILLIAMS: Yes. Yes, I think that does follow.

15

HIS HONOUR: But as I understand you, you don't oppose the pooling of 501 Swanston Street.

MR WILLIAMS: No, we don't. We are only concerned to ensure that in the pooling of 501 Swanston Street, parties which might include - parties which might include other Ansett group companies and, in turn, therefore, their creditors, in effect, are not disadvantaged. We just want to make sure that that is so.

20

HIS HONOUR: Well, if they are not disadvantaged because those creditors are pools in - become part of their rights, such as they are, are against - and their proprieties, as I understand it, is transferred to the pooled entity.

25

MR WILLIAMS: Yes. What we are concerned to avoid is this situation, your Honour, where it might be said against them that AAL, the pooled entity, does not have the same lien over the trust assets that 501 Swanston Street has as the trustee, or the putative trustee. If we were confident that the benefit that the lien that 501 has also goes across, then really there is no difficulty.

30

HIS HONOUR: Well, I don't - well, that is not an issue that is before me today.

35

MR WILLIAMS: Well, except, your Honour, that what is before you today is that 501 be pooled. We simply want to make sure that the benefit of that lien is one of the parts of 501 which is pooled.

- - -

40

HIS HONOUR: Well, if 501 has a lien, it is an asset.

MR WILLIAMS: Yes.

45 HIS HONOUR: And it is pooled. If 501 doesn't have a lien, it is not pooled. The creditors of 501 get pooled. I am not sure what - - -

MR WILLIAMS: The only concern we have, your Honour, is whether the nature of a trustee's lien is such that it can truly be transferred to somebody who is not the trustee. If we were satisfied - I mean, Mr King might say to your Honour that AAL, that he has instructions from the administrators that insofar as they are administrators  
5 of AAL, they would treat those persons having rights against 501 and who might be able to rely on 501s lien as having the same rights out of AAL. And if that was so, we would have no difficulty with it. We may be being overly cautious about this, your Honour. It is the only matter that gives us any pause in relation to these 32 companies.

10

HIS HONOUR: But you are still saying you don't oppose the pooling of 501?

MR WILLIAMS: No, your Honour.

15

HIS HONOUR: No. Thank you. Anything further?

MR WILLIAMS: No, your Honour.

20

HIS HONOUR: Mr King, do you want to say anything further?

MR KING: I might be able to just give a little comfort about that issue. As your Honour said, it is not proposed that the 501 proceeds, the trust assets be pooled to the detriment of the creditors of that company. It is merely a case of them being, if you like, uplifted and then put into AAL. As Mr Korda says in his affidavit at para 25:

25

*It is important to note that 501 Swanston Street is a non-asset holding company and, as a result, its creditors have no beneficial entitlement to the proceeds -*

30

and I know that ..... the question that Mr Williams has just put -

*but rather it acts merely as trustee and on that basis the pooling of the company into AAL, were it to occur, would have no effect on the existence or manner of resolution of the issue, or any beneficial interest in those proceeds -*

35

which I think is your Honour's point -

*though there are some other points I can make.*

40

As Mr Williams correctly apprehends, we don't yet have the evidence. That is part of the very process of working out who might own these funds, though we believe that AAL owns them. And part of the cost of the separate administrations, etcetera, is in part in dealing with that issue. And that is an issue that will need to be dealt with before the administrators can send out their reports for AHL and AAHL - sorry, AAL and AAHL because of the possible competing claims to that fund.

45

HIS HONOUR: Yes. Well, I understand that.

MR KING: Could I say this, in this sense the administrators in just the same way as we are on notice about the concerns raised by ASIC, we are on notice about these concerns now in terms of the reports for AAL and AAHL to be produced.

5 HIS HONOUR: Yes. Well, you are going to have to pay particular attention to those issues I suppose.

MR KING: We are. The only other point to observe is that the particular deed of cross-guarantee in issue - and here I refer to paragraph 73(b) of Mr Korda's 12  
10 September '05 affidavit, it is notable that the parties to the relevant deed of cross-guarantee are, other than 501 Swanston Street, AAL and AAHL and one non-asset holding company, namely Wridgways Holdings Limited. So I appreciate this is entirely from the bar table, but to the extent there might appear to be an issue in principle or theory - and I appreciate the position that the contradictor needs to adopt  
15 in that regard - to the best the administrators can assess at this point, it will be an issue that is a nice legal point but without any substance; but we are on notice of that.

HIS HONOUR: Well, when you say substance, consequence.  
20

MR KING: Consequence. Thank you.

HIS HONOUR: I understand. Yes, thank you for that.

25

**JUDGMENT DELIVERED**

HIS HONOUR: Everyone has a copy of this, I take it?  
30

MR KING: Yes, your Honour.

HIS HONOUR: So the first order will be that, pursuant to 447Z(1) of the Act, the Court directs that at meetings at each of the 32 companies identified in paragraph 1,  
35 the orders will be made in terms of paragraphs 1 of the minute, paragraph 2, 3, 4 and 5. And I have signed that order. Anything further from the bar table?

MR KING: No, your Honour.

40 HIS HONOUR: Adjourn the Court.

**MATTER ADJOURNED at 11.54 am INDEFINITELY**