

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL LIST

F.
BETWEEN:

No.

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD
(ACN 065 590 178) (as Trustee of the Ansett Australia Ground Staff
Superannuation Plan) AND OTHERS**

Plaintiffs

and

**ANSETT AUSTRALIA LIMITED (Administrators Appointed) (ACN 004 209 410)
AND OTHERS**

Defendants

AFFIDAVIT OF NIGEL ANTONY FISH

Date of document:
Filed on behalf of:

The plaintiffs

Prepared by:
DEACONS
Lawyers
385 Bourke Street
MELBOURNE VIC 3000

Solicitors code: 370
DX 445
Tel: (03) 8686 6000
Ref: P E Cash

I, **Nigel Antony Fish** of Level 11, 501 Swanston Street, Melbourne, Victoria, manager,
make oath and say as follows:

1. I am the Superannuation Manager for Ansett Australia Limited (Administrators Appointed) ("**Ansett**"). I have held that position since January 1998. Between 28 October 1996 and January 1998 I was the Superannuation Administration Manager for Ansett. As the Superannuation Manager, my principal responsibility is the superannuation arrangements for Ansett staff. Since January 1998 I have also been the Fund Secretary of each of the 5 Ansett employee superannuation funds, including those described in paragraph 3 below.
2. I am authorised to swear this affidavit on behalf of each of the plaintiffs. Save where otherwise indicated, I make this affidavit from facts within my own knowledge.

3. This affidavit is sworn by me in relation to 3 superannuation funds:

- Ansett Australia Ground Staff Superannuation Plan ("**Ground Staff Plan**")
- Ansett Transport Industries Ltd Pilots/Management Superannuation Plan ("**Pilots/Management Plan**")
- Ansett Transport Industries Ltd Flight Engineers Superannuation Plan ("**Flight Engineers Plan**")

(collectively, "**Relevant Plans**").

Ground Staff Plan

4. The trustee of the Ground Staff Plan is Ansett Australia Ground Staff Superannuation Plan Pty Ltd. The Ground Staff Plan was originally constituted by a trust deed dated 18 March 1988. That deed was amended by deeds dated 5 December 1990, 9 October 1992 and 27 October 1994 and by resolutions of the then trustee made on 25 July 1994 and 21 May 1996. The trust deed for this Plan is now the Consolidated Trust Deed made on 17 August 1999. Now produced and shown to me and marked as described are copies of the following deeds:

- "**NAF1**" Supplemental Deed made 5 December 1990 between Ansett Transport Industries (Operations) Proprietary Limited, Graeme Clifford Allison, Graham John Tuckerman, Robert Guy, Ian Oldmeadow, Ron Cameron and John Keith Simpson
- "**NAF2**" Supplementary Trust Deed made 9 October 1992 between Ansett Transport Industries (Operations) Proprietary Limited, Peter Cope, Peter Duffy, Graham Tuckerman, Graeme Allison, Ian Oldmeadow and John Keith Simpson
- "**NAF3**" Supplementary Trust Deed made 27 October 1994 between Ansett Australia Limited and Ansett Airline Ground Staff Superannuation Plan Pty Ltd
- "**NAF4**" Deed made 17 August 1999 between Ansett Australia Limited and Ansett Australia Ground Staff Superannuation Plan Pty Ltd

Copies of the "Original Deed" made on 18 March 1988 and of the resolutions made on 25 July 1994 and 21 May 1996 cannot be located.

5. The Ground Staff Plan includes:

- A Defined Benefit Section under the rules comprised in the first schedule.
- An Accumulation Section under the rules comprised in the second schedule.

Pilots/Management Plan

6. The Trustee of the Pilots/Management Plan is Ansett Australia Pilots/Management Superannuation Plan Pty Ltd. The Pilots/Management Plan was originally constituted by a trust deed dated 29 September 1989. That deed was amended by supplemental deeds executed on 31 July 1990, 10 April 1991, 15 September 1992 and 27 October 1994 and by a resolution of the directors of Ansett Pilots/Management Superannuation Plan Pty Ltd effective 12 December 1996. Now produced and shown to me and marked as described are copies of the following:

- "NAF5" Supplemental Deed made 10 April 1991 by Ansett Transport Industries (Operations) Proprietary Limited
- "NAF6" Supplemental Deed made 15 September 1992 by Ansett Transport Industries (Operations) Proprietary Limited
- "NAF7" Supplementary Trust Deed made 27 October 1994 by Ansett Australia Limited and Ansett Pilots/Management Superannuation Plan Pty Ltd
- "NAF8" Resolution of directors of Ansett Pilots/Management Superannuation Plan Pty Ltd effective 12 December 1996.

Copies of the "Former Deed" made on 29 September 1989 and of the supplemental deed dated 31 July 1990 cannot be located.

7. The Pilots/Management Plan includes:

- A Defined Benefit Section for pilots under the rules comprised in schedule 1.
- A Defined Benefit Section for executive management under the rules comprised in schedule 2.
- An accumulation section for pilots and executive managers in schedule 3.



Flight Engineers Plan

8. The Trustee of the Flight Engineers Plan is Ansett Australia Flight Engineers Superannuation Plan Pty Ltd. The Flight Engineers Plan was originally constituted by a trust deed dated 21 June 1979. That deed was amended by various deeds including those dated 30 October 1990 (2), 15 September 1992 and 27 October 1994 and by resolutions of the trustee made with effect from 25 July 1994. Now produced and shown to me and marked as described are copies of the following deeds:

- "NAF9" Supplementary Trust Deed made 30 October 1990 between Ansett Transport Industries (Operations) Proprietary Limited and Hugh C Thorburn, John Keith Simpson, Graeme C Allison, Geoffrey C Brennan, Jeffrey S Seaburn and Peter L Wild
- "NAF10" Supplementary Trust Deed made 30 October 1990 between Ansett Transport Industries (Operations) Proprietary Limited, Hugh C Thorburn, John Keith Simpson, Graeme C Allison, Geoffrey C Brennan, Jeffrey S Seaburn and Peter L Wild
- "NAF11" Supplementary Trust Deed made 15 September 1992 between Ansett Transport Industries (Operations) Proprietary Limited, Hugh C Thorburn, John Keith Simpson, Graeme C Allison, Geoffrey C Brennan, Jeffrey S Seaburn and Peter L Wild
- "NAF12" Supplementary Trust Deed made 27 October 1994 between Ansett Australia Limited and Ansett Flight Engineers Superannuation Plan Pty Ltd.

Copies of the "Former Deed" made on 21 June 1979, any amendments made prior to 30 October 1990 and the resolutions made with effect from 25 July 1994 cannot be located.

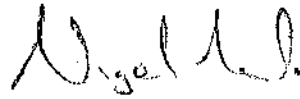
9. The Flight Engineers Plan includes:

- A Defined Benefit Section under the rules comprised in schedule 1.
- An Accumulation Section under the rules comprised in schedule 2.



Sworn at Melbourne, Victoria on
21 December 2001

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Nigel Antony Fish



Before me:

PETER EDMUND CASH
385 Bourke Street
Melbourne, Victoria

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

This affidavit is filed on behalf of the plaintiffs