

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
BEFORE THE COURT OF APPEAL  
CIVIL DIVISION

No. 2115 of 2001

BETWEEN:

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

Appellant

and

**ANSETT AUSTRALIA LIMITED** (Subject to a Deed of Company  
Arrangement) & **ORS** (ACN 004 209 410)

Respondents

AND BETWEEN:

**ANSETT AUSTRALIA LIMITED** (Subject to a Deed of Company  
Arrangement) & **ORS** (ACN 004 209 410)

Cross Appellants

and

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

Cross Respondents

### CERTIFICATE IDENTIFYING EXHIBIT

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Date of document: 23 April 2003

Filed on behalf of the Respondents and Cross Appellants

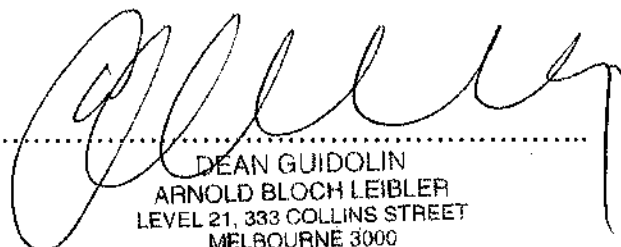
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This is the exhibit marked "CLF-3" now produced and shown to Carmel Lyndsay Flynn at the time of swearing her affidavit on 23 April 2003.



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

**Exhibit "CLF-3"**  
**Copy of FSC5**

"CLF-3"

**Ansett Australia  
Ground Staff  
Superannuation Plan**

(ABN 51 618 017 364)  
(SFN 160447)

**FUNDING AND SOLVENCY CERTIFICATE**

**Effective Date :** 24 April 2002

**Expiry Date :** 30 June 2005  
(Subject to paragraph 2 of this Certificate)

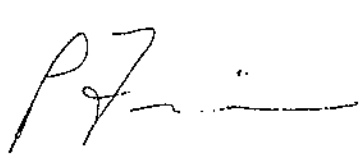
Prepared by : P Francis BSc FIAA DipFP  
NSP Buck Pty Ltd  
530 Collins Street, Melbourne 3000  
April 2002

## Funding and Solvency Certification

1. This is the fifth Funding and Solvency Certificate for the Ansett Australia Ground Staff Superannuation Plan (ABN 51 618 017 364), and it takes effect from 24 April 2002. This certificate replaces the fourth Funding and Solvency Certificate for the Plan which lapsed on the occurrence of a Notifiable Event, with effect from 24 April 2002.
2. This certificate ceases to have effect on the earliest of:
  - A 30 June 2005;
  - B the occurrence of one or more of the events detailed in Appendix A of this certificate;
  - C the withdrawal of this certificate, as notified in writing to the Trustee by an actuary;
  - D another Funding and Solvency Certificate taking effect for the Plan.

This certificate must be replaced by 1 July 2004 or earlier (if the provisions of B, C or D above apply) as required by the relevant Superannuation Industry (Supervision) Act and Regulations ("SIS").

3. A copy of this certificate is to be provided by the Plan's Trustee to each employer who had contributed or is contributing to the Plan or who is listed in the Benefit Certificate applying to the Plan (under Commonwealth Superannuation Guarantee legislation).
4. Minimum Requisite Benefits under the Plan are as detailed in a Benefit Certificates dated 14 August 1998, or as otherwise detailed in Appendix C of this certificate.
5. I certify that:
  1. the Plan was solvent, as defined in Part 9 of the SIS Regulations, at the Effective Date;
  2. the minimum contributions required in respect of members of the Plan are as detailed in Appendix B of this certificate;
  3. I am not aware of any occurrence since the Effective Date that adversely affects the continuing application of this certificate, unless the employer – or other competent party able to do so – declares that members whose service with an employer has ceased since 13 September 2001 is to be classified as a retrenchment for the purposes of the Plan;
  4. this certificate complies with the requirements of The Institute of Actuaries of Australia professional guidance on this issue, GN461.

  
P D Francis BSc DipFP  
Fellow of The Institute of Actuaries of Australia.

Date : 24 April 2002

## Appendix A

Events causing expiry of this certificate as specified in paragraph 2.

### *A.1 Refund of Surplus*

The release of any amounts from the Plan to an employer-sponsor of the Plan in terms of Section 117 of the SIS Act, as required under SIS Regulation 9.12(2)(a).

### *A.2 Failure to Comply*

The failure of any employer under the Plan to pay contributions at a rate at least equal to the minimum rates detailed in Appendix B, as required under SIS Regulation 9.12(2)(d).

### *A.3 Notifiable Events*

Any one or more of the following events. On the occurrence of any of these events the Trustee is to notify the Plan's actuary.

- An amendment to the governing rules of the Plan in a way that affects the level, or method of calculation of, benefits of the Plan, or as otherwise specified in the definition of Notifiable Events in SIS Regulation 9.06. (except as detailed in Appendix C of this certificate).
- The Trustee becoming aware that the ratio of the market value of the Plan's assets to the amount of the Plan's vested benefits (as described in the latest actuarial review report of the Plan) at any Plan Annual Review Date after 1 July 2001, or such other date as determined by the Trustee for this purpose, has fallen below 99%.
- The Trustee becoming aware that the result of the following calculation :  
the average investment return on Plan assets since 1 October 2001 as a percentage per annum  
*minus*  
the average rate of salary increase for defined benefit members of the Plan since 1 July 2001 as a percentage per annum  
is less than one percentage point.
- the failure of the Trustee to obtain a new Benefit Certificate (under the Superannuation Guarantee (Administration) Act) on the expiry of the Benefit Certificate in force at the Effective Date of this certificate if that expiry occurs before the expiry date of this certificate.
- The Trustee becoming aware that the Plan's investment return in any calendar year quarter after 30 September 2001 is less than negative 10% p.a.

End Appendix A

## Appendix B

### Minimum Contributions

These minimum contributions are payable by the employer in respect of its employee members, or other members as agreed with the Plan Trustee, in any particular Plan reporting period.

The employer's contributions shall be the excess of the total contributions detailed below over the actual amounts deducted from the members salaries as personal superannuation contributions for the period. Those member contributions should be paid to the Plan as required under SIS.

The contributions detailed below are those relevant for this certificate and are not necessarily adequate to provide the normal Plan benefits.

Membership Group	Total Contribution
1. Defined Benefit Members	14% of Plan Salaries
2. Accumulation Only Members	As specified in the Plan's Trust Deed
3. Any Member Advised to the Trustee as a retrenched employee	A lump sum amount determined as (the amount of the member's Retrenchment Benefit minus the amount of the member's resignation benefit) divided by 0.85

### Timing of Contributions

The contributions due for membership groups 1 and 2 is as follows:

- ♦ for any components of those contributions which have been paid by members by deduction from salary payments, payment should be made monthly, before the end of the calendar month following the calendar month in which they were deducted from members' salaries, and
- ♦ for any other components of those contributions, payment should be made on or before 28 July of the financial year following the period to which they relate.

The contributions due for membership group 3 should be paid immediately on notification to the Trustee of the member being a retrenchment under the Plan.

Under SIS Regulation 9.08(4), these amounts must be paid within 28 days after their due date as detailed above.

These contribution amounts exceed the minimum required to provide solvency as defined in SIS. This approach has been raised with the employer. Current expectations for this Plan are that a significant reduction in the membership will occur. Unless amounts are paid to the Plan additional to the requirements for membership groups 1 and 2, I expect that the Plan would become "technically insolvent" (as defined in SIS). Contributions as detailed above for membership group 3 will ensure that technical insolvency will not result from the retrenchment of members.

End Appendix B

## Appendix C

For the purposes of this Funding and Solvency Certificate, the Minimum Requisite Benefits applying under the Plan after the expiry date of the Benefit Certificate referred to in paragraph 4, until the Expiry Date of this certificate, will be as detailed below.

*The Plan has a Benefit Certificate in place which is expected to expire before the expiry date of this certificate. This certificate assumes that relevant Minimum Requisite Benefit will continue to be calculated as detailed in that Benefit Certificate, but allowing for any further scheduled increase in the "employer's charge percentage" as detailed in Section 20 of the Superannuation Guarantee (Administration) Act 1992.*

*Any replacement of the Plan's Benefit Certificate to extend the current method of determining the Minimum Requisite Benefits of the Plan to accommodate the scheduled increase in Superannuation Guarantee level is not a Notifiable Event under Appendix A of this certificate.*

End Appendix C