Form CP34

Federal Court (Criminal Proceedings) Rule 5.05

Federal Court of Australia Act 1976 section 58DE(1)(b)

Third party security undertaking

No.       of 20

Federal Court of Australia

District Registry: [State]

Division: General

**Commonwealth Director of Public Prosecutions[or other as appropriate]**Prosecutor

**[Name of Accused]**Accused

[Change title for criminal appeal proceedings (Form CP3)]

**Details of the Accused:**

Name:

Date of birth:

Usual address:

**Details of the third party:**

Name:

Date of birth:

Usual address:

**Details of the bail order**

Date of order:

Judge:

A copy of the bail order is attached.

**Conditions of bail (if any):**

[Set out any conditions on which bail was granted]

**Details of the security provided by the third party:**

[Set out the nature of the security provided by the third party]

**The third party security undertaking**

I [name] of [address] agree that I will forfeit the security described above if [name] does not appear in person before the Court on [date] at [time] at [place] or on any other occasion that he or she is directed to appear before the Court by the Court, a Judge or an officer of the Court.

And I give this undertaking in respect of the period for which bail has been granted to [name] and any period for which bail may be continued by order of the Court or by operation of the *Federal Court of Australia Act 1976*.

Date:

Signed by the third party: ………………………………………

Witnessed by:

Signature: …………………………………………………………..

Name: ……………………………………………………….

Title: ……………………………………………………………..

*Note*

A third party security undertaking must be signed by the third party before the Judge who granted the bail or a Registrar. (CP Rule 5.05(1)(b))

**Certification by witness**

Before the third party signed this third party security undertaking I took reasonable steps to ensure that the third party was aware of the obligations of the third party under the third party security undertaking and, if the bail order has been granted subject to conditions, of the consequences to the third party that may follow if the Accused did not comply with the conditions.

The reasonable steps that I took were: [select one of the following and delete the others]

\*I read the third party security undertaking to the third party and asked the third party if he or she understood the undertaking.

\*I arranged for the third party security undertaking to be read to the third party in a language the third party understood and arranged for the third party to be asked if he or she understood the effect of the undertaking.

\*I asked the third party if he or she had read the third party security undertaking and, if so, if he or she understood the undertaking.

Signed by witness: ……………………………………………………..

*Notes*

1. A failure by an accused to appear in accordance with a bail undertaking may be an offence against section 58FA of the *Federal Court of Australia Act 1976* and may also result in the forfeiture of bail security provided by the accused or a third party.
2. A breach of any condition of bail may result in a reconsideration of bail and may lead to bail being revoked.
3. Under section 58DG of the *Federal Court of Australia Act 1976* a person who has given a third party security undertaking may apply to the Court to be discharged from liability under the undertaking. If a person so applies, and if the accused has not yet failed to appear in Court, the Court must direct that the person be discharged from their liability, unless satisfied it would be contrary to the interests of justice to do so.
4. It is an offence against section 58DH of the *Federal Court of Australia Act 1976* for a person who has provided a security for bail which is not money to dispose of or deal with the security with the intention of preventing the forfeiture of the security, destroying the security or reducing its value. The maximum penalty is imprisonment for 2 years.
5. It is an offence against section 58HB of the *Federal Court of Australia Act 1976* for a person to agree to indemnify another person, or agree to be indemnified by another person, against forfeiture of bail security. The maximum penalty is imprisonment for 2 years.