

Form 59  
Rule 29.02(1)

## Affidavit

No. NSD 464 of 2020

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

### IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS

**VAUGHAN STRAWBRIDGE, SALVATORE ALGERI, JOHN GREIG AND RICHARD HUGHES, IN THEIR CAPACITY AS JOINT AND SEVERAL VOLUNTARY ADMINISTRATORS OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) AND THE THIRD TO FORTIETH PLAINTIFFS NAMED IN SCHEDULE 1**

First Plaintiffs

AND OTHERS NAMED IN THE SCHEDULE

Plaintiffs

Affidavit of:     Kassandra Suzann Adams  
Address:         Level 15, 1 Bligh Street, Sydney NSW 2000  
Occupation:     Solicitor  
Date:            1 July 2020

Document number	Details	Annexure	Page
1.	Affidavit of Kassandra Suzann Adams sworn on 1 July 2020.		1 - 6
2.	Email to Herbert Smith Freehills, 1 July 2020	A.	7
3.	Email from Vaughan Strawbridge to certain officers of ASIC, 1 July 2020	B.	8

Filed on behalf of (name & role of party)     The Plaintiffs  
Prepared by (name of person/lawyer)        Timothy James Sackar  
Law firm (if applicable)                     Clayton Utz  
Tel     +61 2 9353 4000                         Fax     +61 2 8220 6700  
Email   kaadams@claytonutz.com  
**Address for service**                     Level 15, 1 Bligh Street, Sydney NSW 2000  
(include state and postcode)

[Version 3 form approved 02/05/2019]

I Cassandra Suzann Adams, solicitor, of Clayton Utz, Level 15, 1 Bligh Street, Sydney NSW 2000, say on oath:

1. I am a solicitor employed by Clayton Utz, solicitors for the Plaintiffs. I have the day to day carriage of this matter under the supervision of Timothy Sackar, a partner of Clayton Utz.
2. I make this affidavit from my own knowledge and belief, except where otherwise stated in which case I have stated the source of my knowledge.
3. I make this affidavit in relation to the Interlocutory Process filed on behalf of the Plaintiffs on 1 July 2020 (**Interlocutory Process**) with a confidential supporting affidavit of Vaughan Neil Strawbridge dated 1 July 2020 (**Confidential Strawbridge Affidavit**).

#### **NOTICE OF THE INTERLOCUTORY PROCESS TO THE PURCHASER**

4. I am aware, as a solicitor with day to day carriage of this matter, that BC Hart Aggregator, L.P, BC Hart Aggregator (Australia) Pty Ltd and Global Loan Agency Services Australia Nominees Pty Ltd have retained Mr Mark Clifton and Ms Nikki Smythe, partners at Herbert Smith Freehills.
5. On 1 July 2020 at approximately 9:22pm, I caused an email to be sent to Mr Clifton, Ms Smythe and others, titled "*In the matter of Virgin Australia Holdings Limited (Administrators Appointed) & Ors - NSD 464/2020*", attaching an unsealed copy of the Interlocutory Process. A copy of that email (excluding its attachment as it is in the same form as filed with the Court) is annexed to this affidavit as **Annexure A**.

#### **NOTICE OF THIS APPLICATION TO THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION (ASIC)**

6. I am informed by Mr Strawbridge, Partner, Deloitte and verily believe to be true that on 1 July 2020 at approximately 10:13pm, Mr Strawbridge sent an email to Thea Eszenyi, Carl Sibilila, and Yvan Dang, each employed by ASIC and others, titled "*Virgin Australia - Application being made tomorrow in the Federal Court*", attaching an unsealed copy of the Interlocutory Process. A copy of that email (excluding its attachment as it is in the same form as filed with the Court) is annexed to this affidavit as **Annexure B**.

Sworn by the deponent  
at Sydney  
in New South Wales  
on 1 July 2020  
Before me:

)  
)  
)  
)  
)

Signature of deponent

Signature of witness  
Madeleine McCloy, solicitor.

**SCHEDULE**

Federal Court of Australia  
 District Registry: New South Wales  
 Division: General

No. NSD 464 of 2020

**IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS**

**Plaintiffs**

- First Plaintiffs: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes, in their capacity as joint and several voluntary administrators of each of the Second to Fortieth Plaintiffs
- Second Plaintiff: Virgin Australia Holdings Ltd (Administrators Appointed) ACN 100 686 226
- Third Plaintiff: Virgin Australia International Operations Pty Ltd (Administrators Appointed) ACN 155 859 608
- Fourth Plaintiff: Virgin Australia International Holdings Pty Ltd (Administrators Appointed) ACN 155 860 021
- Fifth Plaintiff: Virgin Australia International Airlines Pty Ltd (Administrators Appointed) ACN 125 580 823
- Sixth Plaintiff: Virgin Australia Airlines (SE Asia) Pty Ltd (Administrators Appointed) ACN 097 892 389
- Seventh Plaintiff: Virgin Australia Airlines Holdings Pty Ltd (Administrators Appointed) ACN 093 924 675
- Eighth Plaintiff: VAH Newco No.1 Pty Ltd (Administrators Appointed) ACN 160 881 345
- Ninth Plaintiff: Tiger Airways Australia Pty Limited (Administrators Appointed) ACN 124 369 008
- Tenth Plaintiff: Virgin Australia Airlines Pty Ltd (Administrators Appointed) ACN 090 670 965
- Eleventh Plaintiff: VA Borrower 2019 No. 1 Pty Ltd (Administrators Appointed) ACN 633 241 059

Twelfth Plaintiff:	VA Borrower 2019 No. 2 Pty Ltd (Administrators Appointed) ACN 637 371 343
Thirteenth Plaintiff:	Virgin Tech Pty Ltd (Administrators Appointed) ACN 101 808 879
Fourteenth Plaintiff:	Short Haul 2018 No. 1 Pty Ltd (Administrators Appointed) ACN 622 014 831
Fifteenth Plaintiff:	Short Haul 2017 No. 1 Pty Ltd (Administrators Appointed) ACN 617 644 390
Sixteenth Plaintiff:	Short Haul 2017 No. 2 Pty Ltd (Administrators Appointed) ACN 617 644 443
Seventeenth Plaintiff:	Short Haul 2017 No. 3 Pty Ltd (Administrators Appointed) ACN 622 014 813
Eighteenth Plaintiff:	VBNC5 Pty Ltd (Administrators Appointed) ACN 119 691 502
Nineteenth Plaintiff:	A.C.N. 098 904 262 Pty Ltd (Administrators Appointed) ACN 098 904 262
Twentieth Plaintiff:	Virgin Australia Regional Airlines Pty Ltd (Administrators Appointed) ACN 008 997 662
Twenty-first Plaintiff:	Virgin Australia Holidays Pty Ltd (Administrators Appointed) ACN 118 552 159
Twenty-second Plaintiff:	VB Ventures Pty Ltd (Administrators Appointed) ACN 125 139 004
Twenty-third Plaintiff:	Virgin Australia Cargo Pty Ltd (Administrators Appointed) ACN 600 667 838
Twenty-fourth Plaintiff:	VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741
Twenty-fifth Plaintiff:	VA Hold Co Pty Ltd (Administrators Appointed) ACN 165 507 157
Twenty-sixth Plaintiff:	VA Lease Co Pty Ltd (Administrators Appointed) ACN 165 507 291
Twenty-seventh Plaintiff:	Virgin Australia 2013-1 Issuer Co Pty Ltd (Administrators Appointed) ACN 165 507 326
Twenty-eighth Plaintiff:	737 2012 No.1 Pty. Ltd (Administrators Appointed) ACN 154 201 859

Twenty-ninth Plaintiff:	737 2012 No. 2 Pty Ltd (Administrators Appointed) ACN 154 225 064
Thirtieth Plaintiff:	Short Haul 2016 No. 1 Pty Ltd (Administrators Appointed) ACN 612 766 328
Thirty-first Plaintiff:	Short Haul 2016 No. 2 Pty Ltd (Administrators Appointed) ACN 612 796 077
Thirty-second Plaintiff:	Short Haul 2014 No. 1 Pty Ltd (Administrators Appointed) ACN 600 809 612
Thirty-third Plaintiff:	Short Haul 2014 No. 2 Pty Ltd (Administrators Appointed) ACN 600 878 199
Thirty-fourth Plaintiff:	VA Regional Leaseco Pty Ltd (Administrators Appointed) ACN 127 491 605
Thirty-fifth Plaintiff:	VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934
Thirty-sixth Plaintiff:	VB Leaseco No 2 Pty Ltd (Administrators Appointed) ACN 142 533 319
Thirty-seventh Plaintiff:	VB LH 2008 No. 1 Pty Ltd (Administrators Appointed) ACN 134 280 354
Thirty-eighth Plaintiff:	VB LH 2008 No. 2 Pty Ltd (Administrators Appointed) ACN 134 288 805
Thirty-ninth Plaintiff:	VB PDP 2010-11 Pty Ltd (Administrators Appointed) ACN 140 818 266
Fortieth Plaintiff:	Tiger International Number 1 Pty Ltd (Administrators Appointed) ACN 606 131 944

## McCloy, Madeleine

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**From:** Adams, Cassandra  
**Sent:** Wednesday, 1 July 2020 9:22 PM  
**To:** Mark.Clifton@hsf.com; nikki.smythe@hsf.com  
**Cc:** White, Rowena; Project Volar; McCoy, Orla; Glavac, Mikhail; Gardner, Tom  
**Subject:** In the matter of Virgin Australia Holdings Limited (Administrators Appointed) & Ors - NSD 464/2020  
**Attachments:** Tab A. Project Volar Interlocutory Process - 447A\_588FM 1 July 2020 (2).PDF

Dear Mark and Nikki,

Please find attached by way of service, a copy of the filed Interlocutory Process dated 1 July 2020. A sealed copy of the Interlocutory Process will be provided once it has been returned from the Registry.

Kind regards,

**Kassandra Adams, Senior Associate  
Clayton Utz**

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Please consider the environment before printing this e-mail

This is Annexure A referred to in the affidavit of Kassandra Suzann Adams

Sworn on \_\_\_\_\_

Before me \_\_\_\_\_

## McCloy, Madeleine

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**From:** Strawbridge, Vaughan <vstrawbridge@deloitte.com.au>  
**Sent:** Wednesday, 1 July 2020 10:13 PM  
**To:** Thea.Eszenyi@asic.gov.au  
**Cc:** Carl.Sibilia@asic.gov.au; Yvan Dang; Lombe, David; Glavac, Mikhail; Gardner, Tom; McCoy, Orla; Robertson, Jillian; Sackar, Timothy  
**Subject:** Virgin Australia - Application being made tomorrow in the Federal Court  
**Attachments:** Project Volar Interlocutory Process - 447A\_588FM 1 July 2020.PDF  
**Importance:** High

Dear Thea

### Court Application In the matter of Virgin Australia Holdings Ltd (Administrators Appointed)

The Administrators have approached the Court in relation to a further application they intend to make in these proceedings. That application has been allocated a (confidential) hearing at **10:15am tomorrow** (2 July 2020).

The context for the application is the transaction entered into by the Administrators on 26 June 2020 for the sale and/or recapitalisation of the business conducted by the companies in administration. In relation to that transaction, the application seeks orders pursuant to sections 447A and 588FM of the *Corporations Act 2001* (Cth) (**Corporations Act**):

1. fixing a later time for registration of security interests created as part of the transaction; and
2. modifying the operation of section 443A of the Corporations Act to limit the Administrators' personal liability in respect of borrowing and other liabilities assumed under the transaction.

In the interests of time, we **attach** an unsealed copy of the interlocutory process for the application. We will provide you with a copy of the sealed version when it is received from the Court's registry (we expect that to occur during the course of tomorrow morning).

Both the affidavit supporting the application and its primary exhibit are confidential and the Administrators will be seeking orders pursuant to sections 37AF and 37AG of the *Federal Court of Australia Act 1976* (Cth) to preserve that confidentiality until 1 July 2021 (unless extended). There is a non-confidential exhibit that will be provided to the Court in support of the application, but as it comprises extracts from the Personal Property Securities Register (only) we will not provide that to you unless requested.

Noting that time is limited before the matter comes before the Court and with apologies for the urgency, if you have time we would appreciate it if you could let us know if ASIC intends to take any position with respect to the application.

Kind Regards  
Vaughan

This and the following page is Annexure B referred to in the affidavit of Kassandra Suzann Adams

Sworn on \_\_\_\_\_

Before me \_\_\_\_\_

#### Vaughan Strawbridge

Partner  
Deloitte Financial Advisory Pty Ltd  
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D: +61 2 9322 5539 | Mobile: +61 406 534 626  
[vstrawbridge@deloitte.com.au](mailto:vstrawbridge@deloitte.com.au) | [www.deloitte.com.au](http://www.deloitte.com.au)

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**Deloitte.**



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