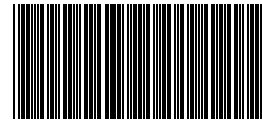




Filed: 6 April 2021 7:46 AM



D0001EFY6J

Form 40  
UCPR 35.1

### AFFIDAVIT OF Kassandra Suzann Adams - 6 April 2021

#### COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2021/00084223

#### TITLE OF PROCEEDINGS

First Plaintiff	The Trustee for Project Volar Creditors' Trust ABN 41124353207
-----------------	---

#### FILING DETAILS

Filed for	The Trustee for Project Volar Creditors' Trust, Plaintiff 1
Legal representative	Timothy James Sackar
Legal representative reference	
Telephone	(02) 9353 4114

#### ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Affidavit (General) (e-Services), along with any other documents listed below, were filed by the Court.

Affidavit (UCPR 40) (kaadams,-2021-04-06-07-42-48-203.pdf)

[attach.]

IN THE SUPREME COURT OF NEW SOUTH WALES  
DIVISION: EQUITY  
REGISTRY: SYDNEY  
CORPORATIONS LIST

No. 2021/ 00084223

IN THE MATTER OF THE PROJECT VOLAR CREDITORS' TRUST ESTABLISHED IN THE  
ADMINISTRATION OF EACH OF VIRGIN AUSTRALIA HOLDINGS LTD & ORS

SALVATORE ALGERI, RICHARD HUGHES,  
JOHN GRIEG AND VAUGHAN STRAWBRIDGE  
IN THEIR CAPACITY AS JOINT AND SEVERAL  
TRUSTEES OF THE PROJECT VOLAR  
CREDITORS' TRUST ESTABLISHED IN THE  
ADMINISTRATION OF EACH OF VIRGIN  
AUSTRALIA HOLDINGS LTD & ORS

Plaintiffs

AFFIDAVIT

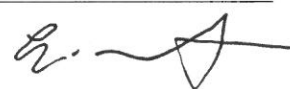
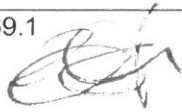
On 6 April 2021, I, Cassandra Suzann Adams, solicitor of Clayton Utz, Level 15, 1 Bligh Street, Sydney NSW 2000, say on oath:

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 support of the relief sought by the Plaintiffs in the Amended Originating Process filed in these proceedings on 1 April 2021 (**Application**), namely, orders under sections 63 and 81 of the *Trustee Act 1925* (NSW) in respect of the Project Volar Creditors' Trust (**Trust**), being the creditors' trust established by the Project Volar Creditors' Trust Deed dated 17 November 2020, and the supporting affidavits of:
  - (a) Richard John Hughes dated 25 March 2021 (**Hughes Affidavit**) together with its exhibit marked RJH-1 (**Exhibit RJH-1**); and
  - (b) David Michael Orr dated 25 March 2021 (**Orr Affidavit**) together with its exhibit marked DMO-1 (**Exhibit DMO-1**).

---

Filed on behalf of: The Plaintiffs  
Prepared by: Timothy James Sackar  
Law firm: Clayton Utz  
Address for service:  
Level 15  
1 Bligh Street  
Sydney NSW 2000  
DX 370 Sydney

Contact details:  
Tel: +61 2 9353 4200  
Fax: +61 2 8220 6700  
Contact: Cassandra Adams  
Email: kassandra.adams@claytonutz.com  
Ref: 20556/21895/81005835



4. Exhibited to me at the time of making this affidavit is a bundle of documents to which I make reference in this affidavit marked "KSA-1" (**Exhibit KSA-1**). A reference to a Tab in this affidavit is to a tab in Exhibit KSA-1 unless otherwise stated.

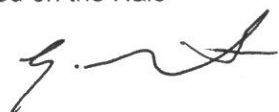
**NOTICE OF THE APPLICATION TO THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ("ASIC")**

5. I am informed by David Lombe, Special Principal, Restructuring Services at Deloitte Touche Tohmatsu (of which Deloitte Financial Advisory Pty Ltd is a wholly owned subsidiary) (**Deloitte**) (**Mr Lombe**) and verily believe to be true that:
- (a) on 30 March 2021 at 9.44am, Mr Lombe sent an email to Yvan Dang, Senior Accountant, Insolvency Practitioners, ASIC (**Ms Dang**), Thea Eszenyi and Carl Sibilia, each employed by ASIC. The email gave notice of the Originating Process filed 25 March 2021 (**Originating Process**) and attached sealed copies of the Originating Process, and the Hughes Affidavit together with Exhibit RJH-1, and informed ASIC that the hearing was listed for 9.15am on Tuesday, 6 April 2021 before the Honourable Justice Black in the Supreme Court of New South Wales (**Hearing**).
  - (b) on 31 March 2021 at 4.44pm, Ms Dang sent an email to Mr Lombe notifying Mr Lombe that Ms Dang had tried to call and sought that Mr Lombe return Ms Dang's call;
  - (c) on 1 April 2021 at 2.49pm, Mr Lombe sent an email to Ms Dang noting, among other things that, the *'[i]n respect to the advertising, the documents will be changed to the effect that this will be done in the newspapers'*;
  - (d) on 1 April 2021 at 3.10pm, Ms Dang sent a further email to Mr Lombe noting, among other things, that *'ASIC will not be appearing or attending as observers at the hearing on 6 April'*; and
  - (e) on 1 April 2021 at 6.26pm, Mr Lombe sent a further email to Ms Dang, notifying Ms Dang of the Amended Originating Process filed 1 April 2021 (**Amended OP**) and attached a copy of the Amended OP.

A copy of the above chain of correspondence is marked **Annexure A** excluding attachments.

**NOTICE OF THE APPLICATION TO TRUST CREDITORS OF THE TRUST**

6. I am informed by Matthew Carr, Manager, Restructuring Services at Deloitte (**Mr Carr**) and verily believe to be true that on 1 April 2020 at or around 5.45pm, Mr Carr sent an email via the Halo Platform to the 4,340 known trust creditors (excluding employees) registered on the Halo

Platform (**Halo Users**). The email notified all trust creditors that the Plaintiffs have caused the Application to be filed, provided details of the Hearing and informed trust creditors that they were able to listen to the Hearing by dialling 02 8759 0882 and attached a copy of the Amended OP. A copy of the email sent to the Halo Users is annexed to this affidavit and marked **Annexure B**.

- 7. I am informed by Mr Carr that, as a result of the Halo Users email being sent via the Halo Platform, to each of the trust creditors, the print-out of the email contained at Annexure B does not identify the relevant recipients, however I verily believe, as stated in paragraph 6, that the creditors referred to in paragraph 6 were issued the email.
- 8. I am informed by Mr Carr and verily believe to be true that, the Trustees of the Trust have not received any response from any trust creditor (whether on the Halo Platform or otherwise) indicating any opposition to the application or any wish to appear at the Hearing.

**Sworn** at Sydney  
this 6th day of April 2021

Before me:



Signature of witness

**Grace Eileen Lancaster, Solicitor**

Name and capacity of witness



Deponent

And as a witness, I certify the following matters concerning the person who made this affidavit (**deponent**):

[\**strike out the text that does not apply*]

1. \*I saw the face of the deponent.

*OR*

~~\*I did not see the face of the deponent because he/she was wearing a face covering, but I am satisfied that he/she had a special justification for not removing it.~~

2. ~~\*I have known the person for at least 12 months.~~

*OR*

\*I confirmed the person's identity using the following identification document:

Drivers Licence

\_\_\_\_\_  
Identification document relied on

(may be original or certified copy)

A handwritten signature in black ink, consisting of a stylized 'G' followed by a series of loops and a horizontal stroke.

\_\_\_\_\_  
Signature of witness

# Annexure "A"

This and the following 4 pages is **Annexure A** referred to in the affidavit of Cassandra Suzann Adams sworn 6 April 2021

Before me:



**Grace Eileen Lancaster**  
Solicitor

**From:** Lombe, David  
**Sent:** Thursday, 1 April 2021 6:26 PM  
**To:** Yvan Dang <Yvan.Dang@asic.gov.au>  
**Cc:** Carl Sibilila <Carl.Sibilila@asic.gov.au>  
**Subject:** In the matter of the Project Volar Creditors' Trust

*Dear Yvan,*

*Further to our emails, please find attached an Amended Originating Process filed this afternoon, 1 April 2020.*

*The Amended OP was filed in light of ASIC's comments regarding publication and due to the Coronavirus determination technically expiring a few days ago.*

*Again, please do let us know if ASIC has any further concerns.*

*As requested I will also advise you of the outcome of the hearing.*

*Regards,*

*David*

**David Lombe**  
Special Principal | Restructuring Services  
Deloitte Financial Advisory Pty Ltd  
Grosvenor Place, 225 George Street, Sydney, NSW, 2000  
D: +61 2 9322 7400 | F: +61 2 9322 7001  
[dlombe@deloitte.com.au](mailto:dlombe@deloitte.com.au) | [www.deloitte.com](http://www.deloitte.com)

**Deloitte**

Please consider the environment before printing

**From:** Yvan Dang <Yvan.Dang@asic.gov.au>  
**Sent:** Thursday, 1 April 2021 3:10 PM  
**To:** Lombe, David <[dlombe@deloitte.com.au](mailto:dlombe@deloitte.com.au)>

**Cc:** Carl Sibilía <Carl.Sibilía@asic.gov.au>

**Subject:** [EXT]RE: In the matter of the Project Volar Creditors' Trust [CU-Legal.FID3017446] [SEC=OFFICIAL]

Thanks David. ASIC will not be appearing or attending as observers at the hearing on 6 April. We would appreciate your confirmation afterwards of proceeding outcomes.

Regards

**Yvan Dang**

Senior Accountant, Insolvency Practitioners

**Australian Securities and Investments Commission**

Level 7, 120 Collins Street, Melbourne, 3000

Tel: +61 3 9280 3405

[yvan.dang@asic.gov.au](mailto:yvan.dang@asic.gov.au)



**ASIC**

**From:** Lombe, David <dlombe@deloitte.com.au>

**Sent:** Thursday, 1 April 2021 2:49 PM

**To:** Yvan Dang <Yvan.Dang@asic.gov.au>

**Cc:** Carl Sibilía <Carl.Sibilía@asic.gov.au>

**Subject:** RE:In the matter of the Project Volar Creditors' Trust [CU-Legal.FID3017446] [SEC=OFFICIAL]

Dear Yvan,

Further to our telephone call I have had the opportunity to discuss the matters with our lawyers ,Clayton Utz.

They have advise that the references to CVL is to the effect that these provisions are in effect imported into the documents.

In respect to the advertising , the documents will be changed to the effect that this will be done in the newspapers.

If you have any questions please contact me.

Regards,

David

**David Lombe**

Special Principal| Restructuring Services

Deloitte Financial Advisory Pty Ltd

Grosvenor Place, 225 George Street, Sydney, NSW, 2000

D: +61 2 9322 7400 | F: +61 2 9322 7001 m 0414 667 401

[dlombe@deloitte.com.au](mailto:dlombe@deloitte.com.au) | [www.deloitte.com](http://www.deloitte.com)

**Deloitte**

Please consider the environment before printing

**From:** Yvan Dang <Yvan.Dang@asic.gov.au>

**Sent:** Wednesday, 31 March 2021 4:44 PM

**To:** Lombe, David <dlombe@deloitte.com.au>

**Cc:** Carl Sibilía <Carl.Sibilía@asic.gov.au>

**Subject:** [EXT]RE: In the matter of the Project Volar Creditors' Trust [CU-Legal.FID3017446] [SEC=OFFICIAL]

Hi David

I just tried unsuccessfully to call you but cannot get a connection or leave a message. Can you please give me a call when you are available?

Thanks

**Yvan Dang**

Senior Accountant, Insolvency Practitioners

**Australian Securities and Investments Commission**

Level 7, 120 Collins Street, Melbourne, 3000

Tel: +61 3 9280 3405

[yvan.dang@asic.gov.au](mailto:yvan.dang@asic.gov.au)



**ASIC**

**From:** Lombe, David <[dlombe@deloitte.com.au](mailto:dlombe@deloitte.com.au)>

**Sent:** Tuesday, 30 March 2021 9:44 AM

**To:** Yvan Dang <[Yvan.Dang@asic.gov.au](mailto:Yvan.Dang@asic.gov.au)>; Thea Eszenyi <[Thea.Eszenyi@asic.gov.au](mailto:Thea.Eszenyi@asic.gov.au)>; Carl Sibilias <[Carl.Sibilias@asic.gov.au](mailto:Carl.Sibilias@asic.gov.au)>

**Subject:** FW: In the matter of the Project Volar Creditors' Trust [CU-Legal.FID3017446]

**EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear Yvan,

Please be aware that Richard Hughes, Sal Algeri, John Grieg and Vaughan Strawbridge were appointed as trustees to the Project Volar Creditors' Trust on 17 November 2020 established in the deed administration of Virgin Australia Holdings Limited and its relevant subsidiaries (**Trustees**).

The Trustees have sought to make an application to the Supreme Court of New South Wales under the *Trustee Act 1925* (NSW) to seek various operational orders that are largely reflective of the orders sought and obtained by the Trustees in their previous capacity as Administrators/Deed Administrators of the Virgin Companies, in Federal Court of Australia Proceeding Number 464/2020 before Justice Middleton.

Accordingly, please find attached:

1. sealed OP;
2. sealed affidavit of Richard Hughes;
3. Mimecast link containing a soft copy of Exhibit RJH-1;
4. sealed affidavit of David Orr; and
5. Mimecast link containing a soft copy of Exhibit DMO-1.

**Summary of Application**

In summary the originating process seeks the following:

- the operation of the Halo Platform is a suitable electronic platform for the Trustees to notify and communicate with creditors and adjudicate on proofs of debt/claims;
- any meetings/communications to be conducted electronically;
- formal proofs of debt of debts be lodged by the POD lodgement date failing which, any informal proofs of debt previously filed will be adjudicated on;
- amendments to the various prescribed time frames relating to the adjudication and payment of any dividend process, due to the quantum of Trust Creditors;
- the method of use of exchange rates; and
- a reduction in the interest rate discount for future debts that crystallised after the appointment of the Administrators.

A number of these orders replicate those provided by the Federal Court during the voluntary administration process and in particular for the second meeting of creditors.



## Details of Hearing

The application has been set down for hearing on 6 April 2020 before Justice Black in the Supreme Court of New South Wales at 9.15am. The hearing will be a physical hearing and we will be able to confirm the courtroom number in due course.

Could you please let us know if a representative of ASIC intends to either appear at or observe the hearing?

We will need to notify the Court to ensure that the designated courtroom has sufficient capacity to account for COVID-19 restrictions.

Please do let us know if you have any questions.

Kind regards

David

### David Lombe

Special Principal | Restructuring Services  
Deloitte Financial Advisory Pty Ltd  
Grosvenor Place, 225 George Street, Sydney, NSW, 2000  
D: +61 2 9322 7400 | F: +61 2 9322 7001  
[dlombe@deloitte.com.au](mailto:dlombe@deloitte.com.au) | [www.deloitte.com](http://www.deloitte.com)

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# Annexure "B"

Adams, Cassandra

**From:** virginhalo@deloitte.com.au  
**Sent:** Thursday, 1 April 2021 5:45 PM  
**To:** Carr, Matthew  
**Subject:** Project Volar Creditors' Trust | Notice to creditors of Court Application  
**Attachments:** Project Volar - SEALED - Amended Originating Process.PDF

This and the following 1 page is **Annexure B** referred to in the affidavit of Cassandra Suzann Adams sworn 6 April 2021

Before me:

  
Grace Eileen Lancaster  
Solicitor

Dear Sir / Madam,

## **In the matter of the Project Volar Creditors' Trust established in the administration of each of Virgin Australia Holdings Ltd & Ors, Supreme Court of New South Wales Proceeding Number 2021/84223 (Proceeding)**

The Trustees have made an application in the Proceeding seeking various orders in relation to the use of the Halo Platform for the upcoming dividend process and an extension of time for the Trustees to adjudicate on creditor claims, given the significant volume of claims. The Halo Platform is a tool that the Trustees have developed to manage the processing and adjudication of trust creditor claims and to facilitate communication with trust creditors in relation to claims, having regard to the challenges posed by the scale of the administrations of the Virgin Companies. The Trustees are of the view that this application will allow a more efficient and effective adjudication process.

The application and the orders sought in the Proceeding, will not change the manner by which trust creditors will have their trust claims adjudicated.

Attached is a copy of the Amended Originating Process filed in the Proceeding today, 1 April 2021.

### **Why am I receiving this email?**

In the interests of keeping all trust creditors informed of the process, the Trustees are of the view that providing trust creditors details of these Orders is appropriate. As set out below, once the Orders are received more detailed guidance about the process will be sent.

### **What action is required by me?**

No action is required by you, the purpose of this email is to keep you informed of the Orders that the Trustees are seeking to obtain from the Court. Should you wish to attend the Hearing, please refer to the details below.

### **How can I attend the hearing?**

This matter is listed for an in-person Hearing in the NSW Supreme Court at 9:15AM (AEST) Wednesday, 6 April 2021. However, anyone interested in listening to the hearing can dial in to: 02 8759 0882.

### **When will the Trustees call for Formal Proofs of Debt and provide Notice of their Intention to Declare a Dividend?**

Subject to the Orders being approved by the Court on 6 April 2021, a Circular will be sent within 24 hours of the Orders being made by the Court detailing the dividend timeline and action required by trust creditors, along with our Notices calling for Formal Proofs of Debt and our Intention to Declare a Dividend.

Kind regards,

**Richard Hughes**  
Trustee

This is a system generated email. Please do not send messages or reply to this email.