

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 2012

15 – 17 February 2012

Question: AET 1251-1252

Topic: KordaMentha and Ansett

Hansard Page: 105

Senator Williams asked:

Could you take on notice when KordaMentha sent the applications to you for accounting reliefs and how many they sent in to you? I have been informed that, in the 10-year liquidation of Ansett, there was no summary or accounting given to ASIC at all. Is that correct?

Ms Gibson: I would need to go back and look at—

Mr Medcraft: We will take it on notice, Senator.

Answer

On 17 December 2003, KordaMentha corresponded with ASIC, applying for financial reporting relief. An exemption was sought in respect of 25 companies in the Ansett group. In accordance with RG 174 they sought relief from the obligation to comply with financial reporting requirements of Part 2M.3. The order ASIC made on 30 June 2004 was in response to this application.

On 5 December 2011, KordaMentha corresponded with ASIC seeking a no-action letter and relief for the one company (being Ansett Australia Limited) for the one financial year (2007) for which the relief was required. This application is still under consideration by ASIC. We note that accompanying the KordaMentha letter of 5 December 2011, KordaMentha provided ASIC with reporting on the Administration generally and also with copies of each of the employee updates, creditors' updates and the annual report issued during the 2007 financial year.

The Ansett administration commenced in 2001, and at that time, there was no requirement for the Ansett DOCA administrators to lodge accounts of receipts and payments with ASIC.

The requirement for DOCA administrators to lodge accounts of receipts and payments with ASIC every six months arose with the insertion of section 445J in the Corporations Act from 31 December 2007.

Section 445J does not operate retrospectively and accordingly, there have been no administrator accounts of receipts and payments lodged with ASIC under s445J with respect to Ansett.

It is also pertinent to note that the creditors of Ansett accepted a DOCA which did not require the preparation and lodgement of financial reports or 6 monthly accounts of receipts and payments.