

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
GENERAL DIVISION

No. VID 541 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)
ACN: 092 311 469

AND

IN THE MATTER OF TIMBERCORP LIMITED (IN LIQUIDATION)
ACN: 055 185 067

TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)
ACN 092 311 469
and OTHERS

Plaintiffs

WA CHIP & PULP CO. PTY LTD
ACN 008 720 518
and OTHERS

Defendants

FIFTH AFFIDAVIT OF MARK ANTHONY KORDA

On 26 August 2009, I, **MARK ANTHONY KORDA**, of Level 24, 333 Collins Street, Melbourne, in the State of Victoria, Chartered Accountant, SAY ON OATH that:

- 1 I am the liquidator of the First Plaintiff, Timbercorp Securities Limited (TSL), and of the Second Plaintiff, Timbercorp Limited (TL), with Leanne Kylie Chesser.
- 2 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information or belief, I believe those matters to be true. I am authorised by Ms Chesser to make this affidavit on her behalf. References in this affidavit to "we", "us", "our" or "ourselves" are references to Ms Chesser and me.
- 3 This affidavit is made in support of a Notice of Motion to be filed this day.

Filed on behalf of the Plaintiffs

ARNOLD BLOCH LEIBLER
Lawyers and Advisers
Level 21
333 Collins Street
Melbourne 3000

DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011499489
(Leon Zwier)



Evidence

- 4 I refer to the four affidavits I have made previously in this proceeding.
- 5 I also seek leave to refer to an affidavit I made in proceeding VID 595 of 2009 on 13 August 2009, excluding the exhibits to that affidavit.
- 6 Proceeding VID 595 of 2009 concerned an application regarding the liquidators' proposed sale/recapitalisation of the Forestry Assets (as defined in that affidavit) (**Forestry Sale/Recapitalisation Process**). While we do not rely upon the majority of the exhibits to that affidavit, we do rely upon two of the confidential exhibits. Now produced and shown to me marked **Confidential Exhibit MAK-32** is an anonymous list of the parties who have viewed, printed and downloaded documents from the Forestry Sale/Recapitalisation Process Data Room as at 12 August 2009. Now produced and shown to me marked **Confidential Exhibit MAK-33** is a copy of the Confidential Information Memorandum distributed to the parties interested in the Forestry Sale/Recapitalisation Process. We will seek an order from the Court that these exhibits be kept confidential.

Forestry Sale/Recapitalisation Process

- 7 On 3 August 2009, this Court ordered upon provision of an undertaking by Ms Chesser and me, that the time by which we would be entitled to disclaim the property the subject of each of the notices specified in Schedule 1 to that Order, under s 568(8) of the *Corporations Act 2001* (Cth) (**the Act**), be extended until 4.15pm on 1 September 2009.
- 8 The Forestry Sale/Recapitalisation Process outlined in my earlier affidavits is ongoing.
- 9 We expect to receive first and final binding offers from a number of parties on or before 18 September 2009.
- 10 As I explained at paragraphs 26 to 34 of my Second Affidavit, if we have to take steps to decide whether to disclaim any of the External Leases involved in the Forestry Schemes prior to 18 September 2009, it will create difficulties in relation to the Forestry Sale/Recapitalisation Process. We are attempting to maintain the status quo, so far as possible.
- 11 We currently intend to finalise the Forestry Sale/Recapitalisation Process by 30 September 2009. That allows a sufficient period of time in which to finalise the Forestry Sale/Recapitalisation Process. This is the period provided for in the Confidential



Information Memorandum. Therefore, we seek an extension of the time provided in the Court's Order of 3 August 2009 to 30 September 2009.


Consent to further extension

- 12 On 25 August 2009, our solicitors wrote to the representatives for the Defendants to the proceeding (excluding those lessors involved in the 2006 Avocado Project), or directly to the unrepresented Defendants, seeking their consent to an extension of time to 30 September 2009. Now produced and shown to me marked **MAK-34** is a copy of ABL's letter of 25 August 2009 and covering email.

Further Disclaimer Applications received by the Liquidators

- 13 We have also received a number of further Disclaimer Applications made under s 568(8) of the Act by lessors with External Leases. Now produced and shown to me marked **MAK-35** are copies of those applications.
- 14 On 25 August 2009, our solicitors wrote to each of those parties requesting their consent to be joined as Defendants to the proceeding and their consent to an extension of the time provided under their notices, to 30 September 2009. Now produced and shown to me marked **MAK-36** are copies of those letters.

SWORN at Melbourne in the State of
Victoria this 26th day of August 2009

)
)
) 

Before me: 

LUCY HANNAH KIRWAN
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
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ACN 092 311 469
and OTHERS

Plaintiffs

WA CHIP & PULP CO. PTY LTD
ACN 008 720 518
and OTHERS

Defendants

AFFIDAVIT - CERTIFICATE OF COMPLIANCE

(Order 14, rule 5A)

I, **LUCY HANNAH KIRWAN**, certify to the Court that the affidavit of **MARK ANTHONY KORDA** sworn on 26 August 2009 filed on behalf of the Plaintiffs complies with Order 14, rule 2 of the Federal Court Rules.

Date: 26 August 2009



Lucy Hannah Kirwan
A solicitor of Arnold Bloch Leibler
Solicitor for the Plaintiffs

Filed on behalf of the Plaintiffs

ARNOLD BLOCH LEIBLER
Lawyers and Advisers
Level 21
333 Collins Street
Melbourne 3000

DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011499489
(Leon Zwier)

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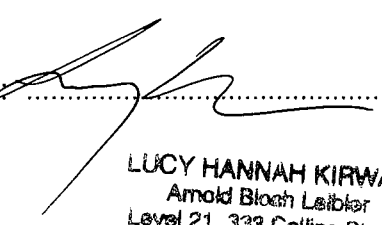
WA CHIP & PULP CO. PTY LTD
ACN 008 720 518
and OTHERS

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "**MAK-34**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 26 August 2009.

Before me:


LUCY HANNAH KIRWAN
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Vicky Phillipou

From: Vicky Phillipou on behalf of Lucy Kirwan
Sent: Tuesday, 25 August 2009 3:37 PM
To: 'Paul.Mac@blakedawson.com'; 'jmeyer@jmlegal.com.au'; 'marsh@omninet.net.au'; 'jim@albanylegal.com.au'; 'damon@albanylegal.com.au'
Subject: Timbercorp Group of Companies (all in liquidation) VID541/2009
Attachments: Email to Paul Mac, Jonathan Meyer, Marsh Franklin, Jim Swann and Damon Seymour.PDF

Dear Sirs

Please refer to the attached letter.



Email to Paul Mac,
Jonathan Me...

Yours sincerely

Lucy Kirwan | Senior Associate

Arnold Bloch Leibler | Level 21, 333 Collins Street, Melbourne Victoria 3000
T: +61 3 9229 9655 | F: + 61 3 9916 9515
lkirwan@abl.com.au | www.abl.com.au

Arnold Bloch Leibler acknowledges the traditional owners of country throughout Australia.

Arnold Bloch Leibler

Lawyers and Advisers

25 August 2009

By email:

Paul Mac
Paul.Mac@blakedawson.com

By email:

Jonathan Meyer
jmeyer@jmlegal.com.au

By email:

Marsh Franklin
marsh@omninet.net.au

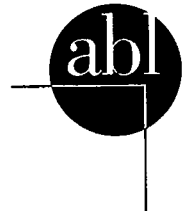
By email:

Jim Swann/Damon Seymour
jim@albanylegal.com.au

Your Ref
Our Ref LZ
File No. 011499489

Contact

Leon Zwier
Direct 61 3 9229 9646
Facsimile 61 3 9229 9603
lzwier@abl.com.au



Level 21
333 Collins Street
Melbourne
Victoria 3000
Australia

DX38455 Melbourne
www.abl.com.au

Telephone
61 3 9229 9999
Facsimile
61 3 9229 9900

MELBOURNE
SYDNEY

Partners
Mark M Leibler AC
Henry D Langer
Joseph Borensztajn
Leon Zwier
Philip Chester
Ross A Paterson
Stephen L Sharp
Kenneth A Gray
Kevin F Frawley
Michael N Dodge
Jane C Sheridan
Steven Klein
Leonie R Thompson
Zaven Mardirossian
Jonathan M Wenig
Paul Sokolowski
Paul Rubenstein
Peter M Seidel
Alex King
John Mitchell
Nicole Gordon
Ben Mahoney
Sam Dollard
Lily Tell
Henry Skene
Andrew Silberberg
Kishanie Wijewickram
Lisa Ashcroft
Jonathan Milner

Senior Litigation
Counsel
Robert J Heathcote

Special Counsel
Danuta Czuchwicki
Simonne Einfeld

Senior Associates
Kirsten Frew
Jillian Saint
Annabel Bainbridge
Katie Morrison
John Mengolian
Melanie Alderton
Sue Kee
Leigh De Jong
Lachlan Blake
Jorja Cleeland
Caroline Goulden
Matthew Lees
Genevieve Sexton
Lucy Kirwan
Nicholas Clifton
Lior Harel
Jeremy Leibler
Amelia Kelly
Bridgette Toy-Cronin
Benjamin Marshall

Consultants
Allan Fels AO
Steven M Skala

Dear Sirs

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) and OTHERS v WA
CHIP & PULP CO. PTY LTD and OTHERS
FEDERAL COURT OF AUSTRALIA PROCEEDING VID 541/2009**

We refer to the Order made by the Court on 3 August 2009 (**the Order**).

Forestry Schemes

- 1 As you may be aware, the Liquidators' sale/recapitalisation process for the Forestry Schemes/Assets is presently under way. The Liquidators expect to receive first and final binding offers by 18 September 2009.
- 2 Accordingly, the Liquidators will this week ask the Court for an extension to the period granted under the Order, namely to 30 September 2009.

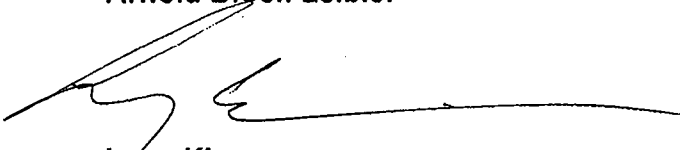
Material/Hearing time

- 3 The Liquidators will file a notice of motion. The Court has indicated that it will hear the application at **9.00 am on Thursday, 27 August 2009**.
- 4 Our clients intend to rely on the affidavits previously filed in this proceeding, and will seek leave to rely on an affidavit of Mr Korda sworn on 13 August 2009 and filed in proceeding VID 595 of 2009, excluding the exhibits to the latter affidavit. All of this material is available on the KordaMentha and ABL websites.
- 5 Our clients will file a short affidavit detailing the recent history of this matter, including this correspondence.

Would you please let us know as a matter of urgency whether you or your clients will consent to the grant of a further extension to 30 September 2009. We intend to communicate your/your client's positions to the Court prior to the hearing, if possible.

Yours sincerely

Arnold Bloch Leibler



Lucy Kirwan
Senior Associate

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VICTORIA DISTRICT REGISTRY
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AND

IN THE MATTER OF TIMBERCORP LIMITED (IN LIQUIDATION)
ACN: 055 185 067

TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)
ACN 092 311 469
and OTHERS

Plaintiffs


WA CHIP & PULP CO. PTY LTD
ACN 008 720 518
and OTHERS

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "**MAK-35**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 26 August 2009.

Before me: _____


LUCY HANNAH KIRWAN
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

J

AMunroe

Level 5, 63 Pirie Street
Adelaide, South Australia
Australia, 5000

Telephone 61 8 8228 1111
Facsimile 61 8 8228 1100
lawyer@cowellclarke.com.au
www.cowellclarke.com.au

Your Ref:
Our Ref: JCC:KMR:90786

FAXED

31 July 2009

RECEIVED

04 AUG 2009

1111

1111



CowellClarke

Commercial Lawyers

Mr Mark Korda
KordaMentha
Level 24
333 Collins Street
MELBOURNE VIC 3000

BY FACSIMILE : (03) 8623 3399

Dear Mr Korda

LEASES TO TIMBERCORP LTD (IN LIQUIDATION) – STROTHER AND REILLY

I refer to my letter of 22 June 2009 (copy enclosed).

In your letter of 15 June 2009 to which my letter of 22 June 2009 responded was provided by you in your capacity as Administrators.

The letter made no reference to the views that you may have held at the time and certainly subsequently held that the Company was hopelessly insolvent and should be wound up.

My client agrees that if the Company is hopelessly insolvent it should have been wound up. My client does not criticise you for making that recommendation to creditors.

Now that the Company is in liquidation, my clients, Strother and Reilly provide you with a Notice pursuant to 568(8) of the *Corporations Act* that you decide whether you will disclaim the Company's interest in my client's Leases. Notices to that effect are enclosed. If you disclaim the Lease, my clients will treat the disclaimer as a termination and will exercise their rights in accordance with the terms of the Lease.

Yours faithfully
COWELL CLARKE

Per:

JON CLARKE

Partner

JClarke@cowellclarke.com.au

Encl

Your Ref:
Our Ref: JCC:KMR:90786

CONFIRMATION
OF FAX

Level 5, 63 Pirie Street
Adelaide, South Australia
Australia, 5000
Telephone 61 8 8228 1111
Facsimile 61 8 8228 1100
lawyer@cowellclarke.com.au
www.cowellclarke.com.au

22 June 2009

Mr Mark Korda
KordaMentha
Level 24
333 Collins Street
MELBOURNE VIC 3000



Dear Mr Korda

LEASES TO TIMBERCORP LTD – STROTHER AND REILLY

I refer to my letter of 7 May 2009 when I advised that I acted for Julie Strother and Leigh Reilly. I attached a copy of my letter. I have not had a response to that letter.

In the meantime, I have received a copy of the letter that you have sent to my clients (and other landowners) dated 15 June 2009.

My clients agree to the stand still arrangements and will not make any claim against the Administrators personally for any outstanding rent for the September quarter or beyond. Having said this, my clients do reserve their position to make demand against the Company under the terms of the lease for outstanding rent and reserve their position to terminate the lease any time after 1 October 2009.

My clients' signed Agreements are attached (Strother and Reilly).

Should you have any queries, please do not hesitate to contact me.

Yours faithfully
COWELL CLARKE

Per


JON CLARKE

Partner

JClarke@cowellclarke.com.au

Form 527

(paragraph 568 (8) (a))

Australian Company Number: 055 185 067

Corporations Act 2001

**APPLICATION REQUIRING LIQUIDATOR TO DECIDE WHETHER TO
DISCLAIM PROPERTY**

Timbercorp Eucalypts Limited (In Liquidation) ("Timbercorp")

To Mark Korda AND Leanne Chesser, the liquidators of Timbercorp.

Under paragraph 568 (8) (a) of the Corporations Act, application is made to you by Julie Jay Strother of 21 Julian Street, West Penola, landowner ("the applicant") requiring you to decide whether you will disclaim the property being as interest as lessee in a lease described in the Schedule to this notice or not.

The Schedule

The applicant has an interest as the lessor and Timbercorp as the Lessee of land contained in Certificate of Title Register Book Volume 5381 Folio 362 for a term expiring on 31 December 2011 together with rights of renewal pursuant to the terms of the lease.

Dated 31 July 2007

.....
Jon Clarke
Solicitor and Agent
For the Applicant

Form 527

(paragraph 568 (8) (a))

Australian Company Number: 055 185 067

Corporations Act 2001

**APPLICATION REQUIRING LIQUIDATOR TO DECIDE WHETHER TO
DISCLAIM PROPERTY**

Timbercorp Eucalypts Limited (In Liquidation) ("Timbercorp")

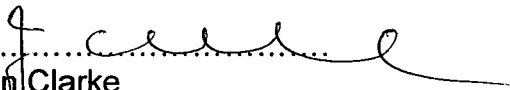
To Mark Korda and Leanne Chesser, the liquidators of Timbercorp.

Under paragraph 568 (8) (a) of the Corporations Act, application is made to you by Leigh Domenic Reilly of 1 Kilsyth Ave, Toorak, Victoria 3142 (formerly of "Ayanar" Diagonal Road, Penola), landowner ("the applicant") requiring you to decide whether you will disclaim the property being as interest as Lessee in a lease described in the Schedule to this notice or not.

The Schedule

The applicant has an interest as the lessor and Timbercorp as the Lessee of land contained in Certificate of Title Register Book Volume 5381 Folio 360 for a term expiring on 31 December 2011 together with rights of renewal pursuant to the terms of the lease.

Dated31 July 2004..

.....
Jon Clarke
Solicitor and Agent
For the Applicant

**APPLICATION UNDER SECTION 568(A) ("Application") OF
THE CORPORATIONS ACT 2001 ("COMMONWEALTH")**

TO: Liquidator(s) of Timbercorp Securities Limited (ACN 092 311 469)
(in liquidation)

OF: c/- Level 8
461 Burke Street
MELBOURNE VIC 3000

AND OF: c/- Korda Mentha
Level 24, 333 Collins Street
MELBOURNE VIC 3001

(By Facsimile: 03 8623 3399)

LEASE: Lease G574655 and Extension of Lease K533836

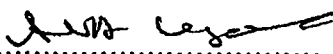
PREMISES: Part of Plantagenet Location 2764 and part of Plantagenet Location 2791
as shown on the plans attached to Lease G574655

LESSOR: Edward Grey Egerton-Warburton and Elizabeth Rose Egerton-
Warburton both of St Warburgh's, Mt Barker

LESSEE: Timbercorp Securities Limited (ACN 092 311 469) (in liquidation)

1. The Lessor hereby applies under Section 568(a) of the Corporations Act 2001 (Commonwealth) ("Act") to the liquidators of the Lessee ("Liquidators") for the Liquidators to decide whether or not he or they will disclaim the property the subject of the Lease referred to above.
2. If the Liquidators, for the period of 28 days after receipt of this Application, or for such extended period as may be allowed by the Court, decline or neglected to disclaim the property then the Liquidators will under that section be taken to have adopted the Lease.
3. The Lessor hereby gives to the Liquidators notice that the Lessor intends to rely on the provisions of section 568(A) of the Act.

Dated the *3rd* day of August 2009



.....
AVA Legal
Level 1, 1315 Hay Street
West Perth WA 6005
Ref: AVA:09047
Tel: 08 9481 3223
Fax: 08 9481 4992
Ref: AVA:NP:EGE:09047
Solicitors and Agents for the Lessor

X

RECEIVED

NEILL OGGE

LAWYERS

ABN 53 478 830 651

Our ref:
Your Ref:
Telephone Enquiries: Neill Ogge

1st Floor
537 Malvern Road
Hawksburn Vic 3142
Australia
P O Box 1050, Hawksburn Vic 3142
Telephone: (03) 9823 1412
Facsimile: (03) 9824 0137
Email: neill.ogge@bigpond.com

3 August 2009

Marka Korda and Leanne Chesser
Liquidators
Timbercorp Eucalypts Limited (In Liquidation)
Korda Mentha
GPO Box 2985
MELBOURNE VIC 3000

Former name
of Tim Ltd.

RECEIVED
05 AUG 2009

Dear Sir,

RE: MINJAH PASTORAL COMPANY PTY LTD (formerly Mandeville Land & Mercantile Pty Ltd) to TIMBERCORP EUCALYPTS LTD (In Liquidation)
PTY: AFFLECK 4, 5 and 6 TREEFARMS

We act for Minjah Pastoral Company Pty Ltd.

Our client is a person interested in the above property within the meaning of Section 568 (8) (a) of the Corporations Act 2001 (Cth). As such our client requires you to decide whether you will disclaim the above property within the meaning of Section 568 (8).

We look forward to hearing from you within 28 days of receipt of this letter.

Kindly acknowledge receipt.

Yours faithfully,

NEILL OGGE LAWYERS

per

Neill A. Ogge LL.B

Senanie Kurukularatne LL.B
Registered Migration Agent

Alfred R. Fabrizio B.Sc., LL.B, GDLP, CPA

Areas of Practice
Business and Commercial
Migration Law
Family Law
Intellectual Property
Litigation
Debt Recovery
Dispute Resolution
Conveyancing
Mortgages and Leases
Wills and Estates
Estate Planning
Court Appearances

X

Form 527

(paragraph 568 (8) (a))

Australian Company Number: 082 311 468

Corporations Act 2001

**APPLICATION REQUIRING LIQUIDATOR TO DECIDE WHETHER TO
DISCLAIM PROPERTY**

TIMBERCORP SECURITIES LTD (ACN 082 311 468) (In Liquidation)

To Mark Anthony Korda and Leanne Kylie Chesser of Korda Mentha, Level 24, 333 Collins Street, Melbourne, Victoria, 3000 (fax 03 9670 4271) the liquidators of the company.

Under paragraph 568(8)(a), application is made to you by **ITC LIMITED** (ACN 069 762 634) of 21-31 Goodwood Street, Richmond, Victoria requiring you to decide whether you will disclaim the property described in the Schedule to this notice or not.

The applicant has the following interest in the property: the applicant is the Lessor of the property.

SCHEDULE

The property is the Sublease and the Leased Land as more particularly described below, namely:

The Leased Land known as Walker Treefarm, Redmond, Western Australia (also known as Walker 468), which Leased Land is the subject of sublease G777720 registered at Landgate Western Australia, which sublease was transferred to the company by transfer K785800 registered at Landgate Western Australia (which transfer also varied the terms of such sublease), and which sublease was also extended by extension of sublease K785801 registered at Landgate Western Australia.

Dated the 6th day of August 2009.

Cullen Babington Hughes Pty Ltd
(per M A Hughes, Director)

Duly Authorised Solicitors for and on behalf of the Lessor.

PO Box 935, Nedlands, Western Australia, 6909

Fax: 08 9389 1511

Email: mhughes@cbhlegal.com.au

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
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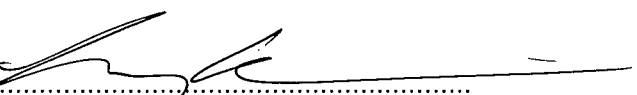
WA CHIP & PULP CO. PTY LTD
ACN 008 720 518
and OTHERS

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "**MAK-36**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 26 August 2009.

Before me:



LUCY HANNAH KIRWAN
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000

An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Arnold Bloch Leibler

Lawyers and Advisers

25 August 2009

By Fax
08 9481 3223

AVA Legal
Level 1, 1315 Hay Street
West Perth WA 6005

Your Ref
Our Ref LHK LZ
File No. 011499489

Contact
Lucy Kirwan
Direct 61 3 9229 9655
Facsimile 61 3 9916 9515
lkirwan@abl.com.au

Partner
Leon Zwier
Direct 61 3 9229 9646
lzwier@abl.com.au

Level 21
333 Collins Street
Melbourne
Victoria 3000
Australia
DX38455 Melbourne
www.abl.com.au
Telephone
61 3 9229 9999
Facsimile
61 3 9229 9900



Dear Sir

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) and OTHERS v WA
CHIP & PULP CO. PTY LTD and OTHERS
FEDERAL COURT OF AUSTRALIA PROCEEDING VID 541/2009**

We act for the liquidators of Timbercorp Securities Limited (in liquidation) (**the Liquidators**).

On 3 August 2009 our clients received a copy of a Notice under s 568(8) of the *Corporations Act 2001* (Cth).

You may be aware that our clients have previously received similar applications from a number of other lessors (**the 568(8) applications**). The 568(8) applications are the subject of Federal Court of Australia Proceeding VID 541 of 2009. The Court documents filed in the proceeding are available on the websites of KordaMentha (www.kordamentha.com) and Arnold Bloch Leibler (www.abl.com.au).

On 3 August 2009, the Court made an order extending time under the 568(8) applications to 1 September 2009 (**the Order**). A copy of the Order is enclosed.

Our clients will apply to the Court this week for an extension of the time granted under the Order to further extend the time to 30 September 2009. At the same time, our clients will seek an extension of the time provided under your client's Notice to 30 September 2009. A number of other lessors have also served applications under s 568(8) since the Order of 3 August 2009 was made.

Our clients seek:

- 1 your client's consent to be added as the defendant to the proceeding;
- 2 your client's consent to the Court making an order extending time to 30 September 2009.

The Liquidators will file a notice of motion seeking the orders described in this letter. The Court has indicated that it will hear the application at **9.00 am on Thursday, 27 August 2009**.

**MELBOURNE
SYDNEY**

Partners
Mark M Leibler AC
Henry D Lanzer
Joseph Borensztajn
Leon Zwier
Philip Chester
Ross A Paterson
Stephen L Sharp
Kenneth A Gray
Kevin F Frawley
Michael N Dodge
Jane C Sheridan
Steven Klein
Leonie R Thompson
Zaven Mardrossian
Jonathan M Wenig
Paul Sokolowski
Paul Rubenstein
Peter M Seidel
Alex King
John Mitchell
Nicole Gordon
Ben Mahoney
Sam Dollard
Lily Tell
Henry Skene
Andrew Silberberg
Kishanie Wijewickrama
Lisa Ashcroft
Jonathan Miller

**Senior Litigation
Counsel**
Robert J Heathcote

Special Counsel
Danuta Czuchwicki
Simonne Einfeld

Senior Associates
Kirsten Frew
Jillian Saint
Annabel Bainbridge
Katie Morrison
John Mengolian
Melanie Alderton
Sue Kee
Leigh De Jong
Lachlan Blake
Jorja Cleeland
Caroline Goulden
Matthew Lees
Genevieve Sexton
Lucy Kirwan
Nicholas Clifton
Lior Harel
Jeremy Leibler
Amelia Kelly
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Consultants
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Our clients intend to rely on the affidavits previously filed in this proceeding, and will seek leave to rely on an affidavit of Mr Korda sworn on 13 August 2009 and filed in proceeding VID 595 of 2009, excluding the exhibits to the latter affidavit. All of this material is available on the KordaMentha and ABL websites.

Our clients will file a short affidavit detailing the recent history of this matter, including this correspondence.

Would you please let us know as a matter of urgency whether you or your clients will consent to the grant of an extension to 30 September 2009. We intend to communicate your/your client's positions to the Court prior to the hearing, if possible.

Yours faithfully

Arnold Bloch Leibler

A handwritten signature in black ink, appearing to read 'Lucy Kirwan', with a long horizontal flourish extending to the right.

Lucy Kirwan
Senior Associate

Enc

Arnold Bloch Leibler

Lawyers and Advisers

25 August 2009

By Fax
9824 0137

Neill Ogge
1st Floor
537 Malvern Road
Hawksburn VIC 3142

Your Ref
Our Ref LHK LZ
File No. 011499489

Contact
Lucy Kirwan
Direct 61 3 9229 9655
Facsimile 61 3 9916 9515
lkirwan@abl.com.au

Partner
Leon Zwier
Direct 61 3 9229 9646
lzwier@abl.com.au

Level 21
333 Collins Street
Melbourne
Victoria 3000
Australia

DX38455 Melbourne
www.abl.com.au

Telephone
61 3 9229 9999
Facsimile
61 3 9229 9900



Dear Sir

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) and OTHERS v WA
CHIP & PULP CO. PTY LTD and OTHERS
FEDERAL COURT OF AUSTRALIA PROCEEDING VID 541/2009**

We act for the liquidators of Timbercorp Ltd (**the Liquidators**).

On 5 August 2009 our clients received a copy of a Notice under s 568(8) of the *Corporations Act 2001* (Cth).

You may be aware that our clients have previously received similar applications from a number of other lessors (**the 568(8) applications**). The 568(8) applications are the subject of Federal Court of Australia Proceeding VID 541 of 2009. The Court documents filed in the proceeding are available on the websites of KordaMentha (www.kordamentha.com) and Arnold Bloch Leibler (www.abl.com.au).

On 3 August 2009, the Court made an order extending time under the 568(8) applications to 1 September 2009 (**the Order**). A copy of the Order is enclosed.

Our clients will apply to the Court this week for an extension of the time granted under the Order to further extend the time to 30 September 2009. At the same time, our clients will seek an extension of the time provided under your client's Notice to 30 September 2009. A number of other lessors have also served applications under s 568(8) since the Order of 3 August 2009 was made.

Our clients seek:

- 1 your client's consent to be added as the defendant to the proceeding;
- 2 your client's consent to the Court making an order extending time to 30 September 2009.

The Liquidators will file a notice of motion seeking the orders described in this letter. The Court has indicated that it will hear the application at **9.00 am on Thursday, 27 August 2009**.

**MELBOURNE
SYDNEY**

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Lucy Kirwan
Senior Associate

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Arnold Bloch Leibler

Lawyers and Advisers

25 August 2009

By Fax
08 9389 1511

Cullen Babington Hughes Pty Ltd
PO Box 935
Nedlands WA 6909

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Direct 61 3 9229 9655
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CHIP & PULP CO. PTY LTD and OTHERS
FEDERAL COURT OF AUSTRALIA PROCEEDING VID 541/2009**

We act for the liquidators of Timbercorp Securities Ltd (**the Liquidators**).

On 6 August 2009 our clients received a copy of a Notice under s 568(8) of the *Corporations Act 2001* (Cth).

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CHIP & PULP CO. PTY LTD and OTHERS
FEDERAL COURT OF AUSTRALIA PROCEEDING VID 541/2009**

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On 31 July 2009 our clients received a copy of two Notices under s 568(8) of the *Corporations Act 2001* (Cth).

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