

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT**

LIST E

No 7114 of 2009

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

**TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION) ACN 092 311 469
IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
2002 TIMBERCORP OLIVE PROJECT (ARSN 098 233 455)
First Plaintiff**

**MARK ANTHONY KORDA and LEANNE CHESSER
Second and Third Plaintiffs**

**SUPPLEMENTARY AFFIDAVIT OF MARK ANTHONY KORDA
2002 TIMBERCORP OLIVE PROJECT (ARSN 098 233 455)**

Date of document: 9 July 2009
Filed on behalf of: the Plaintiffs
Prepared by:
Arnold Bloch Leibler
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011499489
(Leon Zwier)

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) with Leanne Kylie Chesser. 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.

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- 2 On 23 April 2009, we were appointed as voluntary administrators of TSL pursuant to section 436A of the *Corporations Act 2001 (Cth)* (**Act**). Other partners of KordaMentha Pty Ltd (ACN 100 169 391) (**KordaMentha**) and I were appointed as voluntary administrators of Timbercorp Limited (ACN 055 185 067) (**Timbercorp**) and 39 of its wholly owned subsidiaries (**Timbercorp Group Companies**).
- 3 On 29 June 2009 the voluntary administrators convened a meeting of the creditors of TSL and a separate meeting of the creditors of Timbercorp Group Companies. The creditors resolved to wind up TSL and the Timbercorp Group Companies respectively. I am therefore now a liquidator of TSL.
- 4 I make this affidavit to supplement my previous affidavit regarding the 2002 Timbercorp Olive Project (ARSN 098 233 455) (**2002 Olive Scheme Affidavit**). I also make this affidavit to reply to the affidavit of Paul Miller sworn 3 July 2009 and filed in this proceeding (**Miller Affidavit**).
- 5 In my 2002 Olive Scheme Affidavit I defined terms for certain entities and agreements and I adopt the same defined terms in this affidavit.
- 6 **Month by Month Cashflow Analysis**
- 6.1 In my 2002 Olive Scheme Affidavit I did not provide detailed analysis of the projected month-by-month cashflow of the 2002 Olive Scheme for the 2010 Harvest Result. My staff have now collated this information using Timbercorp management data. My staff have prepared a spreadsheet detailing the projected cashflow, including receipts, costs and distributions, for the 2010 Harvest Result (**Cashflow Analysis**). Now produced and shown to me marked **MAK-12** is the Cashflow Analysis. The first Cashflow Analysis is for the 2002 Olive Early project and the second for the 2002 Olive Post June project (**Projects**).
- 6.2 Some obligations to provide scheme services, such as capital expenditure for water, lie contractually with a Timbercorp Group Company rather than TSL. Those Timbercorp Group Companies are unable to meet their obligations due to their insolvency. It is therefore assumed for the purpose of the analysis that TSL will step in to ensure the services are provided to facilitate the continuation of the scheme. It is necessary to look through to the obligations that the Timbercorp Group has with various external service providers. If these obligations are not met by TSL then the scheme cannot continue.





- 6.3 The Cashflow Analysis shows the timing of scheme receipts and expenses. It shows that the expenses the 2002 Olive Scheme incurs are not matched to when those costs can be recovered from the Growers. To demonstrate this, the Cashflow Analysis shows when receipt of proceeds from crop sales and Grower receipts are projected to occur. The projection is based on Timbercorp management's estimate of when crop sale proceeds are received and historical data of the timing and percentage of Grower receipts across the months of the 2010 Harvest Result. (This is explained in more detail at paragraph 7.7 below). These estimates are compared to estimates of when the operating costs of the scheme need to be met.

7 Monthly Scheme Receipts

Crop Sale Proceeds and Deductions on Receipt

- 7.1 The first line of the Cashflow Analysis shows the estimated gross sale proceeds for the 2010 Harvest Result. This assumes that all of the 2010 Harvest Result proceeds are received in financial years after the 2009-2010 financial year (**FY10**). This is because the harvest does not end until June each year and historically proceeds are received in the financial years following the harvest.
- 7.2 As in the Solvency Spreadsheet, the Joint Venture partner's 10% share is deducted before arriving at the "Gross Grower Proceeds".
- 7.3 The next three lines are the deductions from the Gross Grower Proceeds for what Timbercorp management refer to as the "Sales & Related Costs", "Processing Fee" and "Storage Fee". These are deducted from the "Gross Grower Proceeds" at the time TSL receives those proceeds pursuant to clause 10.2 of the supplementary Grower Agreement dated 1 October 2008 (**Supplementary Grower Agreement**). Now produced and shown to me marked **MAK-13** is a copy of the Supplementary Grower Agreement dated. (Clause 10 of the Grower Agreement (without the supplementary clause) is exhibited at MAK-5 of my 2002 Olive Scheme Affidavit). These deductions are made to arrive at the "Grower's Net Proceeds". They are also included in the line "Deductions from Crop Proceeds (as proceeds received)" in the section of the Cashflow Analysis "Project Receipts and Distributions".
- 7.4 The Cashflow Analysis does not incorporate any of the anticipated distributions to Growers from the 2008 and 2009 crops. I believe based on legal advice and the observations made by Finkelstein J in the Federal Court of Australia No. VID 332 of 2009 and No. VID 335 of 2009 on 7 May 2009 (transcript exhibited as MAK-12 to my

2001 Almond Scheme Affidavit) that these proceeds are an entitlement of the Growers unless stated in the Key Scheme Documents and not otherwise available to meet working capital requirements of the Scheme. Other than the fees that TSL is entitled to deduct pursuant to the Key Scheme Documents before distribution of the balance to the Growers, I believe there are no provisions to retain these funds to meet working capital requirements.

- 7.5 The Cashflow Analysis does not include prior years' crop sale proceeds of Growers who have defaulted on their obligation to pay. The Constitution (exhibited as MAK-1 to my 2002 Olive Scheme Affidavit) states that TSL is entitled to use the defaulting Grower's prior year proceeds to satisfy the Grower's obligations, as set out in clause 13.7 of the Constitution. Defaulting Grower's crop sale proceeds are receipted to reimburse TSL (and form an asset of TSL available for all of its creditors). The surplus (if any) is paid to the Grower. The defaulting Grower's crop proceeds are not therefore part of the Cashflow Analysis as they are not a 2002 Olive Scheme asset.

Grower Scheme Costs

- 7.6 The Cashflow Analysis shows another line of estimated scheme receipts from the Growers paying invoices for scheme costs. This is shown on the line "Grower Scheme Costs" and includes the "Admin Fee", "Farm Operating Costs", "Technical Fee", "BB Management Fee", "Licence Fee" and "AOA Levy". These costs are explained in paragraphs 6 and 9 of my 2002 Olive Scheme Affidavit. At paragraph 4.1(d) of exhibit PM-1 to the Miller Affidavit, Mr Miller questions how the licence fee is calculated. This fee is explained at paragraph 9.7(f) of my 2002 Olive Scheme Affidavit but I give further explanation at paragraph 8.3 below. The Grower Scheme Costs are shown as received from October 2009 to March 2010. This is because in accordance with the Grower Agreement, Growers can only be invoiced once each year. For the 2002 Olive Scheme Growers are required to pay by 31 October each year (Supplemental Grower Agreement, clause 10.2(b), exhibited as MAK-13).
- 7.7 The analysis assumes that 33.9% of Growers will pay their invoices by 31 October 2009, 37.0% in November, 10.6% in December, 3.0% in January, 5.1% in February and 2.1% in March or April and that 8.3% will not pay their invoices at all. I am informed by Mark Pryn, General Manager, Accounting and Treasury of Timbercorp and believe that this reflects the actual timing of receipts by value issued to Growers in October 2008 for all TSL schemes (with the exception of the 1998 and 1999 Eucalypt Schemes which are invoiced in May of each year and the Table Grape

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Schemes which were not invoiced at all in October 2008). The Cashflow Analysis assumes that if invoices are raised in October 2009 that the same pattern of receipts would be observed.

- 7.8 The actual pattern is likely to be different given the liquidation of TSL and the Timbercorp Group Companies. As I discuss in paragraph 10 of my 2002 Olive Scheme Affidavit, we consider that some Growers would default on payment of the scheme costs if they were invoiced and that the proportion of defaulting Growers is likely to increase (compared to the number of defaults on invoices raised in October 2008) given the liquidation of TSL and the Timbercorp Group Companies. I also note that for any Growers who do default on their obligations, TSL has to bear the burden of meeting their costs until such time as the crop sale proceeds are receipted (from Post June 2010). In the interim, TSL does not have the working capital to fund these Growers' obligations.

Deductions from Crop Sale Proceeds prior to Distribution

- 7.9 The other source of estimated scheme receipts is the deductions that TSL is entitled to make before distributing the "Total Grower Proceeds". These deductions are shown in the line "Deductions from Crop Proceeds (prior to Distribution)". For the 2002 Olive Scheme, TSL is entitled to deduct, immediately before distributing the proceeds to the Growers, what Timbercorp management refer to as the "TIM Management Fee" (Supplemental Grower Agreement, clause 10.2(c)(i), exhibited as MAK-13.
- 7.10 The Cashflow Analysis assumes that only Growers who pay their invoices will receive a distribution of crop sale proceeds. We have assumed (as discussed in paragraph 7.7 above) that 8.3% of Growers will default on their obligation to pay. Accordingly the Cashflow Analysis assumes that only 91.7% of "Total Grower Proceeds" will be distributed to Growers.

8 Monthly Scheme Costs & Distributions

- 8.1 Costs to an equivalent amount to the "TIM Management Fee" and the "Admin Fee" charged to Growers could have been shown as incurred across the 2010 Harvest Year as, arguably, the Timbercorp Group are incurring these costs over the course of the year in the provision of the necessary corporate services (for example for finance, Grower management, information technology, communications, horticultural and legal services), not just when they are entitled to invoice Growers. For simplicity we have

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chosen not to allocate a share of these fees across the 2010 Harvest Year and have instead assumed that the cost is incurred when crop proceeds are received. We note that if this allocation method was applied to all TSL schemes the Timbercorp Group Companies would be required to fund any working capital requirements arising from the need to provide corporate services prior to the "Admin Fee" being recovered from Grower invoices or the "TIM Management Fee" being recovered from crop proceeds prior to distribution.

- 8.2 Operating Costs - BBMB invoices OML (a Timbercorp Group Company) monthly in advance for operating costs. Timbercorp holds 19.4% of the shares in BBMB's parent company Boundary Bend Limited (ACN 115 131 667) but BBMB is not one of the Timbercorp Group Companies. These costs must be paid as they fall due to continue the scheme. OML is in liquidation and is unable to meet this cost. As such, the Cashflow Analysis shows the obligation falling to TSL. This gives rise to a working capital requirement to the extent the costs are incurred before they are recoverable from Growers. Phasing of costs across the year are based on Timbercorp management's estimates of when costs are incurred.
- 8.3 Occupancy Cost - The Land for the 2002 Olive Scheme is the subject of a chain of occupancy agreements pursuant to which licence fees or rental is paid. This chain is described in paragraph 5.2(c) and (d) of my 2002 Olive Scheme Affidavit. the liquidator's solicitors have also prepared a summary of the chain of occupancy agreements and the amount payable under each (**Occupancy Summary**). Now produced and shown to me marked **MAK-14** is the Occupancy Summary. Under the Head Lease, TSL is obliged to pay rental to the Landowner of \$1 if and when demanded by the Landowner. The Landowner is a Timbercorp Group Company and this payment would be shown in the line "Occupancy Cost - Internal". The \$1 payment has been rounded down in the Cashflow Analysis and therefore is not included. There are no other head leases for the 2002 Olive Scheme and therefore there is nothing included in the line "Occupancy Cost - External". The Cashflow Analysis does not represent the fact that the Land is encumbered by a mortgage (as discussed in paragraph 15 of my 2002 Olive Scheme Affidavit). As such the Cashflow Analysis understates the true cost of operating the 2002 Olive Scheme by the amount required to maintain the Timbercorp Group Companies' interest in the Land.
- 8.4 Water and non-Water Capital Expenditure - Toby Smith, Operations Manager (Horticulture) of Timbercorp has informed me that permanent water and irrigation

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infrastructure is required to be readied for the high water use periods of spring and summer. This advice is the basis of the phasing of capital expenditure requirements for the 2002 Olive Scheme. As such the analysis spreads capital expenditure equally over August, September and October in preparation for the high water use periods. The analysis assumes that TSL will have to step in for the Landowner as it will be unable to meet this commitment.

- 8.5 Temporary water - Timbercorp management have estimated when temporary water for the 2010 crop will be required. If temporary water is not purchased the olive trees cannot be fully irrigated and there will be no, or reduced, crop yield and the olive trees will be damaged or die. The Landowner is in liquidation and unable to meet this cost. As such, the cashflow shows the obligation falling to TSL. This gives rise to a working capital requirement that is unfunded.
- 8.6 I note that in my 2002 Olive Scheme Affidavit, at paragraph 9.7 I state that Temporary Water is an operating expense that the Growers are responsible for paying. That is not correct. In the 2002 Olive Scheme the Landowner is responsible for payment of Temporary Water. It is an expense that TSL must meet and is unfunded as it cannot be recovered from the Growers.
- 8.7 George Kalil, a Grower in the 2000 Olive "scheme" (a private administered by the Timbercorp Group Companies but not required to be registered under the Corporations Act) and a member of a committee of creditors of TSL, has brought to my attention that the Growers of the 2002 Olive Scheme may have been invoiced in prior years for the cost of temporary water when the Landowner (who is also the joint venture partner) should have met this cost. I am still investigating this matter. If the Growers have been incorrectly invoiced for this expense then they may have an unsecured claim against the Landowner. However, this does not affect the Solvency or Cashflow Analysis.

Net Operating Cashflow

- 8.8 The analysis of the estimated 2010 Harvest Result on a month-by-month basis identifies a shortfall from July to September 2009. It shows that during this period there will be an estimated "Cumulative Scheme Cashflow - Before CAPEX" of \$520,000 for the 2002 Olive Early and \$199,000 for the 2002 Olive Post June (**Shortfall**). The Shortfall cannot be funded by the Growers as there is no entitlement to require payment before 31 October 2009 and TSL does not have the capacity to meet the Shortfall. The 2002 Olive Scheme is therefore insolvent.

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- 8.9 Furthermore, to the extent that additional capital expenditure is required (that cannot be recovered from Growers under the Key Scheme Documents) TSL's "Cumulative Net Cashflow" deficit to the end of September 2009 is estimated at \$869,000 (\$628,000 for the 2002 Olive Early and \$241,000 for the 2002 Olive Post June) (**Shortfall with CAPEX**).
- 8.10 In summary, the analysis suggests that the 2002 Olive Scheme is insolvent because:
- a) There is an estimated "Cumulative Scheme Cashflow - Before CAPEX" deficit of \$719,000 to the end of September 2009; and
 - b) TSL does not have the capacity to fund the capital expenditure and temporary water requirement of \$151,000 identified as necessary to the end of September 2009.
- 8.11 In other words the 2002 Olive Scheme cannot meet these expenses as they fall due for payment.

Additional Analysis

- 8.12 The analysis only includes the Grower's share of Grower Proceeds and Operating Expenditure as it is assessing the solvency of the Scheme and the Joint Venture Partner is not a participant in the Scheme. That is, the Joint Venture Partner's share of crop proceeds and costs is not included in the analysis. The Joint Venture Partner is a Timbercorp Group Company and is insolvent. If, as is projected, the costs of the scheme exceed the revenues, TSL will be exposed to an additional liability for the 10 percent of the scheme costs that the Joint Venture Partner, but for its insolvency, would have paid. The amount of this liability to TSL is detailed in the last line of the analysis "JV Partner: Unfunded share of operating deficit". The estimated additional exposure for TSL is \$80,000 for the 2010 Harvest Result (\$58,000 for the 2002 Olive Early and \$22,000 for the 2002 Olive Post June) to the end of September 2009.

9 Miller Affidavit

- 9.1 Exhibited as PM-1 is a report prepared by Mr Miller reviewing the assumptions and variables in the Solvency Analysis and Viability Analysis in my 2002 Olive Scheme Affidavit (**Report**).
- 9.2 Mr Miller questions three variables in the Solvency Analysis and Viability Analysis:

- (a) He observes at page 2 of the Report that he has assumed an extraction rate of 18% oil volume per tonne of olives. Toby Smith, Operations Manager (Horticulture) of Timbercorp has informed me that the estimated extraction rate of oil volume per tonne of olives is 18.5%;
- (b) He questions why “despite there being up to 7 years difference in the time of planting of the trees, that there are only up to 2 years difference in the assumed time to maturity of the orchards” (page 3). Toby Smith, Operations Manager (Horticulture) of Timbercorp has informed me that the estimate for the orchard maturity for the 2002 Olive Scheme is based on a combination of historical performance and input from Timbercorp’s site managers on future performance. There are a range of reasons that the orchards are estimated to mature at similar times. These include differences in orchard establishment techniques, storm damage to earlier orchards setting production back, change in pollination design on earlier orchards and biannual bearing;
- (c) He questions the price of \$350/ML assumed in the Solvency Analysis and states that “when [permanent water] allocations increase the price reduces markedly”. Toby Smith, Operations Manager (Horticulture) of Timbercorp has told me that the average price for water over the last 12 months was \$353/ML (ranging from \$270-\$580). We accept that the price per mega litre may decrease if permanent water allocations increase (decrease in demand from all purchasers will lower the price). However, TSL will not need to purchase as much water and therefore any decrease in the price per mega litre will have less impact on the overall solvency of the scheme.

9.3 The primary conclusion of the Report is that “operating costs are well above industry norms” (paragraph 4.2, page 6). I cannot offer an opinion on whether the operating costs are or are not above industry norms. They are the operating costs that are provided for in the Key Scheme Documents and other agreements between TSL, Timbercorp, the Timbercorp Group Companies and other parties for the provision of scheme services. TSL is insolvent and cannot provide the working capital to meet those costs. It is the inability to finance that working capital that, along with the reasons referred to in my 2002 Olive Scheme Affidavit, leads us to the conclusion that the 2002 Olive Scheme is insolvent. Any replacement RE would need the financial strength to be able to meet the immediate working capital requirements. No

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potential replacement RE that has approached us has confirmed it has the financial strength to meet those requirements.

9.4 Even if a new responsible entity was appointed on the basis that it would:

- (a) seek an amendment to the Constitution to accelerate and increase Grower's payment obligations; and
- (b) seek contracts with other scheme service providers or renegotiate existing contracts —


it will take time for the necessary amendments to be made and payments to be received. Working capital will be required in the interim or the crop will waste and therefore any replacement responsible entity will need immediate access to cash.

9.5 While it is ultimately a decision for the Growers as to whether or not they would prefer to have a replacement RE, we are obliged to act in the Growers' best interests. We are concerned to ensure that the Growers understand the risk of a new responsible entity being appointed that renders invoices to Growers but then, because it lacks the requisite financial strength, is unable to meet the working capital requirements of the scheme.

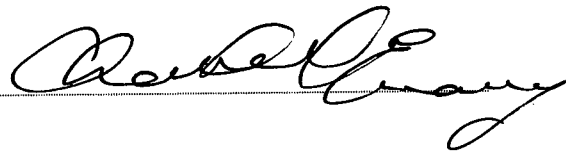
SWORN by the abovenamed deponent at)

Melbourne in the State of Victoria)

this 9 day of July 2009)



Before me:



CHANTAL ENCAVEY
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 SUPREME COURT OF VICTORIA AT MELBOURNE
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IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
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First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 7 July 2009
Filed on behalf of: the Plaintiffs
Arnold Bloch Leibler
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011499489
(Leon Zwier)

This is the exhibit marked "MAK-12" now produced and shown to MARK ANTHONY KORDA
at the time of swearing his affidavit on 7 July 2009.

Before me:



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

Exhibit "MAK-12"
Cashflow Analysis

2002 Olive Project

	Jul-09 (\$'000)	Aug-09 (\$'000)	Sep-09 (\$'000)	Oct-09 (\$'000)	Nov-09 (\$'000)	Dec-09 (\$'000)	Jan-10 (\$'000)	Feb-10 (\$'000)	Mar-10 (\$'000)	Apr-10 (\$'000)	May-10 (\$'000)	Jun-10 (\$'000)	Post Jun-10 (\$'000)	Total (\$'000)
Gross Sales													5,005	5,005
less: JV Partners Share													(500)	(500)
Gross Grower Proceeds	0	0	0	0	0	0	0	0	0	0	0	0	4,504	4,504
less: Sales & Related Costs													(191)	(191)
less: Processing Fee													(431)	(431)
less: Storage Fee													(25)	(25)
Growers Net Proceeds	0	0	0	0	0	0	0	0	0	0	0	0	3,857	3,857
Growers Net Proceeds														
TIM Mgmt Fee													(136)	(136)
Admin Fee													(164)	(164)
Farm Operating Costs	(212)	(120)	(106)	(198)	(223)	(199)	(159)	(178)	(161)	(250)	(440)	(174)	0	(2,420)
Technical Fee	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	0	(56)
BB Management Fee	(23)	(23)	(23)	(23)	(23)	(23)	(23)	(23)	(23)	(23)	(23)	(23)	0	(273)
Occupancy Costs - Internal	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Occupancy Costs - External	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AOA Levy							(6)						0	(6)
Total Operating Expenditure	(239)	(147)	(134)	(225)	(250)	(226)	(192)	(206)	(189)	(277)	(468)	(202)	(300)	(3,055)
Net Operating Cashflow	(239)	(147)	(134)	(225)	(250)	(226)	(192)	(206)	(189)	(277)	(468)	(202)	3,557	802
Cumulative Operating Cashflow - Before CAPEX	(239)	(386)	(520)	(745)	(995)	(1,221)	(1,414)	(1,620)	(1,808)	(2,086)	(2,553)	(2,755)	802	802
Project Receipts & Distributions - TSL														
Grower Scheme Costs	0	0	0	990	1,080	309	88	149	61	0	0	0	0	2,677
Distributions to Growers	0	0	0	0	0	0	0	0	0	0	0	0	(4,130)	(4,130)
Deductions from Crop Proceeds(as proceeds received)	0	0	0	0	0	0	0	0	0	0	0	0	647	647
Deductions from Crop Proceeds (prior to distribution)	0	0	0	0	0	0	0	0	0	0	0	0	136	136
Net Project Receipts & Distributions - TSL	0	0	0	990	1,080	309	88	149	61	0	0	0	(3,347)	(670)
Net Scheme Cashflow - Before CAPEX	(239)	(147)	(134)	765	830	83	(105)	(57)	(128)	(277)	(468)	(202)	209	132
Cumulative Scheme Cashflow - Before CAPEX	(239)	(386)	(520)	245	1,075	1,158	1,053	996	869	591	124	(78)	132	132
Water - Capital Expenditure	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Temp Water	0	(12)	(76)	(46)	(107)	(115)	(76)	(23)	(31)	0	0	0	0	(486)
Non-Water - Capital Expenditure	0	(10)	(10)	(10)	0	0	0	0	0	0	0	0	0	(30)
2010 Capital Expenditure	0	(23)	(86)	(56)	(107)	(115)	(76)	(23)	(31)	0	0	0	0	(516)
Net Op Cashflow (after Receipts and CAPEX)	(239)	(170)	(219)	709	723	(32)	(181)	(79)	(159)	(277)	(468)	(202)	209	(385)
Cumulative Net Cashflow	(239)	(409)	(628)	81	803	772	590	511	352	75	(392)	(594)	(385)	(385)
Additional Information:														
Alternative: Replace PWR water with Temp Water	0	0	0	0	0	0	0	0	0	0	0	0	0	0
JV Partner: Untunded share of operating deficit	(27)	(16)	(15)	(25)	(28)	(25)	(21)	(23)	(21)	(31)	(52)	(22)	395	89

2002PJ Olive Project

	Jul-09 (\$'000)	Aug-09 (\$'000)	Sep-09 (\$'000)	Oct-09 (\$'000)	Nov-09 (\$'000)	Dec-09 (\$'000)	Jan-10 (\$'000)	Feb-10 (\$'000)	Mar-10 (\$'000)	Apr-10 (\$'000)	May-10 (\$'000)	Jun-10 (\$'000)	Post Jun-10 (\$'000)	Total (\$'000)
Gross Sales														
less: JV Partners Share													1,919 (192)	1,919 (192)
Gross Grower Proceeds	0	0	0	0	0	0	0	0	0	0	0	0	1,727	1,727
less: Sales & Related Costs													(73)	(73)
less: Processing Fee													(165)	(165)
less: Storage Fee													(9)	(9)
Growers Net Proceeds	0	0	0	0	0	0	0	0	0	0	0	0	1,479	1,479
TIM Mgmt Fee													(52)	(52)
Admin Fee													(63)	(63)
Farm Operating Costs													0	0
Technical Fee	(81)	(46)	(41)	(76)	(85)	(76)	(61)	(68)	(62)	(96)	(169)	(67)	0	(928)
BB Management Fee	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	0	(21)
Occupancy Costs - Internal	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	0	(105)
Occupancy Costs - External	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AOA Levy	0	0	0	0	0	0	(2)	0	0	0	0	0	0	0
													0	(2)
Total Operating Expenditure	(92)	(56)	(51)	(86)	(96)	(87)	(74)	(79)	(72)	(106)	(179)	(77)	(115)	(1,171)
Net Operating Cashflow	(92)	(56)	(51)	(86)	(96)	(87)	(74)	(79)	(72)	(106)	(179)	(77)	1,364	307
Cumulative Operating Cashflow - Before CAPEX	(92)	(148)	(199)	(286)	(382)	(468)	(542)	(621)	(693)	(800)	(979)	(1,056)	307	307
Project Receipts & Distributions - TSL														
Grower Scheme Costs	0	0	0	379	414	119	34	57	24	0	0	0	0	1,026
Distributions to Growers	0	0	0	0	0	0	0	0	0	0	0	0	(1,584)	(1,584)
Deductions from Crop Proceeds(as proceeds received)	0	0	0	0	0	0	0	0	0	0	0	0	248	248
Deductions from Crop Proceeds (prior to distribution)	0	0	0	0	0	0	0	0	0	0	0	0	52	52
Net Project Receipts & Distributions - TSL	0	0	0	379	414	119	34	57	24	0	0	0	(1,283)	(257)
Net Scheme Cashflow - Before CAPEX	(92)	(56)	(51)	293	318	32	(40)	(22)	(49)	(106)	(179)	(77)	80	50
Cumulative Scheme Cashflow - Before CAPEX	(92)	(148)	(199)	94	412	444	404	382	333	227	48	(30)	50	50
Water - Capital Expenditure	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Temp Water	0	(5)	(29)	(17)	(41)	(44)	(29)	(9)	(12)	0	0	0	0	(186)
Non-Water - Capital Expenditure	0	(4)	(4)	(4)	0	0	0	0	0	0	0	0	0	(12)
2010 Capital Expenditure	0	(9)	(33)	(21)	(41)	(44)	(29)	(9)	(12)	0	0	0	0	(198)
Net Op Cashflow (after Receipts and CAPEX)	(92)	(65)	(84)	272	277	(12)	(69)	(30)	(61)	(106)	(179)	(77)	80	(148)
Cumulative Net Cashflow	(92)	(157)	(241)	31	308	296	226	196	135	29	(150)	(228)	(148)	(148)
Additional Information:														
Alternative: Replace PWR water with Temp Water	0	0	0	0	0	0	0	0	0	0	0	0	0	0
JV Partner: Unfunded share of operating deficit	(10)	(6)	(6)	(10)	(11)	(10)	(8)	(9)	(8)	(12)	(20)	(9)	152	34

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT

LIST E

No 7114 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION)

ACN 092 311 469

TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION) ACN 092 311 469
IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
2002 TIMBERCORP OLIVE PROJECT (ARSN 098 233 455)
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 7 July 2009
Filed on behalf of: the Plaintiffs
Arnold Bloch Leibler
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011499489
(Leon Zwier)

This is the exhibit marked "MAK-13" now produced and shown to MARK ANTHONY KORDA
at the time of swearing his affidavit on 9 July 2009.

Before me:



CHANTAL ENCAVEY
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000

An Australian Legal Practitioner within the
meaning of the Legal Practice Act 2007

EXHIBIT "MAK-13"
Grower obligations under
Grovelot Management Agreement

2002 004

**Grovelot Management
Agreement**

Timbercorp Securities Limited

Each Several Grower

NM TAYLOR
L A W Y E R S

Level 7
350 Collins Street
MELBOURNE VIC 3000

Telephone: 9600 3525
Facsimile: 9600 3527

9. NO LEASE OR LICENCE

This Agreement does not create or confer any leasehold or proprietary interest or licence in favour of the Responsible Entity concerning the Growers' Grovelots.

10. RESPONSIBLE ENTITY'S FEE

10.1 Annual Fee and Charges

The Responsible Entity will be paid the following management fees and charges in respect of the Grove Services and all other services to be provided under this agreement as follows:

- (a) in respect of services to be provided in the period commencing on the Commencement Date and ending on 30 June 2002 an amount of \$5,722.22 per Grovelot payable in advance on or before the Commencement Date; and
- (b) in respect of services to be provided in the period 1 July 2002 to 30 June 2003 - 1,222.22 per Grovelot payable on 31 October 2002; and
- (c) in respect of services to be provided in the period 1 July 2003 to 30 June 2004 - \$1,222.22 per Grovelot payable on 31 October 2003; and
- (d) thereafter, in respect of services to be provided in each subsequent Financial Year during the Term, an amount per Grovelot calculated by the Responsible Entity as the reasonable costs of managing the Grovelot payable on 31 October during that Financial Year.

10.2 Additional Management Fee

The Responsible Entity will be entitled to be paid the following additional annual management fees in a Financial Year out of, and immediately prior to, any distribution:

- (a) from 31 October 2004, the estimated costs of operating the Grovelots (which will include an allocation of overhead costs incurred by the Responsible Entity or its contractors that will not exceed \$70 per Grovelot Indexed (adopting 30 June 2002 as the base date)) together with 3.5% of the Gross Proceeds in that Financial Year, and
- (b) 25% of so much of the annual Net Proceeds in a Financial Year as exceeds the Incentive Fee Threshold. But, if in the immediately preceding Financial Year, the Net Proceeds were less than the Incentive Fee Threshold the sum of the deficit must be deducted from the Net Proceeds when calculating the fee payable to the Responsible Entity under this paragraph in respect of the Financial Year to which reference is first made.

After the actual costs for a Financial Year have been determined by the Responsible Entity, the Responsible Entity will, when notifying the Grower under paragraph (a) of the projected costs for the succeeding Financial Year, notify the Grower of those actual costs per Grovelot, and either deduct the surplus per Grovelot from, or add the excess per Grovelot to, the fees payable for the next Financial Year, depending on whether they are more or less than the costs calculated by the Responsible Entity under paragraph (a).

2002 012
**Grovelot Management
Agreement**

Timbercorp Securities Limited

Each Several Grower

**2002 Timbercorp Olive Project
[Post 30 June Growers]**

NM TAYLOR
LAWYERS

Level 7
350 Collins Street
MELBOURNE VIC 3000
Telephone: 9600 3525
Facsimile: 9600 3527

8.2 Removal of Responsible Entity's Property after Termination

The Responsible Entity may remove from the Grower's Grovelots such plant and equipment, implements, furniture and other items brought onto the Grower's Grovelots within one month after the termination of this Agreement and may enter the Grower's Grovelots for the purpose of removing such items.

8.3 Roads and tracks

- (a) The Responsible Entity is entitled (but has no obligation) to construct and maintain roads and tracks on the Grower's Grovelots primarily and principally to provide access to and from the Grove from a public road for the:
 - (i) cultivation, maintenance and tending of the Olive Trees and the Olives;
 - (ii) harvesting of the Olives; and
 - (iii) removal of the Olives.
- (b) Where the Responsible Entity has removed any material for road building purposes, the Responsible Entity must use reasonable endeavours to return the surface of the land to an appearance as close as possible to the appearance of the surface of surrounding land.

8.4 Grower's Access

Provided the Grower first gives the Responsible Entity 7 days' prior notice in writing, the Responsible Entity must permit the Grower or its duly authorised representatives to have access, at the Grower's expense and risk, at all reasonable times to the Grower's Grovelots and the facilities located on them.

8.5 Warranty as to Access

The Grower warrants that it has the right to grant access to the Grower's Grovelots for the performance by the Responsible Entity of its obligations, and the exercise by the Responsible Entity of its rights under this Agreement will not constitute a trespass against, or an interference with the rights of, the owner of the Land, any of the Growers or any person who derives title through or under the owner, or any of the Growers.

8.6 Failure to Perform if Access Denied

The Responsible Entity will not be liable for any failure to perform its obligations under this Agreement which arises because it is denied access to, or possession or occupation of, the Grove or any part of it.

9. NO LEASE OR LICENCE

This Agreement does not create or confer any leasehold or proprietary interest or licence in favour of the Responsible Entity concerning the Growers' Grovelots.

10. RESPONSIBLE ENTITY'S FEE

10.1 Annual Fee and Charges

The Responsible Entity will be paid the following management fees and charges in respect of the Grove Services and all other services to be provided under this agreement as follows:

-
- (a) in respect of services to be provided in the period commencing on the Commencement Date and ending on 30 June 2003 an amount of \$5,722.22 per Grovelot payable in advance on or before the Commencement Date; and
 - (b) in respect of services to be provided in the period 1 July 2003 to 30 June 2004 - \$1,222.22 per Grovelot payable on 31 October 2003; and
 - (d) thereafter, in respect of services to be provided in each subsequent Financial Year during the Term, an amount per Grovelot calculated by the Responsible Entity as the reasonable costs of managing the Grovelot payable on 31 October during that Financial Year.

10.2 Additional Management Fee

The Responsible Entity will be entitled to be paid the following additional management fees in a Financial Year out of, and immediately prior to, any distribution:

- (a) on 31 October 2004 and each subsequent 31 October in a Financial Year, the estimated costs of operating the Grovelots (which will include an allocation of overhead costs incurred by the Responsible Entity or its contractors that will not exceed \$70 per Grovelot Indexed (adopting 30 June 2002 as the base date));
- (b) 3.5% of the Gross Proceeds in that Financial Year; and
- (c) 25% of so much of the annual Net Proceeds in a Financial Year as exceeds the Incentive Fee Threshold. But, if in the immediately preceding Financial Year, the Net Proceeds were less than the Incentive Fee Threshold the sum of the deficit must be deducted from the Net Proceeds when calculating the fee payable to the Responsible Entity under this paragraph in respect of the Financial Year to which reference is first made.

After the actual costs for a Financial Year have been determined by the Responsible Entity, the Responsible Entity will, when notifying the Grower under paragraph (a) of the projected costs for the succeeding Financial Year, notify the Grower of those actual costs per Grovelot, and either deduct the surplus per Grovelot from, or add the excess per Grovelot to, the fees payable for the next Financial Year, depending on whether they are more or less than the costs calculated by the Responsible Entity under paragraph (a).

11. INSURANCE

11.1 The Responsible Entity to Keep Insurance

The Responsible Entity will be responsible for obtaining and keeping or procuring some other person to procure and keep policies of insurance, on behalf of the Grower with a reputable insurer against damage to the Grove, which is caused by fire or other insurable risks, including public risk and occupier's liability provided that the cost of any such insurance is economically justified and it does not include crop insurance (unless specifically agreed between the Responsible Entity and the Grower from year to year).

11.2 Names of Policies

All such policies of insurance must be in the names of or note the interests of the Responsible Entity, the Land Owner and the Grower.

11.3 No Party may prejudice Insurance Policies

No Party will at any time during the Term permit or suffer to be done (and nothing in

**Supplemental Grovelot
Management Agreement**

for

**2002 Timbercorp Olive Project
(ARSN 098 233 455)**

NM TAYLOR
L A W Y E R S

Level 7
350 Collins Street
MELBOURNE VIC 3000

Telephone: 9600 3525
Facsimile: 9600 3527
Ref: NMT/01145

SCHEDULE MANAGEMENT AGREEMENT AMENDMENTS

The Management Agreements are amended as follows:

1. by inserting a definition of Effective Date as the date of the Supplemental Agreement amending the Management Agreements made by Timbercorp Securities Limited and each of the several Growers and the landowner as Joint Venturers;
2. by the replacement of clause 10.2 in each of the Management Agreements with the following:

"10.2 Additional Management Fee

- (a) For each Financial Year after the Effective Date commencing on 1 October 2008 and each subsequent 1 October until final harvest of the Olives under the Project, the Responsible Entity will estimate the costs of operating the relevant Grovelots, which will include an allocation of overhead costs incurred by the Responsible Entity or its contractors that will not exceed \$70 per relevant Grovelot Indexed to CPI (adopting 30 June 2002 as the base year) as adjusted under paragraph 10.2(b) (iii);
- (b) The Responsible Entity will:
 - (i) notify the Participant Grower of the estimated costs of operating the relevant Grovelots under paragraph 10.2(a) and the amount required to be paid by the Grower on 31 October of the relevant year and the amount, if any, required to be paid by the Grower subsequently, as determined by the Responsible Entity in its absolute discretion and the Grower:
 - (A) must pay the amounts at the times and in such manner notified by the Responsible Entity ;and
 - (B) to the extent that the Responsible Entity determines that amounts are to be paid out of Proceeds, the Grower authorises and requests the Responsible Entity to deduct such amounts out of and at the time Proceeds are received by the Responsible Entity as the Responsible Entity in respect of the sale of Olive Oil.
 - (ii) notify the Grower of its Participating Interest of the actual cost of the Responsible Entity's operating the relevant Grovelots for the preceding Financial Year including overhead costs incurred by the Responsible Entity or its contractors, which the Grower must pay by 31 October of the year in which the Responsible Entity gives the notification unless a later date is stipulated; and
 - (iii) adjust that part of the estimated costs of operating the relevant Grovelots for the current Financial Year as determined by the Responsible Entity under sub-paragraph (ii) by the difference between the actual costs and the costs estimated by the Responsible Entity under paragraph 10.2(a) for the preceding Financial Year, unless the surplus per relevant Grovelot has been added to, or the excess per relevant Grovelot has been deducted from, the distribution of Proceeds made to the Grower following the end of the preceding Financial Year.

-
- (c) The Responsible Entity will be entitled to be paid the following additional management fees in a Financial Year out of, and immediately prior to, any distribution:
- (i) 3.5% of the Gross Proceeds in that Financial Year; and
 - (ii) 25% of so much of the Annual Net Proceeds in a Financial Year as exceeds the Incentive Fee Threshold. But, if in the immediately preceding Financial Year, the Net Proceeds were less than the Incentive Fee Threshold the sum of the deficit must be deducted from the Net Proceeds when calculating the fee payable to the Responsible Entity under this paragraph in respect of the Financial Year to which reference is first made."

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT**

LIST E

No 7114 of 2009

**IN THE MATTER OF TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION)**

ACN 092 311 469

**TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION) ACN 092 311 469
IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
2002 TIMBERCORP OLIVE PROJECT (ARSN 098 233 455)
First Plaintiffs**

**MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs**

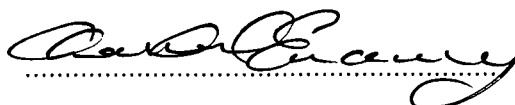
CERTIFICATE IDENTIFYING EXHIBIT

Date of document: **7** July 2009
Filed on behalf of: the Plaintiffs
Arnold Bloch Leibler
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011499489
(Leon Zwier)

This is the exhibit marked "**MAK-14**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on **7** July 2009.

Before me:



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

Exhibit "MAK-14"
Occupancy Summary

TIMBERCORP
2002 OLIVE SCHEME: SUMMARY OF RENTAL PAYMENT OBLIGATIONS

Lease Agreement	Doc ID	When is rent payable?	Amount payable
Head Lease between Olivecorp (Lessor) and TSL (Lessee)	O 2002 005	Payable by TSL to Olivecorp if/when demanded by Olivecorp (cl 4)	\$1.00 pa (cl 4)
Sub-lease between TSL (Lessor) and Olivecorp (Lessee)	O 2002 009	Payable by Olivecorp to TSL if/when demanded by TSL (cl 3)	\$1.00 pa (cl 3)
Joint Venture Agreement between Olivecorp (Landowner), TSL (Responsible Entity) and the Growers (Licensee)	O 2002 006 O 2002 006a	Payable by the Growers to Olivecorp 31 October of each year, indexed (cl 7.1 & 7.2)	\$550 per JV Grovelot (cl 7.1) indexed from 31 October 2004 against the aggregate percentage change in CPI for the previous four quarters (cl 7.2 and 1.1)