

Form 5C
IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT

Rules 5.02(2), 45.05(2)(b)

LIST E
No. SCI 2010 1354

BETWEEN:

**BOSI SECURITY SERVICES LIMITED (A.C.N. 009 413 852) as trustee for
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
(A.C.N. 005 357 522 and BOS INTERNATIONAL (AUSTRALIA) LIMITED
(A.C.N. 066 601 250) and WESTPAC BANKING CORPORATION (A.C.N. 007 457 141)**

Plaintiff

and

**B.B OLIVES PTY LTD (IN LIQUIDATION)
(A.C.N. 083 992 367) & ORS (according to the attached Schedule)**

Defendants

AMENDED ORIGINATING MOTION

Amended pursuant to the Orders of the Honourable Justice Davies made 22 March 2010

Date of document: 16 March 2010
Filed on behalf of: The Plaintiff
Prepared by:
Blake Dawson
Level 26
181 William Street
MELBOURNE VIC 3000

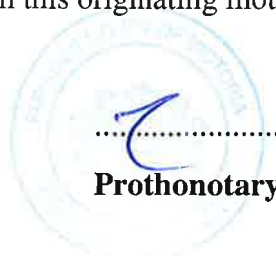
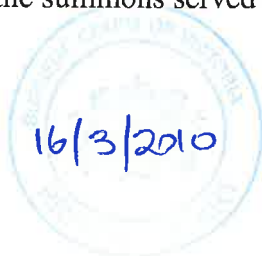
Solicitor's Code: 53
DX: 187
Tel: (03) 9679 3000
Fax: (03) 9679 3111
Ref: RWM CHFE
Attention: Mr R McClymont
Email: ross.mcclymont@blakedawson.com

TO THE DEFENDANTS

TAKE NOTICE that this proceeding by originating motion has been brought against you by the plaintiff for the relief or remedy set out below.

IF YOU INTEND TO DEFEND the proceeding you must attend before the Court at the time and place named in the summons served with this originating motion.

FILED



THIS ORIGINATING MOTION is to be served within one year from the date it is filed or within such further period as the Court orders.



THE PLAINTIFF SEEKS THE FOLLOWING ORDERS:

1. Pursuant to Rule 45.05 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) the requirements of Rules 5.03(1) and 8.02 are dispensed with.
2. Pursuant to Rule 45.05 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) the plaintiff has leave to proceed by originating motion in Form 5C.
3. A declaration as to what, if any, right the plaintiff has to the sale proceeds held on trust by the first defendant pursuant to paragraph 8 of the orders made by the Honourable Justice Croft on 12 November 2009 in proceeding No. 9998 of 2009 (**Orders**).
4. A declaration as to what, if any, right the second defendant has to the sale proceeds held on trust by the first defendant pursuant to paragraph 8 of the Orders.
5. A declaration as to what, if any, right the Growers represented by the seventh, eighth, and ninth defendants have to the sale proceeds held on trust by the first defendant pursuant to paragraph 8 of the Orders.
- 5.6. A declaration as to how the sale proceeds held on trust by the first defendant pursuant to paragraph 8 of the Orders ought to be distributed between the plaintiff and the second, seventh, eighth and ninth defendants.
- 6.7. Any other order the Court deems fit.

DATE

26 March 2010

Blake Dawson**Blake Dawson**

Solicitors for the Plaintiff

1. Place of trial – Melbourne.
2. This originating motion was filed for the plaintiff by Blake Dawson, of Level 26, 181 William Street, Melbourne VIC 3000.
3. The address of the plaintiff is Level 27, 45 Clarence Street, Sydney NSW 2000.
4. The address for service of the plaintiff is at the offices of Blake Dawson, of Level 26, 181 William Street, Melbourne VIC 3000.
5. The address of the first defendant is Level 8, 461 Bourke Street, Melbourne VIC 3000.
6. The address of the second defendant is Level 8, 461 Bourke Street, Melbourne VIC 3000.
7. The address of the third defendant is Level 8, 461 Bourke Street, Melbourne VIC 3000.
8. The address of the fourth defendant is Level 24, 333 Collins Street, Melbourne, VIC 3000.
9. The address of the fifth defendant is Level 24, 333 Collins Street, Melbourne, VIC 3000.
10. The address of the sixth defendant is Level 24, 333 Collins Street, Melbourne, VIC 3000.
11. The address of the seventh, eighth and ninth defendants is at the offices of Clarendon Lawyers, of Level 17, Rialto North Tower, 525 Collins Street, Melbourne, VIC 3000.

SCHEDULE

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

No.

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**BOSI SECURITY SERVICES LIMITED (A.C.N. 009 413 852) as trustee for
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
(A.C.N. 005 357 522) and BOS INTERNATIONAL (AUSTRALIA) LIMITED
(A.C.N. 066 601 250) and WESTPAC BANKING CORPORATION (A.C.N.007 457 141)**
Plaintiff

and

**B.B OLIVES PTY LTD (IN LIQUIDATION)
(A.C.N. 083 992 367)**

First Defendant

and

ALMOND LAND PTY LTD (IN LIQUIDATION) (A.C.N 091 460 392)

Second Defendant

and

TIMBERCORP LIMITED (IN LIQUIDATION) (A.C.N. 055 185 067)

Third Defendant

and

**MARK ANTHONY KORDA
(in his capacity as liquidator of Almond Land Pty Ltd (in liquidation))
(in his capacity as liquidator of B.B. Olives Pty Ltd (in liquidation))**

Fourth Defendant

and

**LEANNE KYLIE CHESSER
(in her capacity as liquidator of Almond Land Pty Ltd (in liquidation))**

Fifth Defendant

and

**MARK FRANCIS XAVIER MENTHA
(in his capacity as liquidator of B.B. Olives Pty Ltd (in liquidation))**

Sixth Defendant

and

MICHAEL CHARLES VICARY

(as the representative of the Growers in the 2006 Timbercorp Olive Project (ARSN 119 182 179))

Seventh Defendant

and

PAMELA IAN DRY

(as the representative of the Growers in the 2007 Timbercorp Olive Project (ARSN 123 155 715))

Eighth Defendant

and

DAVID BUTTERFIELD

(as the representative of the Growers in the 2008 Timbercorp Olive Project (ARSN 129 307 722))

Ninth Defendant