

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

List B

S CI 2013 01478

BETWEEN

THE TRUST COMPANY (NOMINEES) LIMITED (ACN 000 154 441)

Plaintiff

and

MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF ALIGN FUNDS  
MANAGEMENT LIMITED (RECEIVER AND MANAGER APPOINTED) (ACN 105 684 231) IN  
ITS CAPACITY AS THE RESPONSIBLE ENTITY OF THE TIMBERCORP ORCHARD TRUST  
AND ORS (ACCORDING TO THE SCHEDULE ATTACHED)

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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Date of document: 21 March 2014

Filed on behalf of: The plaintiff

Prepared by:

**Allens**

Lawyers

101 Collins Street

Melbourne VIC 3000

Solicitor code: 21455

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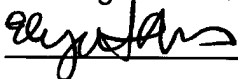
Ref CCHM:120338387

(Clint.Hinchen@allens.com.au)

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This is the Exhibit marked 'CCH-26' now produced and shown to Clinton Charles Hinchen at the time of swearing his affidavit on 21 March 2014.

Before me



ELYSE KATE ADAMS  
of 101 Collins Street, Melbourne  
Victoria 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

**'CCH-26': a true copy of the  
orders of Justice Judd in the  
Resolved Timbercorp  
Apportionment Proceedings  
dated 12 December 2012**

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

LIST E  
No. S APCI 2011 0103

**BETWEEN:**

GRAHAM GOLDENBERG & ORS  
(according to the Schedule of Parties)  
- and -

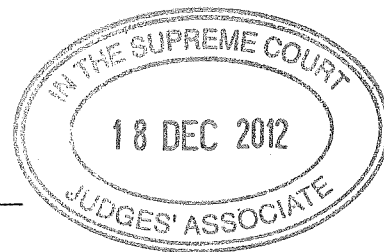
Appellants

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) & ORS (according to the Schedule of Parties)

Respondents



**ORDER**



JUDGE OF THE COURT:	The Honourable Justice Judd
DATE MADE:	12 December 2012
ORIGINATING PROCESS:	Notice of appeal dated 11 July 2011
HOW OBTAINED:	On application by summons dated 27 August 2012
ATTENDANCE:	Mr G. Bigmore, one of Her Majesty's Counsel for the Appellants  Mr P. Anastassiou of Senior Counsel with Mr R. G. Craig of counsel for the First Respondent  Ms W. Harris of Senior Counsel with Mr M Rush of counsel for the Second Respondent  Dr O. Bigos for the Third to Fifth Respondents and Timbercorp Securities Limited (in liquidation)  Mr M. Hoyne for MRB Equities Pty Ltd, Redvil Pty Ltd and Ferrari Investments Holdings Pty Ltd
OTHER MATTERS:	The deed of compromise dated 25 July 2012 executed on behalf of the Appellants, the First to Fifth Respondents and Timbercorp Securities Limited (in liquidation) ACN

092 311 469 (TSL) was amended by a deed of amendment executed on behalf of the same parties on 17 December 2012 (the deed of compromise as amended being the **Amended Deed of Compromise**).

Counsel for the Appellants foreshadowed orally before the Court on 12 December 2012 an application for orders that the Appellants be indemnified for their liability to the Funders under the funding agreement dated 22 October 2011 (as amended from time to time) from the Almond Settlement Amount (as defined in the Amended Deed of Compromise) to be paid pursuant to the Amended Deed of Compromise (**Appellants' Application**).



With the consent of the parties, TSL seeks leave to be joined as the Sixth Respondent to the proceeding (**TSL's Application**).

THE COURT ORDERS THAT:

1. Subject to order 5 below, pursuant to rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005*, the compromise set out in clause 2 of the Amended Deed of Compromise is approved and shall be binding on the absent persons who are represented by the Appellants.
2. That compliance with rule 4.02 be dispensed with in respect of the Appellants' Application.
3. That compliance with rule 4.02 be dispensed with in respect of TSL's Application.
4. TSL be added as the Sixth Respondent to the proceeding.
5. The payments by the First and Second Respondents to TSL pursuant to clause 4(a) of the Amended Deed of Compromise are subject to a lien in the Appellants' favour in the amount of \$1,753,443.25 payable on receipt of those funds by TSL.
6. The following exhibits be kept confidential:
  - (a) confidential exhibits CJA-1, CJA-2 and CJA-3 to the Affidavit of Celia Jane Armstrong sworn 30 August 2012;

- (b) confidential exhibit MAK-6 to the Affidavit of Mark Anthony Korda sworn 18 September 2012;
- (c) confidential exhibit CJA-9 to the Third Affidavit of Celia Jane Armstrong sworn 19 September 2012;
- (d) confidential exhibit MAK-7 to the Affidavit of Mark Anthony Korda sworn 2 October 2012; and
- (e) confidential exhibits CJA-12 and CJA-14 to the Fourth Affidavit of Celia Jane Armstrong sworn on 2 October 2012,
- and be sealed on the Court file in an envelope marked "Not to be opened except by leave of the Court".
7. The Funders' application made pursuant to their right to be heard as ordered on 31 August 2012 is dismissed.
8. There is no order as to costs.

DATE AUTHENTICATED: **18 December 2012**



A handwritten signature in dark ink, appearing to read "Judd", written over a horizontal line.

**The Hon. Justice Judd**

## SCHEDULE OF PARTIES

### **B E T W E E N**

**GRAHAM GOLDENBERG**

(in his capacity as representative of the Members in the 2002 Almond Project)

First Appellant

**CHRISTOPHER MARK LITTLE**

(in his capacity as representative of the Participant Members in the 2005 Almond Project)

Second Appellant

**CONSTANTINE MOSHOPOULOS**

(in his capacity as representative of the Participant Members in the 2006 Almond Project)

Third Appellant

**DAVID BUTTERFIELD**

(in his capacity as representative of the Participant Members in the 2007 Almond Project and as representative of the Members in the 2002 Private offer Scheme)

Fourth Appellant

- and -

**BOSI SECURITY SERVICES LIMITED (ACN 009 413 852)**

as trustee for

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED**

(ACN 005 357 522) and **BOS INTERNATIONAL (AUSTRALIA) LIMITED**

(ACN 066 601 250) and **WESTPAC BANKING CORPORATION (ACN 007 457 141)**

First Respondent

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED**

(ACN 005 357 522)

Second Respondent

**ALMOND LAND PTY LTD (IN LIQUIDATION) (ACN 091 460 392)**

Third Respondent

**MARK ANTHONY KORDA**

(in his capacity as liquidator of Almond Land Pty Ltd (in liquidation))

Fourth Respondent

**LEANNE KYLIE CHESSER**

(in her capacity as liquidator of Almond Land Pty Ltd (in liquidation))

Fifth Respondent

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

LIST E  
No. S CI 2010 1354

**BETWEEN:**

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

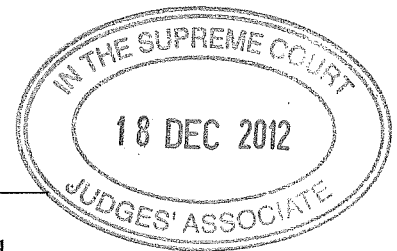
Plaintiff



B.B. OLIVES PTY LTD (IN LIQUIDATION)  
(ACN 083 992 367) & ORS (according to the attached Schedule)

Defendants

**ORDER**



JUDGE OF THE COURT: The Honourable Justice Judd

DATE MADE: 12 December 2012

ORIGINATING PROCESS: Originating motion dated 16 March 2010

HOW OBTAINED: On application by summons dated 27 August 2012

ATTENDANCE: Mr P. Anastassiou of Senior Counsel with Mr R. G. Craig of counsel for the Plaintiff

Dr O. Bigos of counsel for the First to Sixth Defendants and Timbercorp Securities Limited (in liquidation)

Mr G. Bigmore, one of Her Majesty's Counsel for the Seventh to Ninth Defendants

K Bezencon and A Gubalovski for the TGG Committee

OTHER MATTERS: Nil

**THE COURT ORDERS THAT:**

1. Pursuant to rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005*, the compromise set out in clause 2 of the Deed of Compromise

dated 25 July 2012 between the plaintiff and the first to ninth defendants is approved and shall be binding on the absent persons who are represented by the seventh, eighth and ninth defendants.

2. The following exhibits be kept confidential:

- (a) confidential exhibits CJA-1, CJA-2 and, CJA-3 to the Affidavit of Celia Jane Armstrong sworn 30 August 2012;
- (b) confidential exhibit MAK-6 to the Affidavit of Mark Anthony Korda sworn 18 September 2012;
- (c) confidential exhibit CJA-9 to the Third Affidavit of Celia Jane Armstrong sworn 19 September 2012;
- (d) confidential exhibit MAK-7 to the Affidavit of Mark Anthony Korda sworn 2 October 2012; and
- (e) confidential exhibits CJA-12 and CJA-14 to the Fifth Affidavit of Celia Jane Armstrong sworn on 2 October 2012,

and be sealed on the Court file in an envelope marked "Not to be opened except by leave of the Court".

THE COURT ORDERS FURTHER BY CONSENT THAT:

- 3. The proceeding is dismissed.
- 4. There is no order as to costs.

DATE AUTHENTICATED: **18 December 2012**



A handwritten signature in black ink, appearing to read "Justice Judd", written over a horizontal line.

**The Hon. Justice Judd**

## SCHEDULE OF PARTIES

### BETWEEN

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

Plaintiff

- and -

B.B. OLIVES PTY LTD (IN LIQUIDATION)  
(ACN 083 992 367)

First Defendant

ALMOND LAND PTY LTD (IN LIQUIDATION) (ACN 091 460 392)

Second Defendant

TIMBERCORP LIMITED (IN LIQUIDATION) (ACN 055 185 067)

Third Defendant

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

LEANNE KYLIE CHESSER  
(in her capacity as liquidator of B.B. Olives Pty Ltd (in liquidation))

Fifth Defendant

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

Sixth Defendant

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

Seventh Defendant

PAMELA JAN DRY



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

Eighth Defendant

**DAVID BUTTERFIELD**

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

Ninth Defendant

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

LIST E  
No. S CI 2011 6777

**BETWEEN:**

FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121) & ORS (according to the attached Schedule)  
- and -

Plaintiff

CON MOSHOPOLOUS & ORS (according to the attached Schedule)

Defendants



**ORDER**

JUDGE OF THE COURT: The Honourable Justice Judd

DATE MADE: 12 December 2012

ORIGINATING PROCESS: Amended originating motion dated 20 December 2011

HOW OBTAINED: On application by summons dated 27 August 2012

ATTENDANCE: Dr O. Bigos for the Plaintiffs and Timbercorp Securities Limited (in liquidation)

Mr G. Bigmore, one of Her Majesty's Counsel for the First to Fifth Defendants

K Bezencon and A Gubalovski for the TGG Committee

OTHER MATTERS: Nil

**THE COURT ORDERS THAT:**

1. Pursuant to rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005*, the compromise set out in clause 2 of the Deed of Compromise dated 25 July 2012 between the plaintiffs and the first to fifth defendants is approved and shall be binding on the absent persons who are represented by the first to fifth defendants.
2. The following exhibits be kept in a sealed envelope and that their contents remain confidential, until further order by the Court:

(a) confidential exhibits CJA-1, CJA-2 and, CJA-3 to the Affidavit of Celia



Jane Armstrong sworn 30 August 2012;

- (b) confidential exhibit MAK-6 to the Affidavit of Mark Anthony Korda sworn 18 September 2012;
- (c) confidential exhibit CJA-9 to the Third Affidavit of Celia Jane Armstrong sworn 19 September 2012;
- (d) confidential exhibit MAK-7 to the Affidavit of Mark Anthony Korda sworn 2 October 2012; and
- (e) confidential exhibits CJA-12 and CJA-14 to the Fifth Affidavit of Celia Jane Armstrong sworn on 2 October 2012,

and be sealed on the Court file in an envelope marked "Not to be opened except by leave of the Court".

THE COURT ORDERS FURTHER BY CONSENT THAT:

- 3. The proceeding is dismissed.
- 4. There is no order as to costs.

DATE AUTHENTICATED: **18 December 2012**



A handwritten signature in black ink, appearing to read "The Hon. Justice Judd".

**The Hon. Justice Judd**

## **SCHEDULE OF PARTIES**

### **B E T W E E N**

FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121)

First Plaintiff

OLIVECORP LAND PTY LTD (IN LIQUIDATION) (ACN 090 141 512)

Second Plaintiff

MARK ANTHONY KORDA

(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Third Plaintiff

MARK FRANCIS XAVIER MENTHA

(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Fourth Plaintiff

- and -

CON MOSHOPOLOUS

(in his capacity as a Grower in the 2000 Timbercorp Olive Project (Private Offer)  
(Unregistered))

First Defendant

PAULINE EMMA HAMMER

(in her capacity as a Grower in the 2001 Timbercorp Olive Project (ARSN 094 382  
082))

Second Defendant

DAVID SYDNEY BUTTERFIELD

(in his capacity as a Grower in the 2002 Timbercorp Olive Project (ARSN 098 233  
455))

Third Defendant

GRAHAM GOLDENBERG

(in his capacity as a Grower in the 2003 Timbercorp Olive Project (ARSN 104 648  
473))

Fourth Defendant

SHUN KING LI

(in his capacity as a Grower in the 2004 Timbercorp Olive Project (ARSN 108 744  
378))

Fifth Defendant

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

LIST E  
No. S CI 2011 6604

**BETWEEN:**

AUSTRALIA AND NEW ZEALAND BANKING GROUP Plaintiff  
LIMITED  
(ACN 005 357 522)



- and -

OIM#2 PTY LTD (RECEIVERS AND MANAGERS Defendants  
APPOINTED (ACN 112 691 997) as trustee for  
TIMBERCORP ORCHARD TRUST #3 & ORS (according  
to the attached Schedule)

**ORDER**



JUDGE OF THE COURT: The Honourable Justice Judd

DATE MADE: 12 December 2012

ORIGINATING PROCESS: Originating motion dated 6 December 2011

HOW OBTAINED: On application by summons dated 27 August 2012

ATTENDANCE: Ms W. Harris of Senior Counsel with Mr M. Rush of  
counsel for the Plaintiff

Mr M. N. C. Harvey of counsel for the First and Second  
Defendants

Mr G. Bigmore, one of Her Majesty's Counsel for the  
Fifth to Tenth Defendants

OTHER MATTERS: Nil

**THE COURT ORDERS THAT:**

1. Pursuant to rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005*, the compromise set out in clause 2 of the Deed of Compromise dated 25 July 2012 between the plaintiff and the first to tenth defendants (the

**Compromise**) is approved and shall be binding on the absent persons who are represented by the fifth, sixth, seventh, eighth, ninth and tenth defendants.

2. Pursuant to rule 54.02 of the *Supreme Court (General Civil Procedure) Rules 2005*, the Court approves the first and second defendants agreeing to the Compromise.
3. The following exhibits be kept confidential:
  - (a) confidential exhibits CJA-1, CJA-2 and, CJA-3 to the Affidavit of Celia Jane Armstrong sworn 30 August 2012;
  - (b) confidential exhibit MAK-6 to the Affidavit of Mark Anthony Korda sworn 18 September 2012;
  - (c) confidential exhibit CJA-9 to the Third Affidavit of Celia Jane Armstrong sworn 19 September 2012;
  - (d) confidential exhibit MAK-7 to the Affidavit of Mark Anthony Korda sworn 2 October 2012; and
  - (e) confidential exhibits CJA-11 and CJA-13 to the Fourth Affidavit of Celia Jane Armstrong sworn on 2 October 2012,

and be sealed on the Court file in an envelope marked "Not to be opened except by leave of the Court".

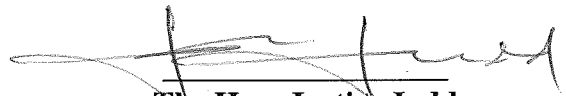
THE COURT ORDERS FURTHER BY CONSENT THAT:

4. The proceeding is dismissed.
5. There is no order as to costs.



DATE AUTHENTICATED:

18 December 2012

A handwritten signature in dark ink, appearing to read "J. Judd", written over a horizontal line.

**The Hon. Justice Judd**

## SCHEDULE OF PARTIES

### **BETWEEN**

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(ACN 005 357 522)

Plaintiff

- and -

OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #3

First Defendant

OIM#5 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 118 204 701) AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #5

Second Defendant

MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #3 AND RECEIVER AND MANAGER OF OIM#5 IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #5

Third Defendant

PAUL WILLIAM KIRK IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #3 AND RECEIVER AND MANAGER OF OIM#5 IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #5

Fourth Defendant

GRAHAM DACE as the representative of the Growers in the 2001 Timbercorp Almond Project (ARSN 095 649 746)

Fifth Defendant

GRAHAM GOLDENBERG as the representative of the Growers in the 2002 Timbercorp Almond Project (ARSN 099 611 935)

Sixth Defendant

GORAN RUNJE as the representative of the Growers in the 2003 Timbercorp Almond Project (ARSN 103 197 299)

Seventh Defendant

GRAEME PHILIP COLE as the representative of the Growers in the 2004 Timbercorp Almond Project (ARSN 108 336 670)

Eighth Defendant

CHRISTOPHER MARK LITTLEY as the representative of the Growers in the 2005



Timbercorp Almond Project (ARSN 112 935 092)

Ninth Defendant

DAVID SYDNEY BUTTERFIELD as the representative of the Growers in the  
unregistered managed investment scheme known as the 2002 Timbercorp Almond  
Project (Private Offer No. 1)

Tenth Defendant

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

LIST E  
No. S CI 2011 6606

**BETWEEN:**

AUSTRALIA AND NEW ZEALAND BANKING GROUP    Plaintiff  
LIMITED  
(ACN 005 357 522)

- and -

OIM#2 PTY LTD (RECEIVERS AND MANAGERS    Defendants  
APPOINTED) (ACN 112 691 997) as trustee for  
TIMBERCORP ORCHARD TRUST #2 & ORS (according  
to the attached Schedule)



**ORDER**

JUDGE OF THE COURT:            The Honourable Justice Judd

DATE MADE:                        12 December 2012

ORIGINATING PROCESS:        Originating motion dated 6 December 2011

HOW OBTAINED:                On application by summons dated 27 August 2012

ATTENDANCE:                    Ms W. Harris of Senior Counsel with Mr M. Rush of  
   counsel for the Plaintiff

    Mr M. N. C. Harvey of counsel for the First Defendant

    Mr G. Bigmore, one of Her Majesty's Counsel for the  
    Fourth Defendants

    K Bezencon and A Gubalovski for the TGG Committee

OTHER MATTERS:                Nil

**THE COURT ORDERS THAT:**

1. Pursuant to rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005*, the compromise set out in clause 2 of the Deed of Compromise

dated 25 July 2012 between the plaintiff and the first to fourth defendants (the **Compromise**) is approved and shall be binding on the absent persons who are represented by the fourth defendants.

2. Pursuant to rule 54.02 of the *Supreme Court (General Civil Procedure) Rules 2005*, the Court approves the first defendant agreeing to the Compromise.
3. The following exhibits be kept confidential:
  - (a) confidential exhibits CJA-1, CJA-2 and, CJA-3 to the Affidavit of Celia Jane Armstrong sworn 30 August 2012;
  - (b) confidential exhibit MAK-6 to the Affidavit of Mark Anthony Korda sworn 18 September 2012;
  - (c) confidential exhibit CJA-9 to the Third Affidavit of Celia Jane Armstrong sworn 19 September 2012;
  - (d) confidential exhibit MAK-7 to the Affidavit of Mark Anthony Korda sworn 2 October 2012; and
  - (e) confidential exhibits CJA-31 and CJA-33 to the Fifth Affidavit of Celia Jane Armstrong sworn on 2 October 2012,

and be sealed on the Court file in an envelope marked "Not to be opened except by leave of the Court".

THE COURT ORDERS FURTHER BY CONSENT THAT:

4. The proceeding is dismissed.
5. There is no order as to costs.



DATE AUTHENTICATED:

18 December 2012



The Hon. Justice Judd

## SCHEDULE OF PARTIES

### BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

- and -

OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #2

First Defendant

MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #2

Second Defendant

PAUL WILLIAM KIRK IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #2

Third Defendant

ROBERT BUGDEN AND ELIZABETH BUGDEN (AS THE REPRESENTATIVES OF THE GROWERS IN THE 2005 TIMBERCORP CITRUS PROJECT (ARSN 114 091 299))

Fourth Defendants