

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

LIST E

SCI 2010

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 2005 TIMBERCORP CITRUS PROJECT (ARSN 114 091 299)
AND ORS ACCORDING TO THE SCHEDULE

Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 25 January 2010

Filed on behalf of: The Plaintiffs

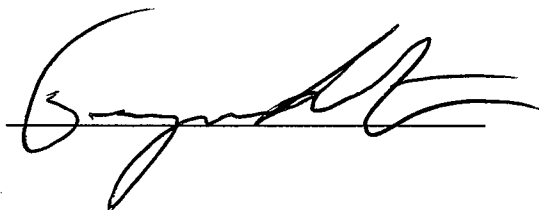
Prepared by:

Allens Arthur Robinson
Lawyers
530 Collins Street
Melbourne VIC 3000

Solicitor code: 21455
DX 30999 Melbourne
Tel 9614 1011 Fax 9614 4661
Ref (mkwm:cchm:306246584)
Matthew.Whittle@aar.com.au
Clint.Hinchen@aar.com.au

This is the exhibit marked '**DLM-12**' now produced and shown to DAVID LAURENCE MCEVOY at
the time of swearing this affidavit on 25 January 2010.

Before me



BENJAMIN PETER RECHTER
of 530 Collins Street, Melbourne
Victoria 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Exhibit 'DLM-12'

**Copy of Orders dated
11/12/09**



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

LIST E
SCI 2009 10382

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
MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1
AND ORS ACCORDING TO THE SCHEDULE

Plaintiffs

GENERAL FORM OF ORDER

JUDGE: Justice Davies

DATE MADE: 11 December 2009

ORIGINATING PROCESS: Originating Process filed 27 November 2009

HOW OBTAINED: Originating Process filed 27 November 2009

ATTENDANCE: Mr L Zwier, Solicitor, with Ms Bridgette Toy-Cronin,
Solicitor, for the Plaintiffs

Mr M Moshinsky of Senior Counsel with Ms W Harris of
Counsel for Messrs McEvoy and Kirk, Receivers and
Managers of OIM#2 Pty Ltd and OIM#5 Pty Ltd

Mr G Bigmore of Queen's Counsel with Mr S Hopper of
Counsel for D Butterfield

Mr D Gration of Counsel for Mr D Cross

Mr CM Archibald of Counsel for Ms Bezencon and the
Timbercorp Growers Group Committee Inc.

OTHER MATTERS: OIM#2 Pty Ltd ACN 112 691 997 (Receivers and
Managers Appointed) in its capacity as trustee for the
Timbercorp Orchard Trust #3 (OIM#2) has entered into a
sale and purchase contract in respect of land known as
"Liparoo" with Olam Orchards Australia Pty Ltd (Olam
Australia) and Olam International Limited (Olam)
(Liparoo Sale Contract) which forms confidential exhibit



DLM-16 to the affidavit of David Laurence McEvoy sworn 27 November 2009 (**McEvoy Affidavit**).

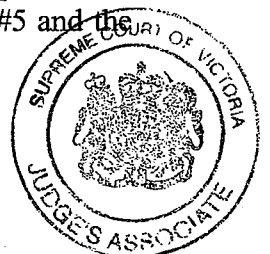
Trust Company Limited ACN 004 027 749 in its capacity as custodian of the assets of the Timbercorp Orchard Trust #5 and agent of OIM#5 Pty Ltd (Receivers and Managers Appointed) in its capacity as trustee for the Timbercorp Orchard Trust #5 (**OIM#5**) has entered into a sale and purchase contract in respect of land known as "Yungera" with Olam Australia and Olam (**Yungera Sale Contract**) which forms confidential exhibit DLM-17 to the McEvoy Affidavit.

The receivers of OIM#2 and OIM#5 are David Laurence McEvoy and Paul William Kirk (**Receivers**).

These orders as authenticated on 15 December 2009 have been amended to record accurately the appearances as being Mr D Gration of Counsel representing Mr D Cross, rather than Mr D Cross representing Mr D Gration.

THE COURT DIRECTS THAT:



- 1 The Third and Fourth Plaintiffs (in their capacity as Liquidators of the First Plaintiff) are justified in procuring the First Plaintiff as responsible entity of the managed investment schemes listed in Schedule 1 of this order (**Registered Almond Schemes**) to terminate or surrender each relevant Grower sub-lease or licence and joint venture agreement and extinguishing all of the rights of Growers' (investors in the schemes set on in schedules 1 and 2 of this order) in respect of the assets the subject of the Liparoo Sale Contract and Yungera Sale Contracts (**Grower Rights**).
- 2 The Third and Fourth Plaintiffs (in their capacity as liquidators of the Second Plaintiff) are justified in procuring the Second Plaintiff as manager of the managed investment scheme listed in Schedule 2 of this order (**Unregistered Almond Scheme**) to extinguish all of the Grower Rights.
- 3 The Third and Fourth Plaintiffs (in their capacity as Liquidators of the Second Plaintiff) are justified in disclaiming in respect of the Unregistered Almond Scheme the Project and Management Agreement as defined in the affidavit of Mark Anthony Korda sworn 30 November 2009 (**PMA**) and the licence and joint venture agreement and to the extent necessary have leave to do so pursuant to section 568 of the *Corporations Act 2001(Cth)*.
- 4 The Third and Fourth Plaintiffs (in their capacity as liquidators of the First and Second Plaintiffs) are justified in making, doing and executing such documents or things to give effect to the extinguishment of all of the Grower Rights in order to enable OIM#2 and the Receivers to perform the Liparoo Sale Contract.
- 5 The Third and Fourth Plaintiffs (in their capacity as liquidators of the First Plaintiff) are justified in making, doing and executing such documents or things to give effect to the extinguishment of all of the Grower Rights in order to enable OIM#5 and the Receivers to perform the Yungera Sale Contract.



THE COURT ORDERS, DECLARES AND DIRECTS THAT:

- 6 Upon completion of any sale under the Liparoo Sale Contract the net proceeds of sale (after payment of the Receivers' selling costs and expenses, retentions (if any), the costs and expenses of the Receivers referable to the preservation and realisation of the assets the subject of the Liparoo Sale Contract, and the costs and expenses of the liquidators of the First and Second Plaintiff which are to be reimbursed by the Receivers in accordance with the TPIF Grower Rights Deed (as defined in the McEvoy Affidavit)) (**Net Liparoo Proceeds**) are to be held by the Receivers of OIM#2 in an interest bearing trust account with an Australian bank (as defined in section 9 of the Corporations Act), pending the hearing and determination by the Court of a proceeding to determine which person or persons have any rights to all or any part of the Net Liparoo Proceeds, and to be held on trust for the person or persons who are able to establish such a right, or until further order of the Court.
- 7 Upon completion of any sale under the Yungera Sale Contract the net proceeds of sale (after payment of the Receivers' selling costs and expenses, retentions (if any), the costs and expenses of the Receivers referable to the preservation and realisation of the assets the subject of the Yungera Sale Contract, and the costs and expenses of the liquidators of the First and Second Plaintiff which are to be reimbursed by the Receivers in accordance with the TPIF Grower Rights Deed (as defined in the McEvoy Affidavit)) (**Net Yungera Proceeds**) are to be held by the Receivers of OIM#5 in an interest bearing trust account with an Australian bank (as defined in section 9 of the Corporations Act), pending the hearing and determination of a proceeding to determine which person or persons have any rights to all or any part of the Net Yungera Proceeds, and to be held on trust for the person or persons who are able to establish such a right, or until further order of the Court.
- 8 Insofar as the ANZ has any rights to the assets the subject of the Sale Contracts, whether under its securities over those assets or otherwise, nothing in the release of those securities upon completion of the Liparoo Sale Contract and Yungera Sale Contract will prejudice those rights for the purposes of its claim to all or any part of the Net Liparoo Proceeds and/or Net Yungera Proceeds.
- 9 Insofar as the Growers have any rights to the assets the subject of the Liparoo Sale Contract and Yungera Sale Contract nothing in orders 1-5 above, or any action taken thereunder by the Third and Fourth Plaintiffs, will prejudice those rights for the purposes of their claim to all or any part of the Net Liparoo Proceeds and/or Net Yungera Proceeds.
- 10 Exhibits DLM-10, DLM-13, DLM-14, DLM-15, DLM-16 and DLM-17 to the McEvoy Affidavit be kept confidential.
- 11 Costs are reserved.

DATE AUTHENTICATED: 6 January 2010



JUSTICE DAVIES

SCHEDULE OF PARTIES

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) (ACN 092 311 469)
IN ITS CAPACITY AS RESPONSIBLE ENTITY OF EACH OF THE
MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1**

First Plaintiff

**ALMOND MANAGEMENT PTY LTD (IN LIQUIDATION) (ACN 094 468 845)
IN ITS CAPACITY AS MANAGER OF THE UNREGISTERED
MANAGED INVESTMENT SCHEME LISTED IN SCHEDULE 2**

Second Plaintiff

MARK ANTHONY KORDA

Third Plaintiff

LEANNE KYLIE CHESSER

Fourth Plaintiff



SCHEDULE 1

1. 2001 Timbercorp Almond Project (ARSN 095 649 746)
2. 2002 Timbercorp Almond Project (ARSN 099 611 935)
3. 2003 Timbercorp Almond Project (ARSN 103 197 299)
4. 2004 Timbercorp Almond Project (ARSN 108 336 670)
5. 2005 Timbercorp Almond Project (ARSN 112 935 092)



SCHEDULE 2

1. 2002 Timbercorp Almond Project (Private Offer No 1)

