

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

LIST E

SCI 2009 10699

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

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(ACN 005 357 522) & ORS (according to the attached Schedule)**

Defendants

**CERTIFICATE IDENTIFYING EXHIBIT**

Date of document: 3 March 2010  
Filed on behalf of: the Second, Third and Fourth Defendants

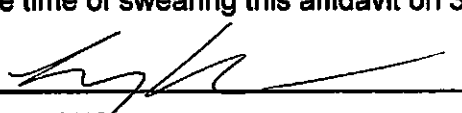
Prepared by:  
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(Leon Zwier [lwier@abl.com.au](mailto:lwier@abl.com.au)/  
Lucy Kirwan [lkirwan@abl.com.au](mailto:lkirwan@abl.com.au))

This is the exhibit marked '**MAK-45**' now produced and shown to MARK ANTHONY  
KORDA at the time of swearing this affidavit on 3 March 2010.

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

**Exhibit 'MAK-45'**

**Copy of notice of default served in  
respect of the ANZ Almond Facility**



TO: Almond Land Pty Ltd (ABN 65 091 460 392) (Administrators Appointed)  
Attention: General Manager, Corporate Finance  
Level 8, 461 Bourke Street  
Melbourne, Victoria, 3000  
Fax: (03) 9670 4271

AND TO: Mr Mark Korda and Ms Leanne Chesser as the Voluntary Administrators of  
Almond Land Pty Ltd (ABN 65 091 460 392) (Administrators Appointed)  
Level 24, 333 Collins Street  
Melbourne, Victoria, 3000  
Fax: (03) 8623 3399

CC: Timbercorp Securities Limited (ABN 12 092 311 469) (Administrators Appointed)  
Attention: General Manager, Corporate Finance  
Level 8, 461 Bourke Street  
Melbourne, Victoria, 3000  
Fax: (03) 9670 4271

AND CC: Mr Mark Korda and Ms Leanne Chesser as the Voluntary Administrators of  
Timbercorp Securities Limited (ABN 12 092 311 469) (Administrators Appointed)  
Level 24, 333 Collins Street  
Melbourne, Victoria, 3000  
Fax: (03) 8623 3399

### Notice of Event of Default

Reference is made to the \$45 Million Loan Facility dated 26 September 2006 between Almond Land Pty Ltd, Timbercorp Securities Limited and Australia and New Zealand Banking Group Limited (**ANZ**) as amended and restated on 24 December 2008 (the **Facility Agreement**).

Terms defined in the Facility Agreement apply in this notice.

An Event of Default has occurred.

Pursuant to clause 13.2 of the Facility Agreement:

- (a) ANZ hereby declares that:
- (i) the Amount Owed is immediately due and payable without further demand, notice or other legal formality of any kind; and
  - (ii) the Facility is terminated and the Commitment of the Lender cancelled; and
- (b) ANZ may enforce, by notice to the Borrower, all or any of the Securities.

Dated: 29 April 2009

Name: Dean Travis  
Title: Head of Lending Services  
Authorised Officer of Australia and New Zealand Banking Group Limited



TO: Almond Land Pty Ltd (ABN 65 091 460 392)  
(Administrators Appointed)  
  
Attention: General Manager, Corporate Finance  
Level 8, 461 Bourke Street  
Melbourne, Victoria, 3000  
  
Fax: (03) 9670 4271

AND CC: Mr Mark Korda and Ms Leanne Chesser as the  
Voluntary Administrators of Almond Land Pty Ltd  
(ABN 65 091 460 392) (Administrators Appointed)  
  
Level 24, 333 Collins Street  
Melbourne, Victoria, 3000  
  
Fax: (03) 8623 3399

### **Fixed and Floating Charge - Notice of Event of Default**

Reference is made to:

- (a) the \$45 Million Loan Facility dated 26 September 2006 between Almond Land Pty Ltd, Timbercorp Securities Limited and Australia and New Zealand Banking Group Limited (ANZ) as amended and restated on 24 December 2008 (the **Facility Agreement**); and
- (b) the Fixed and Floating Charge from Almond Land Pty Ltd in favour of ANZ dated 26 September 2006 (**Charge**); and
- (c) the Fixed and Floating Charge (NSW Assets) from Almond Land Pty Ltd in favour of ANZ dated 26 September 2006 (**NSW Charge**).

Terms defined in the Facility Agreement, the Charge and the NSW Charge apply in this notice.

An Event of Default has occurred under the Facility Agreement which in turn constitutes an Event of Default under clause 6.1 of both the Charge and the NSW Charge.

An Event of Default is subsisting in respect of both the Charge and the NSW Charge. Pursuant to clause 6.2 of both the Charge and the NSW Charge, ANZ demands that the Secured Money be paid in full immediately by either:

- (a) direct payment into ANZ Lending Services account number 013089 832959222; or
- (b) delivery of a bank cheque in favour of Australia and New Zealand Banking Group Limited, (Attention: Natalie Van der Laak), to Level 3, 100 Queen St, Melbourne, 3000.

Dated: 24 APRIL

2009

Name: DEAN TRAVIS

Title: HEAD OF LENDING SERVICES

Authorised Officer of Australia and New Zealand Banking Group Limited