

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

LIST E

No 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  
MANAGED INVESTMENTS SCHEMES LISTED IN SCHEDULE 1  
AND ORS ACCORDING TO THE SCHEDULE

Plaintiffs

CERTIFICATE OF EXHIBIT

Date of document: 10 November 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: 01-1499489

(Leon Zwier [lwier@abl.com.au](mailto:lwier@abl.com.au))

This is the exhibit marked "**MAK-28**" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 10 November 2009.

Before me:

**BRIDGET ELLEN SLOCUM**

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-28"**

**Email correspondence from Leon Zwier of Arnold Bloch Leibler**

**dated 30 October 2009**

**Bridget Slocum**

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**From:** Nicole Flint on behalf of Leon Zwier  
**Sent:** Friday, 30 October 2009 3:55 PM  
**To:** 'Alex Mufford'; 'Andrew Malarkey'; 'Andrew Ryan'; 'Andrew Tregear'; 'Antony Munro'; 'Bryan Webster'; 'Chris Garnaut'; 'Clint Hinchin'; 'Garry Bigmore'; 'Ian Carson'; 'John Stragalinis'; 'Katie Desmond'; 'Mark Bland'; 'Mark Korda'; 'Michael Fernon'; 'Pamela Hanrahan'; 'Peter McCluskey'; 'Ross McClymont'; 'Samantha Kinsey'; 'shibble@vicbar.com.au'; 'Tina Beltrame'; 'Tony Troiani'; 'Ian.Copp@cba.com.au'; 'Jonty.Ephron@cba.com.au'; 'Kylie\_Lowder@hdy.com.au'; 'Philip\_Crawford@hdy.com.au'; 'Scott\_Atkins@hdy.com.au'; Bridgette Toy-Cronin  
**Subject:** Timbercorp Olive Schemes - Additional Liquidator  
**Attachments:** Appointment of Additional Liquidator.pdf; Doc#808015 - MINUTES OF PROPOSED CONSENT ORDERS - ADDITIONAL LIQUIDATOR - v1.pdf

Dear All,

On 18 September 2009, Justice Robson made orders appointing Ian Carson of PPB as an additional liquidator in relation to the olive schemes solely for the purposes set out in those orders. The purpose was to negotiate with Olivecorp Land Pty Limited (In Liquidation) on behalf of TSL for the extinguishment of the leases, subleases and licences. A copy of the orders is attached.

As you know, Justice Robson subsequently made orders in relation to the almond asset sale that rather than the net proceeds of sale being apportioned by negotiation between the parties (which in that case had not reached an agreed position), the net proceeds of the sale are to be held on trust pending the hearing and determination of a proceeding to determine apportionment.

In light of Justice Robson's decision, no negotiation will take place between Olivecorp and TSL and the liquidators will instead seek the same orders granted in respect of the almond asset sale for the olive asset sale. As no negotiation is proposed, and also taking into account the costs involved in Ian Carson carrying out his role, the liquidators do not consider it is necessary for Ian Carson to remain in the position of an additional liquidator.

We therefore attach draft minutes of consent orders for you to consider, releasing Ian Carson from the role of additional liquidator.

Please respond to us by Wednesday 4 November 2009.

Regards,  
**Leon Zwier** | Partner

**Arnold Bloch Leibler** | Level 21, 333 Collins Street, Melbourne Victoria 3000  
T: +61 3 9229 9646 | F: + 61 3 9229 9603  
lzwier@abl.com.au | www.abl.com.au

Arnold Bloch Leibler acknowledges the traditional owners of country throughout Australia.

9/11/2009

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

COMMERCIAL COURT  
CORPORATIONS LIST

LIST E  
No. 7114 of 2009

IN THE MATTER of TIMBERCORP SECURITIES LIMITED (UNDER  
ADMINISTRATION) (ACN 092 311 469)

**BETWEEN:**

TIMBERCORP SECURITIES LIMITED (UNDER  
ADMINISTRATION) (ACN 092 311 469) IN ITS  
CAPACITY AS RESPONSIBLE ENTITY OF EACH OF  
THE MANAGED INVESTMENTS SCHEMES LISTED  
IN SCHEDULE 1 and others  
(according to the schedule attached)

Plaintiffs

**GENERAL FORM OF ORDER**

JUDGE: The Honourable Justice Robson

DATE MADE: 18 September 2009

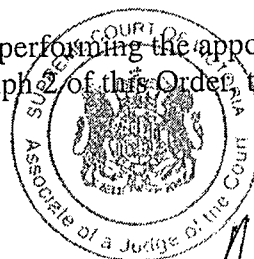
ORIGINATING PROCESS: Filed 4 June 2009

HOW OBTAINED: Interlocutory Process for appointment of an additional  
liquidator dated 17 September 2009

ATTENDANCE: Mr L Zwier, Solicitor for the Plaintiffs  
Mr M Bland, Solicitor for the representatives of the  
grower investors on the creditors committee of  
Timbercorp Securities Limited  
Mr S J Hibble of Counsel for the Australian Securities  
and Investments Commission (ASIC)  
Ms S Cipriano of Counsel for the Commonwealth Bank  
Counsel

OTHER MATTERS: The Court notes that the appointment of the additional  
liquidator does not limit the role or powers of Mark  
Anthony Korda and Leanne Kylie Chesser as liquidators  
of TSL (liquidators) other than as provided for in order 4.

For the purposes of performing the appointment  
described in paragraph 2 of this Order, the additional



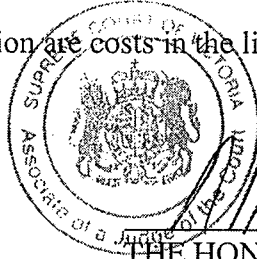
liquidator will assume that all legal advice and other documentation and materials the liquidators, the First Plaintiff or Arnold Bloch Leibler provides to the additional liquidator are correct, and that the Scheme documents and other agreements the liquidators, the First Plaintiff or Arnold Bloch Leibler provides to the additional liquidator are accurate and enforceable in accordance with their terms. The additional liquidator may seek independent legal advice to assist him in determining the effect of those legal advices and other materials.

THE COURT ORDERS THAT:

1. Pursuant to ss 472(1) and 511 of the *Corporations Act 2001 (Cth)*, Ian Menzies Carson of PPB Chartered Accountants, Level 10, 90 Collins Street, Melbourne, Victoria, be appointed as an additional liquidator solely for the purposes set out in paragraph 2 below.
2. Pursuant to s 473(8) of the Act, the Court declares that the following matters be done only by Ian Menzies Carson, as an additional liquidator of the Company, on behalf of the company:
  - a) to negotiate with Olivecorp Land Pty Limited ACN 090 141 512 (in liquidation) (Olivecorp), on behalf of the First Plaintiff (TSL), either alone or with the liquidators, the extinguishment or surrender of any lease between Olivecorp and TSL (Head Lease) and the terms thereof;
  - b) to negotiate with Olivecorp, on behalf of TSL, either alone or with the liquidators, the extinguishment or surrender of any lease, sublease or licence and the terms thereof between TSL and third parties including but not limited to the grower investors claiming an interest in or in respect of land leased by Olivecorp to TSL (Subleases);
  - c) to engage jointly with the liquidators one or more experts as deemed necessary to assist the additional liquidator, in relation to the matters set out in orders 2(a) and (b); and
  - d) to provide, if deemed necessary or appropriate, to the Court a report which identifies the activities undertaken by the additional liquidator in discharging the above functions.
3. Pursuant to s 473(8) the Court declares that Ian Menzies Carson be entitled to exercise for the purposes specified in Order 2 above only the powers conferred on a liquidator by s 477(2)(b) of the Act and otherwise to do all such things as are necessary therefore.
4. The additional liquidator's costs are to be paid on the same basis as the liquidators' costs.



5. The liquidators and the additional liquidator each have liberty to apply to the Court to vary this order.
6. Liberty to apply generally is reserved to the liquidators and the additional liquidator.
7. The costs of this application are costs in the liquidation of Olivecorp and TSL in equal amounts.



  
THE HONOURABLE JUSTICE ROBSON

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

COMMERCIAL COURT  
CORPORATIONS LIST

LIST E  
No. 7114 of 2009

IN THE MATTER of TIMBERCORP SECURITIES LIMITED (UNDER  
ADMINISTRATION) (ACN 092 311 469)

**BETWEEN:**

TIMBERCORP SECURITIES LIMITED (UNDER ADMINISTRATION) (ACN 092 311 469) IN ITS  
CAPACITY AS RESPONSIBLE ENTITY OF EACH OF  
THE MANAGED INVESTMENTS SCHEMES LISTED  
IN SCHEDULE 1 and others  
(according to the schedule attached)

Plaintiffs

**GENERAL FORM OF ORDER**

JUDGE: The Honourable Justice Robson

DATE MADE: 18 September 2009

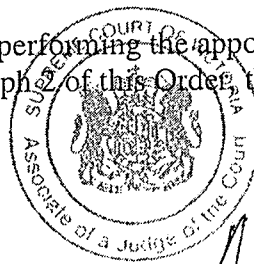
ORIGINATING PROCESS: Filed 4 June 2009

HOW OBTAINED: Interlocutory Process for appointment of an additional liquidator dated 17 September 2009

ATTENDANCE: Mr L Zwier, Solicitor for the Plaintiffs  
Mr M Bland, Solicitor for the representatives of the grower investors on the creditors committee of Timbercorp Securities Limited  
Mr S J Hibble of Counsel for the Australian Securities and Investments Commission (ASIC)  
Ms S Cipriano of Counsel for the Commonwealth Bank Counsel

OTHER MATTERS: The Court notes that the appointment of the additional liquidator does not limit the role or powers of Mark Anthony Korda and Leanne Kylie Chesser as liquidators of TSL (liquidators) other than as provided for in order 4.

For the purposes of performing the appointment described in paragraph 2 of this Order, the additional



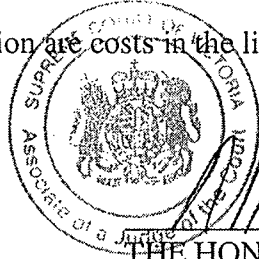
liquidator will assume that all legal advice and other documentation and materials the liquidators, the First Plaintiff or Arnold Bloch Leibler provides to the additional liquidator are correct, and that the Scheme documents and other agreements the liquidators, the First Plaintiff or Arnold Bloch Leibler provides to the additional liquidator are accurate and enforceable in accordance with their terms. The additional liquidator may seek independent legal advice to assist him in determining the effect of those legal advices and other materials.

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  - c) to engage jointly with the liquidators one or more experts as deemed necessary to assist the additional liquidator, in relation to the matters set out in orders 2(a) and (b); and
  - d) to provide, if deemed necessary or appropriate, to the Court a report which identifies the activities undertaken by the additional liquidator in discharging the above functions.
3. Pursuant to s 473(8) the Court declares that Ian Menzies Carson be entitled to exercise for the purposes specified in Order 2 above only the powers conferred on a liquidator by s 477(2)(b) of the Act and otherwise to do all such things as are necessary therefore.
4. The additional liquidator's costs are to be paid on the same basis as the liquidators' costs.



5. The liquidators and the additional liquidator each have liberty to apply to the Court to vary this order.
6. Liberty to apply generally is reserved to the liquidators and the additional liquidator.
7. The costs of this application are costs in the liquidation of Olivecorp and TSL in equal amounts.



  
THE HONOURABLE JUSTICE ROBSON