

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

**CON MOSHOPOLOUS
& ORS (according to the attached Schedule)**

Defendants

**AFFIDAVIT OF JANE CHALMERS SHERIDAN
(FENCEPORT RIGHTS PROCEEDING)**

Date of document: 27 August 2012
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: 011601361

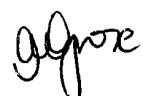
(Jane Sheridan - jsheridan@abl.com.au)

I, **JANE CHALMERS SHERIDAN** of Level 21, 333 Collins Street, Melbourne, in the State of Victoria, Solicitor, **SAY ON OATH** that:

- 1 I am a partner of the firm Arnold Bloch Leibler (**ABL**) , the solicitors for the Plaintiffs and I have the care and conduct of this proceeding (the **Fenceport Rights Proceeding**) on their behalf. I am authorised to make this affidavit on behalf of the Plaintiffs.
- 2 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information and belief, I believe those matters to be true.



ABL/2334463v1




- 3 This affidavit is made in support of the Plaintiffs' summons dated 27 August 2012 by which (among other things), in accordance with Rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) (**Rules**), application is made to this Honourable Court for (among other things) approval of the compromise of the Fenceport Rights Proceeding reached between the parties to the proceeding.
- 4 At the first return date of the summons, the Plaintiffs intend to seek directions concerning:
- (a) the filing and service of further affidavit material in respect of the Plaintiffs' application;
 - (b) the filing and service of submissions in respect of the Plaintiffs' application; and
 - (c) the substantive hearing of the Plaintiffs' application.
- 5 Except where stated otherwise, defined terms used in this affidavit have the meaning ascribed to them in the affidavit sworn by Ross Whyte McClymont on 15 August 2012 in the Almond Land Rights Appeal Proceeding (the **McClymont Affidavit**). Now produced and shown to me marked 'JCS-1' is a true copy of the McClymont Affidavit.

Timbercorp apportionment proceedings

- 6 The McClymont Affidavit relevantly sets out:
- (a) at paragraphs 6 to 10, the background to the Apportionment Proceedings (including the Fenceport Rights Proceeding) and the Almond Land Rights Proceeding including, at paragraph 8, the key issue for determination in each proceeding;
 - (b) at paragraphs 11 to 15, an overview of the Almond Land Rights Proceeding, including reference to:
 - (i) the order made in that proceeding, pursuant to rule 16.01(2) of the Rules, that certain parties be appointed as Representative Growers to represent the interests of the Growers in the Timbercorp MIS the subject of the proceeding (see paragraph 12 of the McClymont Affidavit); and



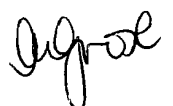
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- (ii) the key determination made by her Honour Justice Davies in her reasons for judgment delivered in that proceeding on 15 June 2011 (see paragraph 14 of the McClymont Affidavit);
- (c) at paragraphs 16 to 19:
 - (i) an overview of the commencement and current status of each of the Apportionment Proceedings (including the Fenceport Rights Proceeding); and
 - (ii) reference to the order made, in each such proceeding, pursuant to rule 16.01(2) of the Rules, appointing Representative Growers to represent the interests of the Growers in the Timbercorp MIS the subject of the proceeding (see paragraph 19 of the McClymont Affidavit); and
- (d) at paragraphs 20 to 22, an overview of the background and current status of the Almond Land Rights Appeal Proceeding.

Compromises

- 7 As set out at paragraphs 23 and 24 of the McClymont Affidavit, on 25 July 2012, the parties to each of the Apportionment Proceedings and the Almond Land Rights Appeal Proceeding executed a Deed of Compromise for each such proceeding providing, in each case, for the compromise of the relevant proceeding. Each Compromise is conditional on (inter alia):
- (a) the Court approving the Compromise and ordering that it shall be binding on the Growers represented by the Representative Growers in the relevant proceeding; and
 - (b) the Court approving the Compromise in each of the other Apportionment Proceedings and the Almond Land Rights Appeal Proceeding (as applicable).
- 8 Since execution of the Deeds of Compromise, notification has been provided by Timbercorp Securities Limited (in liquidation) (of which the third Plaintiff is a Liquidator and for which Arnold Bloch Leibler acts) to the Growers in the Timbercorp MIS the subject of each Deed of Compromise with respect to a number of issues including the terms and effect of the Deed of Compromise, and the necessity of, and procedure for, obtaining Court approval. In each case, the notice provided to Growers also stated



that a hearing for the approval of the Compromise is anticipated to commence in October 2012.

Referral of the Almond Land Rights Appeal Proceeding to the trial division of the Supreme Court

9 On 24 August 2012, I (and others) received an email from Chris Fenwick of Ashurst Australia in relation to the Almond Land Rights Appeal Proceeding. At the foot of Mr Fenwick's email was an email received by Mr Fenwick, also on 24 August 2012, from Matthew Boisseau, the Associate to the Honourable Justice Osborn, in relation to the Almond Land Rights Appeal Proceeding. In light of:

- (a) Mr Boisseau's email to Mr Fenwick;
- (b) an email dated 27 August 2012 from Ms Jenny Murray of the Supreme Court of Victoria Court of Appeal to his Honour Justice Judd in relation to the Almond Land Rights Appeal Proceeding (a copy of which was sent to the general Arnold Bloch Leibler email address, and forwarded to me) attaching an unauthenticated copy of orders by consent dated 24 August 2012 which I understand to have been made by their Honours Justices Buchanan and Osborn of the Court of Appeal on 24 August 2012,

I believe that, although an authenticated copy of the orders is not yet available, their Honours Justices Buchanan and Osborn of the Court of Appeal made orders by consent in the Almond Land Rights Appeal Proceeding on 24 August 2012 in the form attached to Ms Murray's email. By those orders, the Almond Land Rights Appeal Proceeding has been remitted to the Honourable Justice Judd of the trial division of the Supreme Court:

- (a) for the hearing and determination of any application to approve the Compromise of the proceeding (**Compromise Application**); or
- (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the Compromise Application by another judge of the trial division.

Now produced and shown to me marked 'JCS-2' is a true copy of all emails (including attachments) referred to in this paragraph of my affidavit.

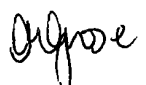


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Approval applications


- 10 As noted above, by summons dated 27 August 2012, the Plaintiffs issue the Approval Application in respect of the Fenceport Rights Proceeding.
- 11 I am informed by Mr Hinchey of Allens (solicitors for Australia and New Zealand Banking Group Limited (ANZ)) and believe that, by summonses dated 27 August 2012, filed in the Solara Rights Proceeding and the Liparoo and Yungera Rights Proceeding, ANZ issues the Approval Application in respect of those proceedings.
- 12 I am informed by Mr McClymont of Ashurst Australia (solicitors for BOSI) and believe that, by summonses dated 27 August 2012, filed on behalf of BOSI in the BB Olives Rights Proceeding and the Almond Land Rights Appeal Proceeding, BOSI issues the Approval Applications in respect of those proceedings.
- 13 In light of the following matters, I believe that it is desirable that the Approval Application in respect of the Fenceport Rights Proceeding be managed, heard and determined concurrently with the Approval Applications in respect of the other Apportionment Proceedings and the Almond Land Rights Appeal Proceeding.
 - (a) The rights of the parties arising under the constituent documents for the Timbercorp MIS the subject of the Apportionment Proceedings and the Almond Land Rights Appeal Proceeding are the same or similar in each case.
 - (b) In determining the Approval Application for each of the Deeds of Compromise, the same threshold question arises in each case, namely, whether the Compromise is for the benefit of the absent persons (i.e. the Growers represented in each proceeding by the Representative Growers) in accordance with rule 16.01(4) of the Rules. Therefore, approval of each Compromise will require consideration of a number of the same or similar questions.
 - (c) As stated above, each Deed of Compromise is conditional on (*inter alia*):
 - (i) the Court approving the Compromise and ordering that it shall be binding on the Growers represented by the Representative Growers in the relevant proceeding; and



- (ii) the Court approving the Compromise in each of the other Apportionment Proceedings and the Almond Land Rights Appeal Proceeding (as applicable).

14 I respectfully request that this Honourable Court make directions for the conduct and hearing of the Approval Application in respect of the Fenceport Rights Proceeding.

SWORN at Melbourne)
in the State of Victoria)
by **JANE CHALMERS SHERIDAN** this)
27th day of August 2012)

) )

Before me:

)

MEAGAN LOUISE GROSE
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

**CON MOSHOPOLOUS
& ORS (according to the attached Schedule)**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 27 August 2012
Filed on behalf of: the Plaintiffs

Prepared by:

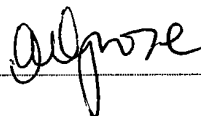
ARNOLD BLOCH LEIBLER
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011601361

(Jane Sheridan - jsheridan@abl.com.au)

This is the exhibit marked "JCS-1" now produced and shown to **JANE CHALMERS SHERIDAN** at the time of swearing her affidavit on 27 August 2012.

MEAGAN LOUISE GROSE
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000

Before me: 

An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Exhibit "JCS-1"

**Affidavit of Ross Whyte McClymont dated 15
August 2012 in S APCI 2011 0103**

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL

S APCI 2011 0103

BETWEEN

GRAHAM GOLDENBERG & ORS (according to the Schedule)

Appellants

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) & ORS** (according to
the Schedule)

Respondents

AFFIDAVIT OF ROSS WHYTE MCCLYMONT


Date sworn: 15 August 2012
Filed on behalf of: the First Respondent
Prepared by:
Ashurst Australia
Level 26
181 William Street
MELBOURNE VIC 3000

Solicitor's Code: 53
DX: 187
Tel: (03) 9679 3000
Fax: (03) 9679 3111
Ref: 03 2010 2555
Attention: Ross McClymont
Email: ross.mcclymont@ashurst.com

I, Ross Whyte McClymont of Level 26, 181 William Street, Melbourne, Solicitor, do solemnly,
sincerely and truly declare and affirm that:

1. I am a partner in the firm of Ashurst Australia, the solicitors for the First Respondent.
2. I have the care and conduct of this proceeding, and had the care and conduct of the proceeding below, on behalf of the First Respondent.
3. I make this affidavit from my own knowledge, save where otherwise stated. Where I depose to matters on the basis of information and belief, I believe those matters to be true.
4. I make this affidavit in support of the First Respondent's summons which seeks an order that the proceeding be remitted to the Honourable Justice Judd of the trial division of the

Supreme Court:



- (a) for the hearing and determination of any application to approve the compromise of the proceeding (**Compromise Application**); or
- (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the **Compromise Application** by another judge of the trial division.


(the **Summons**)

5. Each of the parties to this proceeding consents to the making of the orders sought in the **Summons**. Now produced and shown to me marked "**RWM-1**" is a true copy of a minute of proposed consent order executed on behalf of each of the parties to this proceeding.

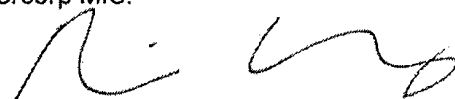
Background to the disputes

6. Timbercorp Limited (in liquidation) and its subsidiary entities (together, the **Timbercorp Group**) conducted various agribusiness managed investment schemes across a number of properties involving, among other things, the management, cultivation, harvesting, processing and sale of almonds, olives and citrus (**Timbercorp MIS**).
7. The Timbercorp Group went into administration on 23 April 2009 and was placed into liquidation on 29 June 2009. Thereafter, the land on which the Timbercorp MIS were conducted, and related assets, were sold in a series of transactions each of which was approved by the Supreme Court of Victoria.
8. Subsequently, in accordance with the applicable orders made by Supreme Court of Victoria, the following five separate proceedings were commenced to determine how the net sale proceeds the subject of each sale transaction were to be apportioned between the land owners, the secured creditors, the investors in the Timbercorp MIS (**Growers**) and other interested parties claiming an interest in those proceeds:
 - (a) Supreme Court of Victoria Proceeding No. S CI 2009 10699 (**Almond Land Rights Proceeding**) which concerned the following Timbercorp MIS:

- (i) 2002 Timbercorp Almond Project ARSN 099 611 935;




- (ii) 2005 Timbercorp Almond Project ARSN 112 935 092;
 - (iii) 2006 Timbercorp Almond Project ARSN 118 387 974;
 - (iv) 2007 Timbercorp Almond Project ARSN 122 511 040; and
 - (v) 2002 Timbercorp Almond Project (Private Offer No 1);
- (b) Supreme Court of Victoria Proceeding No. S CI 2011 6604 (**Liparoo and Yungera Rights Proceeding**) which concerned the following Timbercorp MIS:
- (i) 2001 Timbercorp Almond Project ARSN 095 649 746;
 - (ii) 2002 Timbercorp Almond Project ARSN 099 611 935;
 - (iii) 2003 Timbercorp Almond Project ARSN 103 197 299;
 - (iv) 2004 Timbercorp Almond Project ARSN 108 336 670;
 - (v) 2005 Timbercorp Almond Project ARSN 112 935 092; and
 - (vi) 2002 Timbercorp Almond Project (Private Offer) (Unregistered);
- (c) Supreme Court of Victoria Proceeding No. S CI 2011 6606 (**Solara Rights Proceeding**) which concerned the following Timbercorp MIS:
- (i) 2005 Timbercorp Citrus Project ARSN 114 091 299;
- (d) Supreme Court of Victoria Proceeding No. S CI 2010 1354 (**BB Olives Rights Proceeding**) which concerned the following Timbercorp MIS:
- (i) 2006 Timbercorp Olive Project ARSN 119 182 179;
 - (ii) 2007 Timbercorp Olive Project ARSN 123 155 715; and
 - (iii) 2008 Timbercorp Olive Project ARSN 129 307 722; and
- (e) Supreme Court of Victoria Proceeding No. S CI 2011 6777 (**Fenceport Rights Proceeding**) which concerned the following Timbercorp MIS:



- (i) 2000 Timbercorp Olive Project (Private Offer) (Unregistered);
- (ii) 2001 Timbercorp Olive Project ARSN 094 382 082;
- (iii) 2002 Timbercorp Olive Project ARSN 098 233 455;
- (iv) 2003 Timbercorp Olive Project ARSN 104 648 473; and
- (v) 2004 Timbercorp Olive Project ARSN 108 744 378.

9. As the rights of the claimants on the fund created by the sales the subject of the Solora Rights Proceeding, Liparoo and Yungera Rights Proceeding, BB Olives Rights Proceeding and Fenceport Rights Proceeding are yet to be determined, I define those proceedings as the "**Apportionment Proceedings**".
10. As each of the proceedings referred to in paragraph 8 above involves similar issues, it was considered appropriate for one such proceeding to be heard and determined first, with the intention that the result in that proceeding would then form the basis for determination of the other proceedings. This led to the hearing and determination of the Almond Land Rights Proceeding.

Almond Land Rights Proceeding

11. On 15 December 2009, BOSI Security Services Limited (ACN 009 413 952) as trustee for Australia and New Zealand Banking Group Limited (ACN 005 357 522) (**ANZ**) and BOS International (Australia) Limited (ACN 066 601 250) and Westpac Banking Corporation (ACN 007 457 141) (**BOSI**), as the plaintiff, initiated the Almond Land Rights Proceeding, seeking declarations as to its, the first defendant's (ANZ's) and the fifth to eighth defendants' rights, if any, to the relevant net sale proceeds held in an interest bearing trust account pursuant to orders of Justice Robson made on 9 October 2009 (**Fund**), and how the Fund ought be distributed.

Now produced and shown to me and marked "**RWM-2**" is a true copy of the Summons and Originating Motion filed in the Almond Land Rights Proceeding on 15 December 2009.

12. On 22 December 2009, the Supreme Court of Victoria made orders in the Almond Land Rights Proceeding pursuant to Rule 16.01(2) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) (**Rules**) that certain parties be appointed as representatives (**Representative Growers**) of the Growers in the Timbercorp MIS the subject of the Almond Land Rights Proceeding.

Now produced and shown to me and marked "RWM-3" is a true copy of the orders dated 22 December 2009.

13. The Almond Land Rights Proceeding was heard by Justice Davies over 12 days in February 2011 and March 2011.
14. Justice Davies delivered her reasons for judgment on 15 June 2011. Her Honour found that the Growers were unsuccessful in their claims against the Fund and that BOSI and ANZ were entitled to the Fund in its entirety.

Now produced and shown to me and marked "RWM-4" is a true copy of the judgment of Justice Davies in the Almond Land Rights Proceeding reported as (2011) 84 ACSR 341.

15. By orders dated 27 June 2011, the Fund was to be distributed to BOSI and ANZ, subject to certain ancillary orders.


Now produced and shown to me and marked "RWM-5" is a true copy of the orders dated 27 June 2011.

Apportionment Proceedings

16. On 16 March 2010, the BB Olives Rights Proceeding was commenced by BOSI.

Now produced and shown to me and marked "RWM-6" is a true copy of the Summons and Originating Motion filed in the BB Olives Rights Proceeding on 16 March 2010.

17. BOSI is not a party to the Solara Rights Proceeding, Liparoo and Yungera Rights Proceeding and Fenceport Rights Proceeding. ANZ, the Second Respondent to this

appeal, is a party to the Solora Rights Proceeding and Liparoo and Yungera Rights Proceeding. The solicitors for ANZ in the Liparoo and Yungera Rights Proceeding, the Solora Rights Proceeding and the Almond Land Rights Appeal Proceeding are Allens (Allens). I am informed by Jonathan Joseph of Allens and believe that on 6 December 2011, the Solora Rights Proceeding and the Liparoo and Yungera Rights Proceeding were commenced by ANZ.

Now produced and shown to me and marked "RWM-7" and "RWM-8" are true copies of the Summonses and Originating Motions filed in the Solora Rights Proceeding and the Liparoo and Yungera Rights Proceedings on 6 December 2011.

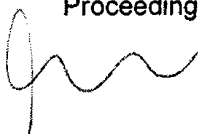
18. BOSI and ANZ are not parties to the Fenceport Rights Proceeding. The Fourth Respondent, Mr Korda (one of the liquidators of the Timbercorp Group), is party to the Fenceport Rights Proceeding. The solicitors for the liquidators of the Timbercorp Group and the Third to Fifth Respondents to this appeal are Arnold Bloch Leibler (ABL). I am informed by Jane Sheridan of ABL and believe that the Fenceport Rights proceeding was commenced on 13 December 2011.

Now produced and shown to me and marked "RWM-9" is a true copy of the Summons and Originating Motion filed in the Fenceport Rights Proceeding on 13 December 2011.

19. Orders have been made in each of the Apportionment Proceedings pursuant to Rule 16.01(2) of the Rules that parties be appointed as representatives of the Growers in the Timbercorp MIS the subject of the Apportionment Proceedings. However, to date no further interlocutory steps have been taken in any of the Apportionment Proceedings.

Almond Land Rights Appeal Proceeding

20. Pursuant to a Notice of Appeal filed by the Representative Growers on 11 July 2011, the Representative Growers in the Almond Land Rights Proceeding sought to appeal the judgment of Justice Davies in that proceeding (Supreme Court of Victoria Court of Appeal Proceeding No S APCI 2011 0103) (Almond Land Rights Appeal Proceeding).




Now produced and shown to me and marked "**RWM-10**" is a true copy of the Notice of Appeal filed by the Growers on 11 July 2011.

21. On 12 December 2011, the parties to the Almond Land Rights Appeal Proceeding filed an agreed summary for the Court of Appeal in accordance with Practice Statement CA 2 of 1995.

Now produced and shown to me and marked "**RWM-11**" is a true copy of the agreed summary for the Court of Appeal filed on 12 December 2011.


22. A date for the hearing of the Almond Land Rights Appeal Proceeding has yet to be set. I understand, however, that, in accordance with an interlocutory order made in the proceeding by Registrar Pedley of the Court of Appeal with the consent of the parties on 17 April 2012, the proceeding is in the list of appeals for hearing.

Now produced and shown to me and marked "**RWM-12**" is a true copy of the order made by Registrar Pedley of the Court of Appeal in the Almond Land Rights Appeal Proceeding on 17 April 2012.

Compromises

23. On 25 July 2012, the parties to each of the Apportionment Proceedings and the Almond Land Rights Appeal Proceeding executed deeds of compromise for each such proceeding (each, a **Deed of Compromise** and together, the **Deeds of Compromise**) providing, in each case, for the compromise of the relevant proceeding (each, a **Compromise** and together, the **Compromises**). Each Compromise is conditional on (*inter alia*):

- (a) the Court approving the Compromise and ordering that it shall be binding on the Growers represented by the Representative Growers in the relevant proceeding;
and
- (b) the Court approving the Compromise in each of the other Apportionment Proceedings and the Almond Land Rights Appeal Proceeding (as applicable).

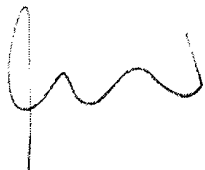
24. Since execution of the Deeds of Compromise, notification has been provided to the Growers in the Timbercorp MIS the subject of each Deed of Compromise with respect to a number of issues including, without limitation, the terms and effect of the Deed of Compromise, and the necessity of, and procedure for, obtaining Court approval. In each case, the notice provided to Growers also stated that a hearing for the approval of the Compromise is anticipated to commence in October 2012.

Approval Applications

25. On 26 July 2012, Allens wrote to the associate to Justice Davies requesting that enquiries be made to facilitate the appointment by the Court of a judge in the trial division of the Supreme Court to hear the applications for approval of the Compromises (each, an **Approval Application** and together, the **Approval Applications**). Allens' letter was sent on behalf, and with the authority, of each of the parties to the Timbercorp Apportionment Proceedings and the Almond Land Rights Appeal Proceeding and a copy of Allens' letter was provided to the solicitors for each such party.

Now produced and shown to me and marked "RWM-13" is a true copy of the letter from Allens to the associate to Justice Davies dated 26 July 2012.

26. Also on 26 July 2012, again on behalf, and with the authority, of each of the parties to the Timbercorp Apportionment Proceedings and the Almond Land Rights Appeal Proceeding, Allens wrote to the Court of Appeal Registry seeking guidance from the Registry as to the steps required to obtain an order from the Court of Appeal that the hearing of the proposed Approval Application in relation to the Compromise in the Almond Land Rights Appeal Proceeding be referred to the same judge appointed by the trial division of the Supreme Court to manage, hear and determine the other Approval Applications. Again, a copy of Allens' letter was provided to the solicitors for each of the parties to the Timbercorp Apportionment Proceedings and the Almond Land Rights Appeal Proceeding



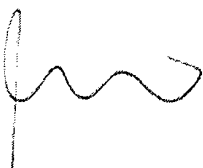
Now produced and shown to me and marked "RWM-14" is a true copy of the letter from Allens to the Court of Appeal Registry dated 26 July 2012.

27. On 9 August 2012, I was copied into an email from Michael Symons, the associate to Justice Judd, to Jonathan Joseph of Allens in which Mr Symons stated that Justice Judd was available for a directions hearing in the Apportionment Proceedings at 10 am on Friday, August 31 2012. Mr Symons also stated that Justice Judd had not been confirmed as the judge who would hear the Approval Applications.

Now produced and shown to me and marked "RWM-15" is a true copy of the email from Mr Symons dated 9 August 2012.

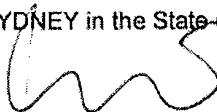
28. The rights of the parties arising under the constituent documents for the Timbercorp MIS the subject of the Almond Land Rights Appeal Proceeding are the same or similar to the rights of parties arising under the constituent documents for the Timbercorp MIS the subject of each of the Apportionment Proceedings. Further, in determining the Approval Application for each of the Deeds of Compromise, the same threshold question arises in each case and regardless of the fact that the Almond Land Rights Appeal Proceeding is presently before the appeal division of the Supreme Court, namely, whether the Compromise is for the benefit of the absent persons (i.e. the Growers represented in each proceeding by the Representative Growers) in accordance with Rule 16.01(4) of the Rules. Therefore, approval of the Compromises of the Apportionment Proceedings will require consideration of a number of questions which will also arise in considering whether to approve the Compromise of the Almond Land Rights Appeal Proceeding. In addition, as stated above, each Deed of Compromise is conditional on (*inter alia*):

- (a) the Court approving the Compromise and ordering that it shall be binding on the Growers represented by the Representative Growers in the relevant proceeding;
and




- (b) the Court approving the Compromise in each of the other Apportionment Proceedings and the Almond Land Rights Appeal Proceeding (as applicable).

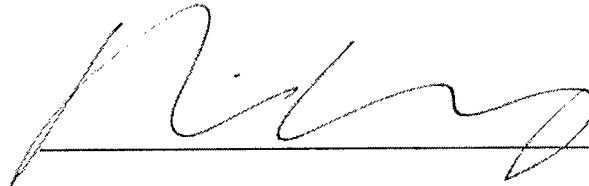
For these reasons, it is considered desirable that the Approval Applications with respect to the Apportionment Proceedings and the Almond Land Rights Appeal Proceeding be heard and determined at the same time and before the same judge.

AFFIRMED at	SYDNEY in the State of NEW SOUTH WALES
Signature of deponent	
Name of witness	Michael Patrick Murray
Address of witness	Ashurst Australia, 181 William St, Melbourne, Victoria 3000
Capacity of witness	An Australian legal practitioner within the meaning of the Legal profession Act 2004

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness



SCHEDULE OF PARTIES

GRAHAM GOLDENBERG

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

First Appellant

and

CHRISTOPHER MARK LITTLE

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

Second Appellant

and

CONSTANTINE MOSHOPOULOS

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

Third Appellant

and

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

and

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED

(ACN 005 357 522)

Second Respondent

and

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

Third Respondent

and

MARK ANTHONY KORDA

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

Fourth Respondent

and

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

Fifth Respondent

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

**CON MOSHOPOLOUS
& ORS (according to the attached Schedule)**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 27 August 2012
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: 011601361

(Jane Sheridan - jsheridan@abl.com.au)

This is the exhibit marked "JCS-2" now produced and shown to **JANE CHALMERS SHERIDAN** at the time of swearing her affidavit on 27 August 2012.

MEAGAN LOUISE GROSE

Arnold Bloch Leibler

Level 21, 333 Collins Street

Melbourne 3000

An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Before me: 

Exhibit "JCS-2"

**Email from Chris Fenwick sent on 24 August
2012, and email from Ms Jenny Murray of the
Supreme Court of Victoria Court of Appeal sent
on 27 August 2012**

" JCS - 2 "

From: Chris.Fenwick@ashurst.com [<mailto:Chris.Fenwick@ashurst.com>]
Sent: Friday, 24 August 2012 11:43 AM
To: Jonathan.Joseph@allens.com.au; Jane Sheridan; Celia.Armstrong@clarendonlawyers.com.au
Cc: Clint.Hinchen@allens.com.au; Ross.McClymont@ashurst.com; Michael.Murray@ashurst.com; Michael.Fernon@clarendonlawyers.com.au; Daniel Briggs
Subject: FW: Goldenberg & Ors v BOSI Security Services Ltd & Ors S APCI 2012 0103

All

Please see below confirmation received this morning from the Court of Appeal that the orders proposed by consent so as to remit the Almond Land Appeal to Judd J have been made in the form proposed.

I am told by the Court of Appeal Registry that we will not receive a copy authenticated order for some time. As such, we propose that the affidavits to be filed in support of each approval application exhibit the signed consent orders (copy attached for convenience) and also the email below, with a view to the relevant parties issuing each of the approval applications on Monday.

Regards

Chris Fenwick
Senior Associate
chris.fenwick@ashurst.com
Ashurst - Australia
D: +61 3 9679 3148 | M: +61 419 494 651

Blake Dawson is Ashurst, Australia's new global law firm. [Read more here](#)

Ashurst Australia 181 William Street Melbourne VIC 3000 Australia
T: +61 3 9679 3000 | F: +61 3 9679 3111 | DX 388 Melbourne
www.ashurst.com | [Offices worldwide](#)

From: Matthew.Boisseau@supremecourt.vic.gov.au [<mailto:Matthew.Boisseau@supremecourt.vic.gov.au>]
Sent: Friday, 24 August 2012 10:33 AM
To: Fenwick Chris 3148
Subject: Re: Goldenberg & Ors v BOSI Security Services Ltd & Ors S APCI 2012 0103

Dear Mr Fenwick,

I confirm that the Court of Appeal have made the orders in the form of the proposed minute of consent orders submitted to the Court.

Kind regards,

Matthew Boisseau ■ Associate to the Honourable Justice Osborn
Court of Appeal, Supreme Court of Victoria ■ 210 William Street, Melbourne, 3000 ■ DX 210608
☎ +61 (03) 9603 6624 📠 +61 (03) 9670 8408 ✉ matthew.boisseau@supremecourt.vic.gov.au

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IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION

S APCI 2011 0103

BETWEEN

GRAHAM GOLDENBERG & ORS (according to the Schedule)

Appellants

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) & ORS (according to the Schedule)

Respondents

PROPOSED MINUTE OF CONSENT ORDER OF THE COURT OF APPEAL

JUDICIAL OFFICER:

DATE MADE:

ORIGINATING PROCESS: Notice of Appeal

HOW OBTAINED: By consent

ATTENDANCE: Not applicable

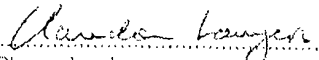
OTHER MATTERS: Not applicable

THE COURT OF APPEAL ORDERS THAT:

1. The proceeding be remitted to the Honourable Justice Judd of the trial division of the Supreme Court:
 - (a) for the hearing and determination of any application to approve the compromise of the proceeding (**Compromise Application**); or
 - (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the Compromise Application by another judge of the trial division.

2. There be no order as to costs.

DATED: 2012


.....
Clarendon Lawyers
Solicitors for the Appellants

.....
Ashurst Australia
Solicitors for the First Respondent

.....
Aliens
Solicitors for the Second Respondent

.....
Arnold Bloch Leibler
Solicitors for the Third, Fourth and
Fifth Respondents

SCHEDULE OF PARTIES

BETWEEN

GRAHAM GOLDENBERG (in his capacity as representative
of the Growers in the 2002 Almond Project)

First Appellant

CHRISTOPHER MARK LITTLE (in his capacity as representative
of the Growers in the 2005 Almond Project)

Second Appellant

CONSTANTINE MOSHOPOULOS (in his capacity as representative
of the Growers in the 2006 Almond Project)

Third Appellant

DAVID BUTTERFIELD (in his capacity as representative
of the Growers in the 2002 Almond Project and as
representative of the Growers 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

Dated:

2012

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION**

S APCI 2011 0103

BETWEEN

GRAHAM GOLDENBERG & ORS (according to the Schedule)

Appellants

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) & ORS** (according to the Schedule)

Respondents

PROPOSED MINUTE OF CONSENT ORDER OF THE COURT OF APPEAL

JUDICIAL OFFICER:

DATE MADE:

ORIGINATING PROCESS: Notice of Appeal

HOW OBTAINED: By consent

ATTENDANCE: Not applicable

OTHER MATTERS: Not applicable

THE COURT OF APPEAL ORDERS THAT:

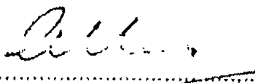
1. The proceeding be remitted to the Honourable Justice Judd of the trial division of the Supreme Court:
 - (a) for the hearing and determination of any application to approve the compromise of the proceeding (**Compromise Application**); or
 - (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the **Compromise Application** by another judge of the trial division.

2. There be no order as to costs.

DATED: 2012

.....
Clarendon Lawyers
Solicitors for the Appellants

.....
Ashurst Australia
Solicitors for the First Respondent


.....
Allens
Solicitors for the Second Respondent

.....
Arnold Bloch Leibler
Solicitors for the Third, Fourth and
Fifth Respondents

SCHEDULE OF PARTIES

BETWEEN

GRAHAM GOLDENBERG (in his capacity as representative
of the Growers in the 2002 Almond Project)

First Appellant

CHRISTOPHER MARK LITTLE (in his capacity as representative
of the Growers in the 2005 Almond Project)

Second Appellant

CONSTANTINE MOSHOPOULOS (in his capacity as representative
of the Growers in the 2006 Almond Project)

Third Appellant

DAVID BUTTERFIELD (in his capacity as representative
of the Growers in the 2007 Almond Project and as
representative of the Growers 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 CHESSE
(in her capacity as liquidator of Almond Land Pty Ltd (in liquidation))

Fifth Respondent

Dated:

2012

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION**

S APCI 2011 0103

BETWEEN

GRAHAM GOLDENBERG & ORS (according to the Schedule)

Appellants

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) & ORS** (according to the Schedule)

Respondents

PROPOSED MINUTE OF CONSENT ORDER OF THE COURT OF APPEAL

JUDICIAL OFFICER:

DATE MADE:

ORIGINATING PROCESS: Notice of Appeal

HOW OBTAINED: By consent

ATTENDANCE: Not applicable

OTHER MATTERS: Not applicable

THE COURT OF APPEAL ORDERS THAT:

1. The proceeding be remitted to the Honourable Justice Judd of the trial division of the Supreme Court:
 - (a) for the hearing and determination of any application to approve the compromise of the proceeding (**Compromise Application**); or
 - (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the **Compromise Application** by another judge of the trial division.

2. There be no order as to costs.

DATED: 14 August 2012

.....
Clarendon Lawyers
Solicitors for the Appellants

.....
Ashurst Australia
Solicitors for the First Respondent

.....
Allens
Solicitors for the Second Respondent

.....
Arnold Bloch Leibler
Arnold Bloch Leibler
Solicitors for the Third, Fourth and
Fifth Respondents

SCHEDULE OF PARTIES

BETWEEN

**GRAHAM GOLDENBERG (in his capacity as representative
of the Growers in the 2002 Almond Project)**

First Appellant

**CHRISTOPHER MARK LITTLE (in his capacity as representative
of the Growers in the 2005 Almond Project)**

Second Appellant

**CONSTANTINE MOSHOPOULOS (in his capacity as representative
of the Growers in the 2006 Almond Project)**

Third Appellant

**DAVID BUTTERFIELD (in his capacity as representative
of the Growers in the 2007 Almond Project and as
representative of the Growers 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

Dated:

2012

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION**

S APCI 2011 0103

BETWEEN

GRAHAM GOLDENBERG & ORS (according to the Schedule)

Appellants

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) & ORS** (according to the Schedule)

Respondents

PROPOSED MINUTE OF CONSENT ORDER OF THE COURT OF APPEAL

JUDICIAL OFFICER:

DATE MADE:

ORIGINATING PROCESS: Notice of Appeal

HOW OBTAINED: By consent

ATTENDANCE: Not applicable

OTHER MATTERS: Not applicable

THE COURT OF APPEAL ORDERS THAT:

1. The proceeding be remitted to the Honourable Justice Judd of the trial division of the Supreme Court:
 - (a) for the hearing and determination of any application to approve the compromise of the proceeding (**Compromise Application**); or
 - (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the Compromise Application by another judge of the trial division.

2. There be no order as to costs.

DATED: 15th August 2012

.....
Clarendon Lawyers
Solicitors for the Appellants

Ashurst Australia
.....
Ashurst Australia
Solicitors for the First Respondent

.....
Allens
Solicitors for the Second Respondent

.....
Arnold Bloch Leibler
Solicitors for the Third, Fourth and
Fifth Respondents

SCHEDULE OF PARTIES

BETWEEN

GRAHAM GOLDENBERG (in his capacity as representative
of the Growers in the 2002 Almond Project)

First Appellant

CHRISTOPHER MARK LITTLE (in his capacity as representative
of the Growers in the 2005 Almond Project)

Second Appellant

CONSTANTINE MOSHOPOULOS (in his capacity as representative
of the Growers in the 2006 Almond Project)

Third Appellant

DAVID BUTTERFIELD (in his capacity as representative
of the Growers in the 2007 Almond Project and as
representative of the Growers 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 CHESSE
(in her capacity as liquidator of Almond Land Pty Ltd (in liquidation))

Fifth Respondent

Dated:

2012

From: Darren Fava
Sent: Monday, 27 August 2012 2:04 PM
To: Jane Sheridan
Subject: FW: Emailing: Goldenberg&Ors_24Aug12.doc

From: Jenny.B.Murray@supremecourt.vic.gov.au [mailto:Jenny.B.Murray@supremecourt.vic.gov.au]
Sent: Monday, 27 August 2012 10:59 AM
To: Justice.Judd@supremecourt.vic.gov.au
Cc: info@clarendonlawyers.com.au; legal.info@ashurst.com; Arnold Bloch Leibler; jason.silverii@allens.com.au; Debra.Thomas@justice.vic.gov.au; coaregistry@justice.vic.gov.au
Subject: Emailing: Goldenberg&Ors_24Aug12.doc

Order from Friday 24 October fyi.

Regards
Jenny Murray
CoA

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SUPREME COURT OF VICTORIA

COURT OF APPEAL

S APCI 2011 0103

GRAHAM GOLDENBERG & ORS ACORDING TO THE
ATTACHED SCHEDULE OF PARTIES

v

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 WESTPACK BANKING CORPORATION (ACN 007 457 141) & ORS

<u>JUDGES:</u>	BUCHANAN and OSBORN JJA
<u>WHERE HELD:</u>	MELBOURNE
<u>DATES OF HEARING:</u>	24 August 2012
<u>DATE OF JUDGMENT/ORDER:</u>	24 August 2012

ORDERS BY CONSENT

<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the First Appellant Goldenberg	No appearances by leave of the Court	Clarendon Lawyers
For the Second Appellant Littley		Clarendon Lawyers
For the Third Appellant Moshopoulos		Clarendon Lawyers
For the Fourth Appellant Butterfield		Clarendon Lawyers

For the First Respondent Bosi
Security Services

Ashurst Australia

For the Second Respondent
Australia and New Zealand
Banking Group

Allens

For the Third Respondent
Almond Land

Arnold Bloch Leibler

For the Fourth Respondent
Korda

Arnold Bloch Leibler

For the Fifth Respondent Chesser

Arnold Bloch Leibler

BUCHANAN JA:

1 In accordance with minutes of consent orders signed by the solicitors for the parties, copies of which will be placed on the Court file, the Court orders as follows:

1. The proceeding be remitted to the Honourable Justice Judd of the trial division of the Supreme Court:
 - (a) for the hearing and determination of any application to approve the compromise of the proceeding (Compromise Application);
or
 - (b) if Justice Judd deems fit, for the purpose of making directions for the hearing and determination of the Compromise Application by another judge of the trial division.
2. There be no order as to costs.

SCHEDULE OF PARTIES

BETWEEN

GRAHAM GOLDENBERG (in his capacity as representative of the Growers in the 2002 Almond Project) First Appellant

CHRISTOPHER MARK LITTLE (in his capacity as representative of the Growers in the 2005 Almond Project) Second Appellant

CONSTANTINE MOSHOPOULOS (in his capacity as representative of the Growers in the 2006 Almond Project) Third Appellant

DAVID BUTTERFIELD (in his capacity as representative of the Growers in the 2007 Almond Project and as representative of the Growers 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

Current rates and charges

Range of hourly rates (for inclusion in Engagement Letters)

#[Last updated 1 July 2011]#

- | | | |
|---|-------------------|-----------------|
| • | Partners | \$625 - \$1,000 |
| • | Special Counsel | \$550 |
| • | Senior Associates | \$475 - \$600 |
| • | Lawyers | \$395 - \$475 |
| • | Law Graduates | \$315 |
| • | Paralegal staff | \$165 - \$475 |

The above excludes tax partners and Senior Litigation Counsel whose hourly rates are above \$750. If they are to be involved in the matter please discuss applicable rates directly with them.

Rates for specific individuals are available from a partner or the finance department

Service charges (for inclusion in Standard Terms of Engagement)

Photocopying and printing	\$0.30 per page
Outgoing facsimiles	\$11.20 first page, \$3.80 subsequent pages
STD, ISD and mobile phone calls	100% of cost
Search fees	\$12.50 to \$50.00, depending on search
Internal couriers/hand deliveries	\$12.70

#[Note: Photocopying and printing were changed at 1st July 2009 to \$0.30 and are no longer charged at the Victorian Supreme Court PRO February 2011]#

All hourly rates and service charges above are **exclusive** of GST