

LIST E
SCI 2009 10699

BOSI SECURITY SERVICES LIMITED AS TRUSTEE
FOR AUSTRALIA AND NEW ZEALAND BANKING
GROUP LIMITED AND BQS INTERNATIONAL
(AUSTRALIA) LIMITED AND WESTPAC BANKING
CORPORATION

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
(ACN 005 357 522)
and others according to the schedule attached

GENERAL FORM OF ORDER

JUDGE: The Honourable Justice Davies

DATE MADE: 22 December 2009

ORIGINATING PROCESS: Originating Motion filed 15 December 2009

HOW OBTAINED: On return of the order of the Honourable Justice Davies made 18 December 2009

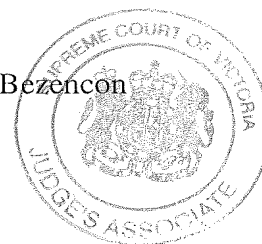
ATTENDANCE: Mr. P Anastassiou of Senior Counsel for the Plaintiff

Mr. M Moshinsky of Senior Counsel with
Ms. W Harris of Counsel for the First Defendant

Mr. L Zweir, Solicitor for the Second to Fourth Defendants

Mr. G Bigmore of Her Majesty's Counsel with
Mr. S Hopper of Counsel for Garry Goldenberg,
Christopher Mark Littley, Constantine Moshopoulos and
David Butterfield

Mr. D J O'Callaghan of Senior Counsel with
Mr. C Archibald of Counsel for Kerry Anne Bezencon
and the TGG Almond Committee Inc

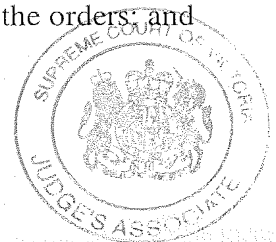


OTHER MATTERS:

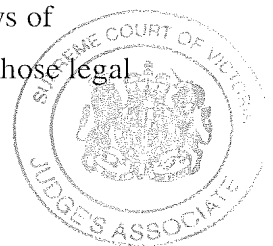
None

THE COURT ORDERS THAT:

1. Pursuant to rule 45.05 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) the requirements of Rules 5.03(1) and 8.02 are dispensed with.
2. Pursuant to rule 45.05 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) the Plaintiff has leave to proceed by originating motion in Form 5C.
3. Pursuant to rule 16.01(2) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic):
 - (a) Graham Goldenberg is appointed as the representative of the Growers in the 2002 Timbercorp Almond Project (ARSN 099 611 935);
 - (b) Christopher Mark Littley is appointed as the representative of the Growers in the 2005 Timbercorp Almond Project (ARSN 112 935 092);
 - (c) Constantine Moshopoulos is appointed as the representative of the Growers in the 2006 Timbercorp Almond Project (ARSN 118 387 974);
 - (d) David Butterfield is appointed as the representative of the Growers in the 2007 Timbercorp Almond Project (ARSN 122 511 040); and
 - (e) David Butterfield is appointed as the representative of the Growers in the unregistered managed investment scheme known as the 2002 Timbercorp Almond Project (Private Offer No 1).
4. The persons appointed pursuant to paragraph 3 above, are joined as the Fifth, Sixth, Seventh and Eighth Defendants in the proceeding pursuant to rule 9.02 and/or rule 9.06(b) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic).
5. The Plaintiff is granted leave to file and serve an amended originating motion on the Defendants on or before 4:00pm 23 December 2009:
 - (a) incorporating a declaration as to what, if any, right the Growers represented by the Fifth, Sixth, Seventh and Eighth Defendants have to the sale proceeds held on trust by the Second Defendant pursuant to paragraph 7 of the orders, and



- (b) amending paragraph 5 of the originating motion to read "A declaration as to how the sale proceeds held on trust by the second defendant pursuant to paragraph 7 of the Orders ought to be distributed between the plaintiff and the first, fifth, sixth, seventh and eighth defendants."
6. The parties file and serve a list of documents on which they intend to rely in relation to the issue of what right, if any, they have to the net sale proceeds (the **Funds**) to be held on trust by the second defendant pursuant to paragraph 7 of the orders (the **Rights Issue**) on or before 4:00pm on 12 February 2010.
7. The parties file and serve on or before 4:00pm on 19 February 2010:
- (a) written contentions of fact and law addressing the Rights Issue (the **Rights Contentions**);
- (b) any affidavit material upon which they wish to rely in relation to the Rights Issue.
8. The parties file and serve on or before 4:00pm on 5 March 2010:
- (a) written contentions of fact and law in reply to the Rights Contentions;
- (b) any affidavit material upon which they wish to rely by way of reply in relation to the Rights Issue.
9. Each party serve a copy of the documents referred to in paragraphs 6, 7 and 8 upon TGG Almond Committee Inc and any other document filed in the proceeding from the date of this order at the same time as the document is served upon a party to the proceeding.
10. The Liquidators of the Second Defendant pay from the Funds to Clarendon Lawyers, the solicitors for the Fifth, Sixth, Seventh and Eighth defendants, the legal costs and disbursements incurred in this proceeding by the Fifth, Sixth, Seventh and Eighth Defendants in complying with paragraphs 6, 7, 8 and 9 of this order on a solicitor and client basis pursuant to rule 63.32(2)(a) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) up to a maximum of \$100,000 within 14 days of presentation to the Liquidator by Clarendon Lawyers of a tax invoice for those legal

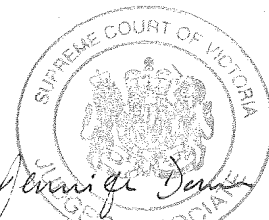


costs and disbursements, such tax invoices rendered by Clarendon Lawyers with such frequency as it sees fit.

11. The proceeding is listed for further directions at 10:00am on 12 March 2010.
12. Costs of today are reserved.
13. Liberty to apply.

DATE AUTHENTICATED:

4 December 2010



Justice Davies
JUSTICE DAVIES

SCHEDULE OF PARTIES

S CI 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 WESTPAC BANKING CORPORATION (ACN 007 457 141) Plaintiff

- and -

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

ALMOND LAND PTY LTD (IN LIQ) Second Defendant
(ACN 091 460 392)

MARK ANTHONY KORDA (in his capacity as liquidator of Almond Land Pty Ltd (in liq)) Third Defendant

LEANNE KYLIE CHESSER (in her capacity as liquidator of Almond Land Pty Ltd (in liq)) Fourth Defendant

