

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

LIST E

SCI 2010 396

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

ORIGINATING PROCESS

Date of document: 29 January 2009
Filed on behalf of: the Plaintiffs

Prepared by:
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A. DETAILS OF APPLICATION

This application is made under section 511 of the *Corporations Act 2001* (Cth) (the Act).

The Second and Third Plaintiffs seek directions and orders in relation to a sale process for assets managed by the First Plaintiff.

On the facts stated in the supporting affidavit of David Laurence McEvoy sworn on 25 January 2010 (**McEvoy Affidavit**) and an affidavit of Mark Anthony Korda yet to be sworn and filed, the Plaintiffs seek the following orders and directions:

1. The Second and Third Plaintiffs (in their capacity as Liquidators of the First Plaintiff) seek directions pursuant to section 511 of the Act that they are justified in procuring the First Plaintiff as responsible entity of the 2005 Timbercorp Citrus Project (ARSN 114 091 299) to terminate or surrender each relevant Grower licence and to extinguish all of the rights

of the Growers in respect of the property the subject of the Sale Contract (as defined in the McEvoy Affidavit) on the basis that the net proceeds of sale under the Sale Contract are held on trust 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 proceeds.

- 2 Exhibits DLM-6, DLM-8, DLM-9 and DLM-10 to the McEvoy Affidavit be kept confidential.
- 3 Such further or other orders as the Court deems fit.

DATE: 29 January 2010

Arnold Bloch Leibler

ARNOLD BLOCH LEIBLER
 Solicitors for the Plaintiffs

This originating process will be heard by Justice Judd in Court No. 1, Supreme Court, 450 Little Bourke Street, Melbourne at 10:30am on 9 February 2010.

C. FILING

29 JAN 2010

This originating process is filed by Arnold Bloch Leibler of Level 21, 333 Collins Street, Melbourne, VIC, 3000, solicitors for the applicant.

E. SERVICE

The plaintiffs' address for service is C/- Arnold Bloch Leibler, Level 21, 333 Collins Street, Melbourne, VIC, 3000.

It is intended to serve as a courtesy a copy of this originating process on the following persons.

Australian Securities and Investments Commission;

David Laurence McEvoy and Paul William Kirk, in their capacity as the Receivers of OIM#2 Pty Ltd (Receivers and Managers Appointed) as trustee for Timbercorp Orchard Trust #2 by its solicitors Allens Arthur Robinson.

SCHEDULE OF PARTIES

**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)**
First Plaintiff

MARK ANTHONY KORDA
Second Plaintiff

LEANNE KYLIE CHESSE
Third Plaintiff