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

LIST E

No 7114 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 EACH OF THE MANAGED INVESTMENTS SCHEMES LISTED IN SCHEDULE 1 OF THE ORIGINATING PROCESS
First Plaintiff

MARK ANTHONY KORDA and LEANNE CHESSER
Second and Third Plaintiffs

AFFIDAVIT OF MARK ANTHONY KORDA

RESPONSIBLE ENTITIES

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
Prepared by:
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(Leon Zwier)

I, **MARK ANTHONY KORDA** of Level 24, 333 Collins Street, Melbourne, Chartered Account, **SAY ON OATH** that:

1 I am the Second Plaintiff in this proceeding. I make this affidavit on behalf of myself and the Third Plaintiff, Ms Leanne Chesser. Ms Chesser and I are liquidators of the First Plaintiff, Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469) (**TSL**). I am authorised by Ms Chesser to make this affidavit on her behalf. References in this affidavit to "we", "us", "our" or "ourselves" are references to Ms Chesser and me.

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2 Except where I otherwise indicate, the matters deposed to in this affidavit are deposed to from my own personal knowledge of the facts. Where I depose to matters from information and belief, I believe such matters to be true.

3 I make this further affidavit in support of the application by the Plaintiffs to wind up the managed investments schemes listed in Schedule 1 to the originating process (**Almond and Olive Schemes**), pursuant to section 601ND of the *Corporations Act 2001* (Cth) (**Corporations Act**). In this affidavit I refer to the schemes numbered 1 to 7 in the originating application as the "Olive Schemes" and those numbered 8 to 14 as the "Almond Schemes".

4 This affidavit supplements my previous affidavits sworn in these proceedings:

(a) an affidavit sworn on 4 June 2009 and filed in this proceeding for the purpose of obtaining a direction under s 447D (**Directions Affidavit**);

(b) 14 "Scheme specific" affidavits sworn on 3 July 2009 and filed in this proceeding each giving information about the Almond and Olive Schemes (**14 Almond and Olive Scheme Affidavits**);

(c) 14 additional "Scheme specific" reply affidavits sworn on 9 July 2009 and filed in this proceeding each giving further information about the Almond and Olive Schemes (**14 Supplementary & Reply Almond and Olive Scheme Affidavits**);

5 In my Directions Affidavit and Almond and Olive Scheme Affidavits I defined terms for certain entities and agreements and I adopt the same defined terms in this affidavit.

5.1 This affidavit sets out details concerning parties who have expressed interest in becoming a temporary or replacement responsible entities (**RE**) for the Almond and Olive Schemes or restructuring the Almond and Olive Schemes. In addition this affidavit addresses issues raised in the affidavits served on 9 and 14 July 2009 by those opposing the winding up of the Schemes.

6 **Discussions with Replacement or Temporary Responsible Entity**

6.1 The Corporations Act provides a legal process whereby the RE of a managed investment scheme can be replaced. There are also mechanisms in certain leases and management agreements to which TSL is a party in its own capacity, which

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allow for the assignment of TSL's rights and obligations under those agreements to an entity which replaces it as RE of the relevant scheme.

6.2 As I said in my Directions Affidavit, as liquidators we have considered and will consider all bona fide proposals to replace TSL as RE for any one or more of the Almond and Olive Schemes, and support that proposal if that proposal is in the best interests of the Growers. If the Schemes are wound up we would also treat with any party wishing to recapitalise the Schemes or form new Managed Investment Schemes involving the same or other investors or a combination of both. As liquidators of the Schemes we would continue to act in the best interests of Growers.

6.3 We have made all necessary information available to bona fide parties who wish to consider such a proposal. KordaMentha has, as appropriate:

(a) Provided interested parties with a discussion paper dated 11 June outlining issues for prospective replacement REs to consider (**Discussion Paper**). Now produced and shown to me marked **A** is the Discussion Paper;

(b) Met with representatives of the interested party to discuss the relevant scheme or schemes and principal issues;

(c) Provided scheme documents to the interested party;

(d) Subject to the interested party entering into a confidentiality agreement, provided additional information as requested (subject to availability) to assist in the development of proposal; and

(e) Requested the interested party provide information in writing about its strategy for addressing key problems with the scheme or schemes it is investigating and its financial ability to implement the proposal.

6.4 The Australian Securities and Investments Commission (**ASIC**) requested that we provide a summary of all requests for information from interested parties. Now produced and shown to me marked **B** is a confidential exhibit, which is the summary KordaMentha provided on 23 June 2009 in response to ASIC's request. In my opinion it would be prejudicial to discussions exploring the restructure of the schemes or appointment of a new RE if this information was publicly disclosed.

7 On 25 June 2009 Huntley Management Ltd (ACN 089 240 513) replaced TSL as the RE for:

(a) 2005 Timbercorp Mango Project ARSN 113 969 216

(b) 2006 Timbercorp Mango Project ARSN 119 526 377

(c) 2007 Timbercorp Avocado & Fruit ARSN 124 932 519

7.1 With respect to the Olive and Almond Schemes, the parties that have expressed an interest in the RE role (temporary or replacement) or restructuring the schemes are:

(a) Primary Securities Ltd (ACN 089 812 635) (**Primary Securities**) (Olive Schemes);

(b) Align Funds Management Limited (ACN 105 684 231) (**Align**) (Almond Schemes);

(c) Consortium of Growers including Stuart Martyn and Redisland Australia Limited (ACN 105 576 707) (**Redisland**) (Olive Schemes); and

(d) Huntley Management Limited (ACN 089 240 513) (**Huntley**) (Almond Schemes)

(together the **Interested Parties**).

8 **Appointment of a Temporary of Replacement RE**

8.1 I am concerned that the appointment of a temporary or replacement RE for the Almond and Olive Schemes is not in the best interests of the Growers for the reasons set out below.

8.2 Most of the proposals from the Interested Parties rely on:

(a) convening meetings of Growers, amending the scheme documents, for example to accelerate and increase Grower's payment obligations, empower the RE to borrow funds or use the crop sale proceeds as security or to fund operating costs; and/or

(b) renegotiate existing contracts with service providers.

8.3 Leaving aside more substantive problems with these proposals, these amendments and negotiations will all take time, and without an immediate injection of cash the Olive Groves and Almond plantations will suffer significant waste. Time is of the

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essence to avoid wastage. The new RE will have to become familiar with the documentation and finances, convene meetings and draft agreements or amendments. Simultaneously it will have to train staff and implement systems (such as information technology systems) as TSL does not itself have any staff or own any such systems, they are currently under the control of other Timbercorp Group companies and therefore none of these assets will as of right be transferred to the new RE. There is also a real risk that Growers and other parties may not agree to the amendments the Interested Parties' proposals rely on.

8.4 In the interim, working capital will be required or the crop will waste. Therefore any replacement RE will need immediate access to cash pending conclusion of a restructure. None of the proposals that I have received contemplate that the new or replacement RE will inject that cash. On the contrary they all propose not doing so. I have deposed in my Almond and Olive Affidavits and Supplementary and Reply Almond and Olive Affidavits that immediate access to working capital is critical and necessary to ensure that the Almond trees and Olive groves do not suffer wastage. By way of further example now produced and shown to me marked **C** is an e-mail and attached photographs dated 9 July 2009 from John Bird, Managing Director of Select Harvests Limited ACN 000 721 380 (**Select**). In that e-mail he outlines the need for mite control and weed spraying. For the Olive Schemes the expenditure needed for the short-term is for irrigation, weed control and the start of the pruning and nutrition programs. I have also deposed in my Supplementary and Reply Almond and Olive Affidavits that based on legal advice and the comments of Finkelstein J, that the proceeds from previous harvest years cannot legally be used to fund these costs. This makes commercial sense. Growers can terminate their agreements with TSL and thereby avoid incurring any future costs but receive a pro rata distribution of the proceeds of the previous harvest of which they were Growers. Therefore the prior year crop proceeds should not be used to fund future expenses without the consent of all Growers, otherwise Growers who have terminated their agreements are funding expenses for a scheme of which they are no longer a member.

8.5 The temporary or replacement RE will invoice the Growers for the estimated annual scheme costs, including in some proposals, accelerating or increasing those payments assuming the scheme documents are amended to permit this to happen. I have previously deposed that I consider it likely that some Growers will default on their payment obligations. Those that do pay however will be paying into schemes

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that I believe are not viable and will be doing so in the belief that the money cannot be applied by the new or temporary RE unless all other Growers contribute their estimated annual fees, when this is not the case. This concern is magnified with regard to a temporary RE as those entities are unlikely to have the intention of remaining RE. I am concerned that Growers will be putting further funds into the Almond and Olive Schemes with little likelihood they will continue after the immediate cash contributed is spent. In my view this may compound the losses to the Growers and is not in their best interests.

8.6 Those Growers who do pay their annual fees as they are invoiced are also exposed to the risk that the temporary RE will immediately use their payments (made in respect of the whole year) to fund pressing scheme costs that arise in the short term (the first few months of the 2009-2010 financial year) and will not pro-rata their payments to meet costs across the year. The proposals do not contemplate that the new or temporary RE will contribute cash to meet defaults or late payments (with the exception of BBL, discussed at paragraph 11.7). If the temporary RE is unable or unwilling to continue to operate the scheme those Growers will have paid for services they have not received and will be a creditor for the months between the end of the scheme and the end of the financial year. These Growers' contributions will be intermixed and will make a future winding up or recapitalisation of the Almond and Olive Schemes even more expensive and complex for the liquidators, (leaving aside the potential litigation claims against financial advisers who recommend these proposals to Growers and other parties).

8.7 We are acutely aware of the need for an immediate injection of cash to avoid wastage of the trees and crop. We have discussed the proposals for funding the Timbercorp Group Companies and specifically funding in the event of winding up or restructuring of the Almond and Olive Schemes. The Australia and New Zealand Banking Group Limited (ANZ), ANZ, Westpac Banking Corporation and BOS International (referred to as the Syndicate Banks) and the Commonwealth Bank of Australia (CBA) (collectively **the Financiers**) have all confirmed their positions in writing. I believe that if the Schemes are wound up that the Financiers may lend us the cash to meet the most immediate needs because the Court will be in a position to grant us the power to borrow and the Court can also order a clear priority regime to deal with the payment of expenses and liabilities we will incur. Now produced and shown to me marked **D** is the letter from the ANZ. Now produced and shown to me

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marked **E** is the letter from the Syndicate Banks. Now produced and shown to me marked **F** is the letter from the CBA.

9 **Primary Securities - Olive Schemes**

9.1 Primary Securities has entered into discussions with us regarding a proposal to act as replacement RE for the Olive Schemes. Now produced and shown to me marked **G** is a confidential exhibit, which is a bundle of correspondence between Primary Securities Ltd and KordaMentha dated 28 June 2009 to 14 July 2009. In my opinion it would be prejudicial to the negotiations with Primary Securities Ltd if this information is disclosed to the public. This includes the responses to issues that Mr Garton Smith states are unanswered in paragraphs 19 and 20 of his affidavit.

9.2 Robert Garton Smith, the managing director of Primary Securities has filed an affidavit sworn 8 July 2009 regarding Primary Securities' proposal. Exhibited as RGS-2 is a list of the schemes for which Primary Securities consents to act as RE. Primary Securities consents to act as RE for all the Olive Schemes. Exhibited as RGS-3 to Mr Garton Smith's affidavit is a letter to Clarendon Lawyers dated 2 July 2009 stating that the consent is made on the assumption that costs in the winding-up application currently before the Court will be borne by the administrators of TSL, not by TSL. Mr Garton Smith says in the letter that if the Court does order that TSL pay the costs of the winding-up application then "we [Primary Securities] would not consent to becoming responsible entity". Mr Garton Smith states he believes the administrators will meet the costs as they, not TSL, are making the application. However, the direction sought is that TSL wind-up the schemes, not administrators (now liquidators). We will seek that the expense of the application to wind-up each Scheme is a cost of each Scheme and the RE.

9.3 Mr Garton Smith discusses the fact that Primary Securities does not itself have the resources or any plant and equipment to operate the Olive Schemes and that in the first instance Primary Securities intends to appoint sub-contractors to carry out the work (paragraph 12). No evidence is presented to the Court or the liquidators of Primary Securities financial position and how it proposes to pay for that work in the short term. Mr Garton Smith goes on to state that Primary Securities has carried out "careful due diligence" and is not aware of any "poison pills" if Primary Securities took over as the RE. This statement does not appear to recognise the need to fund the operational expenses set out in the Cashflow Analysis and as discussed in my previous affidavits and above at paragraph 8.5 there is an immediate need for working capital.

9.4 Mr Garton Smith also deposes that Primary Securities "proposes to unilaterally change some arrangements and is aware that any changes of contracts will have to be approved by the Australian Taxation Office". He does not say how these unilateral changes can take place. Based on legal advice I believe that Primary Securities, or any other RE, cannot unilaterally change the Olive Scheme agreements.

9.5 Mr Garton Smith raises the possibility that not all growers will pay their invoices (paragraph 18). He refers to past experience where only two-thirds of the growers resumed making payments when taking over an agricultural scheme from an administrator. If only two-thirds of the growers in the Olive Schemes paid the invoices this would be insufficient to fund the costs of the scheme. Mr Garton Smith does not depose how Primary Securities as the RE will apply two-thirds of the funds received (if at all) and how he will fund the shortfall in operational expenses.

10 **Redisland - Olive Schemes**

10.1 Paul Challis, a director of Redisland, has sworn an affidavit on 3 July 2009. In this affidavit he deposes that Redisland together with other parties (jointly referred to as "the Consortium") are developing a proposal for the growers of the Olive Schemes. These are divided into the "Boort Proposal" for the 2001, 2002, 2003 and 2004 Olive Schemes and the "Boundary Bend Proposal" for the 2006, 2007 and 2008 Olive Schemes.

10.2 At paragraph 7 of his affidavit Mr Challis outlines the key features of the "Boort Proposal". Mr Challis does not provide any evidence about external funding for the "Boort Proposal". At paragraph 7(b) he states that the proceeds for the 2009 harvest will be used as part of the funding. This does not take into account:

(a) the fact that the 2009 harvest proceeds will not be received for some time given the Sale of Crop Agreements detailed in my 2001, 2002, 2003 and 2004 Olive Scheme Affidavits at paragraph 12; and

(b) my belief (discussed in paragraph 8.5 above) that previous years' crop sale proceeds cannot be used to fund the 2010 harvest costs.

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10.3 Mr Challis refers to a proposal with projections but that proposal is not exhibited and therefore I am unable to address the assumptions that might underlie it. He does refer to "net debt" at paragraph 7(h), which suggests that the proposal relies not just on capital raising but also on borrowing. As I have previously deposed (and I discuss at paragraph 8.2 and 8.3) there is no power under the Constitutions of the Almond and Olive Schemes to borrow. The proposals are stated to be in draft and under discussion. This does not address the immediate needs for operating expenditure (discussed above at paragraph 8.5). As I have set out above, if the Court winds up the Schemes we would be willing to continue discussions with Mr Challis.

11 **Boundary Bend - Olive Schemes**

11.1 Paul Riordan has sworn an affidavit on3 July 2009. He deposes that he is the managing director of Boundary Bend Limited (ACN 115 131 667) (**BBL**). His affidavit relates to all of the Olive Schemes. As he states at paragraph 5 BBL is the farm manager of the Olive Schemes.

11.2 Mr Riordan states at paragraph 8 that the "Boundary Bend Projects" (that is the 2006, 2007 and 2008 Olive Schemes that are on Boundary Bend land) are "an issue for the Growers" and are "problematic". He acknowledges significant working capital is required before break even can be achieved. This working capital would have to be provided by a well funded RE. This accords with my evidence in my 2006, 2007 and 2008 Olive Scheme Affidavits that these schemes are not viable.

11.3 Despite this Mr Riordan goes on to state that a new RE should be appointed for the 2006, 2007 and 2008 Olive Schemes and that that RE with BBL's assistance should prepare budgets, further consider the viability of the schemes and if they are unviable terminate the project (paragraph 13). Having been in the position of administrator and liquidator of TSL since late April 2009 I have had the opportunity to review the Olive Schemes. I am an independent insolvency practitioner. I have not been appointed by the Financiers. I also acknowledge a primary duty to act in the best interests of Growers. My conclusion is that they are not solvent. This would mean that the new RE could invoice the growers, incur costs, repeat the exercise of investigating the viability of the schemes and then, reach the conclusion that the schemes are not viable and need to be wound up. As discussed at paragraphs 8.5 and 8.6 this course of action is not in the best interest of the Growers. Furthermore, Mr Riordan does not address who the new RE is going to be and whether it will be able to fund the expense of undertaking viability analysis and meeting working capital requirements in the interim to ensure the crops do not waste.

11.4 Mr Riordan addresses the 2001, 2002, 2003 and 2004 Olive Schemes separately as the "Boort Project Proposal". The "Boort Project Proposal" also fails to address the questions of who the RE will be, and who will pay for undertaking the viability analysis.

11.5 Mr Riordan says that under the "Boort Project Proposal" the new RE will call for contributions from the growers in August 2009 (paragraph 11(b)). As I have previously deposed the RE cannot demand payment from the growers before 31 October each year. The documents would have to be amended to enable this to occur and that in itself would take time.

11.6 The proposal also relies on funding from CBA "to keep the Boort grove in "best practice" condition until 31 August 2009". No evidence is presented about the likelihood of CBA providing that finance. CBA has written to KordaMentha and stated that it will not provide "day to day funding of the schemes themselves" though it will consider providing limited short-term funding to secure and protect the assets during any sale process. As I have deposed, I believe that CBA will do so in the context of an orderly winding up only. That letter is exhibited to this affidavit as F.

11.7 Mr Riordan deposes that BBL "is currently disposed to providing an underwriting for the failed calls", if growers fail to pay their invoices due to lack of finance or confidence (paragraph 11(d)). In that statement Mr Riordan makes no firm commitment to providing that underwriting and does not provide any evidence that BBL has the capacity to do so. As I have deposed there are a number of Olive Schemes where a Timbercorp Group company is itself a Grower in the Olive Schemes. This information is contained in the arrears and defaults analysis exhibited to my Olive Scheme Affidavits. At a minimum these invoices would have to be funded. Similarly at paragraph 11(a) Mr Riordan states that BBL will acquire the land, improvements and infrastructures but gives no detail of how this could be funded. Mr Riordan has not provided the liquidators or the Court with financial information concerning BBL.

11.8 The other difficulties with the "Boort Project Proposal" are that Mr Riordan says that BBL will provide a saving on the licence fee of approximately $5 million (paragraph 11(f)) but does not explain how a reduced licence fee can cover rent for the land on commercial terms (as proposed in paragraph (11(e)) and that the proposal also relies on TSL relinquishing all of its rights to interest and all other incentive arrangements and rights to all management fees (paragraph 11(a)). This does not address the fact that the 2001 and 2002 Olive Schemes are joint venture arrangements. The joint venture party is therefore being asked in this proposal to relinquish its 10% interest in the schemes for no consideration.

12 **Stuart Martyn - Olive Schemes**

12.1 Mr Martyn has not filed an affidavit in these proceedings. On 7 July 2009 he met with Andrew Malarkey, a partner of KordaMentha and Antony Munro, a director of KordaMentha to discuss his proposal to restructure the Olive Schemes. Now produced and shown to me marked **H** is an e-mail from Mr Martyn to Mr Munro dated 13 July 2009 outlining Mr Martyn's proposal.

12.2 There are a number of difficulties with Mr Martyn's proposal. The proposal assumes that Grower contributions can be used to meet expenses as they are received. As discussed in paragraph 8.6 above this approach does not recognise that the Grower is paying for a full year's rent and management fees. The proposal also relies on using Grower contributions to repay any temporary loan facility to the CBA. This would mean using Grower contributions received to fund the expenses of the Grower's own lots, to meet expenses in relation to all Grovelots.

12.3 Moreover the Constitution does not give the RE power to borrow or secure borrowings (discussed in paragraph 8.2 above) and that the proceeds from previous years' crop proceeds cannot be used to fund the 2010 harvest costs (discussed in paragraph 8.5above).

13 **Align - Almond Schemes**

13.1 Align have expressed interest in restructuring the Almond Schemes. Align is the RE of the Timbercorp Primary Infrastructure Fund's (ARSN 116 024 830) (TPIF). Align's proposal, as expressed to me, is not to replace TSL as the RE but to implement a scheme of arrangement.

13.2 No officer or employee of Align has sworn an affidavit in this proceeding. In his affidavit sworn 8 July 2009, Owen Stuart Lennie a "financial consultant to the Timbercorp growers group" (paragragh 1) discusses the Align proposal. Mr Lennie does not state, including in his summary of the key aspects of the Align proposal (paragraph 10), that the Align proposal relies on the winding up of the Almond Schemes.

13.3 Mr Lennie deposes that as Align holds an Australian Financial Services Licence (AFS), Align can be expected to have the financial resources to meet the requirements of ASIC Regulatory Guide 166 Licensing: Financial Requirements (paragraph 4). He then states that the financial report of Align for the half year ended 31 December 2009 shows that Align had gross income for the half year of $0.8m and net assets at the end of the half year of $1.3m and that TPIF's annual financial statements for the year ended 30 June 2008 disclose a net profit before adjustment for fair value of $4.7m and net assets at the end of the year of $58m (paragraph 4).

13.4 Trading in TPIF units has been suspended since 23 April 2009. On 23 June 2009 Align made an announcement to the Australian Stock Exchange (**ASX**) stating it had submitted proposals for a 6 month moratorium to the ANZ and its TPIF bond holders because it was unable to pay interest owing to ANZ on 30 June 2009 and its bond holders on 3 July 2009. The announcement also states that other breaches of covenant are likely to arise. It states that if Align is not granted the moratorium, Align is likely to seek to wind up TPIF and its controlled entities. Now produced and shown to me marked **I** is the Align announcement to the ASX dated 23 June 2009.

13.5 Align made a further announcement to the ASX on 29 June 2009 stating it had received a one month extension from ANZ and nothing yet from the bond holders. Now produced and shown to me marked **J** is the Align announcement to the ASX dated 29 June 2009.

13.6 We have met with Align and continue to meet with them to assist them in progressing their proposal. Their current proposal raises a number of issues that are yet to be addressed. These include:

(a) The proposal requires bridging funding of $20m. Without this funding Align will be unable to address the immediate operational needs of the almond orchards, most pressingly to fund the purchase of bees to pollinate the almond orchards, mite spraying and weed control. I believe that they have not yet sourced this funding; and

(b) The proposal assumes that TPIF bondholders will convert their existing debt of $33.3m into equity. The initial response from the bondholders has been refusal.

13.7 Mr Lennie states that one of the key aspects of the proposal is a $50 million recapitalisation of TPIF by a "non-renounceable rights issue to growers in the almond schemes and by the reinvestment of the 2009 almond crop proceeds". This would compel the Growers to invest their proceeds which I believe (as I have previously deposed) is not currently allowable under the key scheme document. In this respect paragraph 10(d) of Mr Lennie's affidavit is not correct as he states the Align proposal requires "no further financial contributions" from Growers. The reinvestment of the 2009 almond crop proceeds is a financial contribution from the Growers.

13.8 Mr Lennie states that if the Align proposal is not successful then he believes that Huntley are willing to be appointed as a temporary RE for all of the Almond Schemes (paragraph 15). He does not state what Huntley will do or how it will be funded.

14 **Huntley - Almonds**

14.1 John Knox, the managing director of Huntley has sworn an affidavit on 14 July 2009. Mr Knox outlines Huntley's proposal to act as RE of the Almond Schemes. The proposal is only to act as a temporary RE (paragraph 16). Mr Knox states that Huntley's consent is conditional on the Growers amending the Constitution of each Almond Scheme to grant the RE the power to borrow, use crops as security for those borrowings and increase the payment of annual management fees to make them sufficient to fund the on-going management costs of the RE (paragraph 8). For the reasons discussed in paragraphs 8.6 and 8.7 above, I do not think that it is in the best interests of the Growers to make such amendments without any assurance that the Almond Schemes will continue if the borrowing incurs or increased fees are invoiced and paid.

15 **TSL's Liabilities Transferrable to Replacement Responsible Entities**

15.1 TSL's assets and liabilities as at 23 April 2009 appear in the Report to Creditors exhibited as MAK-2 to my Directions Affidavit.

15.2 The main external obligations for the Olive and Almond Schemes are for occupancy (rent), farm operating costs, equipment leases, water rates and electricity.

15.3 The current position in respect of these items is as follows:

(a) Occupancy Costs - the lease obligations became due and owing on 1 July 2009. Rent is currently accruing;

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(b) Farm operating costs - The Olive Schemes have no outstanding liabilities for farm operating costs for May and June 2009 because Boundary Bend Marketing Pty Ltd (ACN 118 216 863) (**BBM**) agreed to pay for these costs under the Sale of Crop Agreements as part of the consideration for its purchase of the crop. Those costs are accruing from 1 July 2009. The 2001 - 2005 Almond Schemes have no outstanding liabilities for farm operating costs because Select has a limited right of set off (discussed in paragraph 8.2 of my 2001-2005 Supplementary and Reply Almond Affidavits) that it is exercising and Select has ceased to provide farm operating services for the 2006 and 2007 Almond Schemes;

(c) Plant and equipment - Timbercorp Group Companies have disclaimed leases for plant and equipment used for, and required for the operation of, the Almond and Olive Schemes. New agreements will need to be reached in relation to the future use of plant and equipment;

(d) Water rates and electricity - there is a liability for water rates and electricity that was incurred prior to our appointment as administrators of TSL. During May and June 2009 further liabilities for these expenses were not incurred because Boundary Bend under the Sale of Crop Agreement have met these expenses for the Olive Schemes and Select have exercised their right of set off for the 2001 - 2005 Almond Schemes.

15.4 There is also a liability for payment of outstanding management investment scheme annual review fees payable to ASIC.

15.5 A replacement or temporary RE will have to meet the outstanding liabilities as well as the cost of running the Almond and Olive Schemes to produce a harvestable crop.

15.6 Exhibited as MAK-2 and MAK-3 to my Directions Affidavit is a combined solvency analysis for the Olive and Almond Schemes respectively. Updated versions of this spreadsheet, broken down for each scheme, appear as MAK-6 to each of my 14 Almond and Olive Affidavits. Now produced and shown to me marked **K** and **L** is an updated copy of the combined solvency analysis for the Olive Schemes and Almond Schemes respectively. This is not new information, but a combined version of MAK-6 to each of my 14 Almond and Olive Affidavits for ease of reference.

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16 Conclusion

16.1 The current proposals to replace TSL as RE, permanently or on an interim basis, are not in the best interests of Growers. If the Court winds up the Almond and Olive Schemes we will continue to treat with those parties and any others who express an interest in recapitalising the Almond and Olive Schemes or purchasing the assets in the best interests of Growers. However I believe that if the Almond and Olive Schemes are not wound up or TSL is removed as RE, we will not be able to fund immediate and critical operational expenditure from the Financiers.

16.2 In addition I also believe that those parties interested in acquiring the Almond and Olive Schemes and other related assets, including trees, crops, land, know-how will be reluctant to bid for those assets because of the complexity surrounding their ownership and structure. That complexity is partially removed on a winding up of the Almond and Olive Schemes insofar as potential purchasers are concerned. Prior to our appointment as administrators, the Timbercorp Group Companies, with the assistance of Goldman Sachs, embarked on a realisation process of certain of its assets including forestry assets to generate cash to meet its obligations to financiers. I believe that the realisation process failed in large part because of the complexity surrounding ownership and structure. Our lawyers have previously advised the Federal Court of Australia (in relation to an application concerning forestry leases) that before proceeds of any realisation of assets can be dissipated a Court will need to determine the entitlements of Growers, landlords and secured creditors to the proceeds of the realisations.

SWORN by the abovenamed deponent at)
Melbourne in the State of Victoria)
this 15 day of July 2009)

M. Korda

Before me: Chantal Encavey

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

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

LIST E

No 7114 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 INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
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Lawyers and Advisers
Level 21
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Ref: 011499489
(Leon Zwier)

This is the exhibit marked "**A**" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 15 July 2009.

Before me: ....

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

Exhibit "A"
Discussion Paper

4

Discussion Paper

KordaMentha

Replacing Timbercorp Securities Limited (TSL) as Responsible Entity

26 June 2009

Issues to consider for a company wishing to replace TSL as Responsibility Entity of the Timbercorp Managed Investment Schemes

As advised to the Court, TSL is insolvent. TSL is currently unable to operate any of the Managed Investments Schemes (**MIS**) for which it is the Responsible Entity (**RE**).

Under the *Corporations Act 2001* (Cth), the RE of an MIS can be changed or removed. The Administrators will consider any bona fide proposals by third parties to take over the role of RE. Any party interested in taking over the role of the RE and completing any of the Timbercorp MIS should obtain its own independent legal and financial advice.

In order to expedite this process set out below are some issues which need to be considered by any party considering taking over the role of RE:

1. The party must be:
   - A registered Australian public company, and
   - Hold an AFS licence authorising the company to operate the MIS.
2. Under section 601FS of the *Corporations Act*, if the RE changes, the rights, obligations and responsibilities of the former RE in relation to the MIS become rights, obligations and liabilities of the new RE (with some exceptions).
3. A party interested in taking over the role of RE may propose to Grower Investors to vary or restructure the MIS schemes. This may require significant amounts of new capital (depending on the MIS) from that party in addition to contributions from Grower investors.

   Further, the structure and content of the various documents which govern the schemes may not allow any RE (current or new) to effect increases to fee amounts, fee structures or the imposition of any new fees or contributions by growers.

   For any restructure to be successful, the party must have considered dealing with the following stakeholders in relation to their roles in the MIS schemes, namely:

Party	Detail
Growers	In some schemes the Growers make annual payments to meet a range of costs. In other schemes Growers are not committed to make any additional annual payments. They receive their proceeds when crops/trees are harvested.
Land	Scheme land is owned either by other insolvent Timbercorp entities (and secured in favour of lenders) or external landlords.

A

Party	Detail
Water Rights	Permanent water rights are owned either by other insolvent Timbercorp entities (and secured in favour of lenders) or external entities.
Property, Plant & Equipment	Property Plant & Equipment is either owned by other insolvent Timbercorp entities or leased from financiers.
Irrigation Infrastructure	Project infrastructure, predominantly irrigation equipment is owned either by other insolvent Timbercorp entities (and secured in favour of lenders) or external entities.
Management Agreements	Project partners or other insolvent Timbercorp companies provide a range of services, e.g. harvesting operations, processing facilities or distribution services.

Any party seeking to take over the role of RE should be mindful of the following:

- The extent of restructuring required may amount to the creation of a new MIS.
- The time and cost of documenting the new arrangements may be considerable.
- Until (or unless) the Grower Investors agree to alternative arrangements, operating costs will be incurred before fees and rent can be received from Grower Investors. Significant working capital requirements may be needed pending completion of the restructure. Further, under some of the MIS, no further fees are payable by Growers prior to harvest.
- Generally,
  - Forestry scheme rental liability from 1 July 2009 to 30 September 2009 is approximately $9.6m;
  - Olive schemes require approximately $66.2m of operations, rental and capital expenditure to complete the 2010 harvest; and
  - Almond schemes require approximately $252.5m of operations, rental and capital expenditure to complete the 2010 harvest.
- A new RE will need to establish and fund the employees, systems and processes necessary to administer the MIS.
- Insolvent Timbercorp group companies currently hold interests in some of the MIS. Those interests may need to be terminated, acquired, funded, and/or paid for if any MIS is restructured/recapitalised.
- The willingness and financial capacity of Grower Investors to fund short-term negative cash flows is uncertain. Some Grower Investors previously borrowed from Timbercorp Finance Pty Ltd to meet their annual commitments. Funding from this source is not available.
- There is uncertainty surrounding the number of Grower Investors who have terminated (or may terminate) their participation in the MIS, and this will have a flow-on impact on operational costs.

Although this process is attended with difficulty the Court and ASIC may play a role in assisting the process.

r43.06

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

LIST E

No 7114 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 INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
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: 011499489
(Leon Zwier)

This is the exhibit marked "**C**" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 15 July 2009.

Before me: ....

CHANTAL ENCAVEY
Arnold Bloch Leibler
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Melbourne 3000
An Australian Legal Practitioner within the meaning of the Legal Profession Act 2004

Exhibit "C"
Email from John Bird

From: John Bird [mailto:JBird@selectharvests.com.au]
Sent: Thursday, 9 July 2009 9:34 AM
To: Andrew Malarkey; Nick Courtney
Subject: FW: Weeds 9th July 09 across 2007 projects

<<Weeds 3 9th July 09 2007.JPG>> An <<Weeds 1 9th July 09 2007.JPG>> dr <<Weeds 2 9th July 09 2007.JPG>> ew / Nick

Did you manage to make contact with Trevor Monson.

An update on farm activities.
We are irrigating 2001 to 2005 orchards

We are currently applying winter oil sprays to 2001 to 2005 farms.
Winter oil is a petroleum based product, which is necessary to control mite populations which become active in spring and will destroy leaves if allowed to populate orchards. The oil will burn flowers and therefore must be applied before flowers begin to develop (completion date 16th july). Given the size of the 2006 and 2007 properties we would need to start this program next week to complete before the deadline. If this is not done and mite populations develop the eradication process will be substantially more expensive than applying sprays now.

We have weed sprayed the 2006 orchard which will control weeds in the short term, however weeds are now out of control on the 2007 orchards (see attached) and some urgent weed spraying is necessary.

A decision on the above will need to be made in the next few days if a crop is going to be set for the 2006 and 2007 orchards.

Regards

John Bird

r43.06

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

LIST E

No 7114 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
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333 Collins Street
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Before me: ....
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An Australian Legal Practitioner within the meaning of the Legal Profession Act 2004

Exhibit "D"
Letter from ANZ

14 July 2009

Mr. Mark Korda
Liquidator
Timbercorp Limited (In liquidation)
c/- KordaMentha
Level 24
333 Collins Street
Melbourne VIC 3000

Dear Mr. Korda

Australia and New Zealand Banking Group Limited - Provision of funding to the Timbercorp Group

We refer to our recent discussions in relation to the external administration of the Timbercorp Limited (In Liquidation) group of companies (***Timbercorp Group***), including the application by Timbercorp Securities Limited (In Liquidation) (***TSL***) to wind up the olive and almond managed investment schemes which will be heard by the Supreme Court of Victoria on 15 July 2009 (the ***Winding-Up Application***).

You have asked Australia and New Zealand Banking Group Limited (***ANZ***) to confirm in writing its position with respect to the provision of ongoing funding to the Timbercorp Group. We have briefly summarised ANZ's position below.

1. Facilities provided by ANZ to the Timbercorp Group

As you are aware, ANZ has provided financial accommodation to entities within the Timbercorp Group via several facilities, which are secured by, amongst other things, charges over certain Timbercorp Group companies and mortgages over land and water rights which are used in relation to some schemes. ANZ has also provided accommodation to a related property trust, which owns land encumbered by Timbercorp almond schemes.

2. Provision of ongoing funding to the Timbercorp Group

(a) We confirm that the ANZ facilities are in default and ANZ has sent notices of demand for repayment to the relevant borrowers and guarantors. ANZ has not taken steps to enforce the security it holds in respect of these facilities and has allowed the administrators and liquidators time to clarify the position of each of the managed investment schemes. Given the administrators' findings about the parlous state of the Timbercorp Group, ANZ is concerned to have repayment of its existing facilities.

(b) ANZ has traditionally not provided working capital facilities to the Timbercorp Group and (subject only to 2(c) below) does not wish to commence funding the ongoing day-to-day operations of the Timbercorp Group's managed investments schemes (regardless of whether TSL or another entity is conducting the schemes as Responsible Entity).

(c) If the olive and almond managed investment schemes are wound up pursuant to section 601ND of the Corporations Act 2001 as a result of the Winding-Up Application and a sales process is commenced for the sale of the assets that were used in connection with those schemes (including the Nenandie and Narcooyia properties) ANZ would be prepared to contemplate minimum funding for a short period to enable the care and maintenance of the relevant assets (including, for example, the almond trees grown on the properties) during the sales process.

3. Proposals for restructuring the managed investment schemes

(a) ANZ understands the concerns of the growers whose interests are affected by the liquidators' applications to wind up the relevant managed investment schemes. In that context ANZ, as one of the many stakeholders, remains open to considering all viable proposals for the restructuring of the Timbercorp Group's olive and almond managed investment schemes. ANZ is conscious that there are many complex issues that would need to be considered, and resolved quickly, before any restructuring of the schemes could take place. These issues include but are not limited to the following.

(i) Timing and cost

Given the insolvency of the Timbercorp Group and the inability to fund scheme expenses, at least in the short term, time is of the essence - any proposal would need to allow for a rapid restructuring of the schemes and demonstrate the existence of:

(A) a viable proposal likely to be acceptable to all stakeholders which is capable of effective implementation in the short term; and

(B) a viable entity with the capacity, willingness and commitment to fund the significant costs associated with the restructuring process (including the costs of calling scheme meetings and conducting court proceedings).

In the context of the timing of implementation of any restructuring proposal, and the incurrence of costs, ANZ would be concerned to ensure that its interests as one of the secured creditors were not prejudiced at any relevant time.

(ii) Working capital / capital expenditure

Any proposal would need to demonstrate the existence of a viable entity that would provide an immediate source of working capital to fund the ongoing operation of the schemes during the period of the restructuring, including the payment of the significant capital expenditure costs forecast in respect of the olive and almond schemes for the 2010 financial year (estimated at over $252 million for the almond schemes alone). To the extent to which that entity required any security, such security would obviously rank behind any security currently held by ANZ.

(iii) Repayment of bank debt

Any proposal would preferably provide for the repayment in the near term of all of the debt owed to ANZ under its various facilities referred to above. Alternatively, the proposal would need to provide for a substantial immediate reduction of the existing debt to a level acceptable to ANZ together with a clear plan as to how ANZ would be repaid in full in the near term. In the current economic climate, this is a key consideration for ANZ acting in the interests of its stakeholders. Certainly, 'front-end' and performance fees payable to the sponsors or managers of any proposal should not be taken out at the expense of repayment of the secured debt.

(iv) Complexity of the schemes' structure

Any proposal would need to address the numerous practical and legal difficulties arising from the complex structure of the Timbercorp Group's managed investment schemes, such as:

(A) the variety of Timbercorp Group and non-Timbercorp Group entities involved in the ownership, leasing and management of the scheme properties;

(B) the use of shared infrastructure by different schemes and scheme properties, including water rights and irrigation infrastructure; and

(C) the spread of grower investors' interests across properties which may be owned by different entities and used for a number of different schemes.

We would be happy to discuss the above issues further with you at any time.

Yours sincerely

Andrew Slatter
Director

Dean Travis
Head of Lending Services, Institutional

r43.06

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

LIST E

No 7114 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 INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
Arnold Bloch Leibler
Lawyers and Advisers
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Ref: 011499489
(Leon Zwier)

This is the exhibit marked "E" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 15 July 2009.

Before me: ....

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

Exhibit "E"
Letter from syndicate banks

BY EMAIL

Level 26
181 William Street
Melbourne VIC 3000
Australia

Blake Dawson

T 61 3 9679 3000
F 61 3 9679 3111
DX 187 Melbourne

GPO Box 4958
Melbourne VIC 3001
Australia

www.blakedawson.com

14 July 2009

Our reference
RWM CHFE 03 2002 6856

Partner
Ross McClymont
T 61 3 9679 3025
M 0412 700 255
ross.mcclymont
@blakedawson.com

Andrew Malarkey
KordaMentha
Level 24
333 Collins Street
MELBOURNE VIC 3000

Dear Mr Malarkey

Almond Land Pty Ltd (in liquidation) & other companies in the Timbercorp Group

We act on behalf of ANZ, Westpac and BOSI (the so-called **Syndicate Banks**) in relation to the Timbercorp Group.

As you are aware, the Syndicate Banks (through the relevant security trustee) hold registered freehold mortgages over a number of almond plantations managed by Timbercorp Securities Limited (in liquidation) as responsible entity of certain managed investment schemes (**Almond Schemes**). Almond Land Pty Ltd (in liquidation) is the registered proprietor of these plantations.

We refer to the various requests made by the liquidators for the Syndicate Banks to provide funding with respect to the working capital requirements of the Almond Schemes. In this regard, we note your advice that the required funding for the 2010 almond harvest is estimated to total some $67.3 million (excluding rental costs and capital expenditure), as against anticipated harvest proceeds of $31.6 million.

While the Syndicate Banks are sensitive to the difficulties faced by the liquidators (and by extension the investors in the Almond Schemes), in circumstances where:

1. on any outcome there is likely to be a significant shortfall to the Syndicate Banks upon a sale of the almond plantation land;

2. the anticipated harvest proceeds for 2010 are less than half the anticipated costs;

3. the funding request of $67.8 million represents nearly one-third of the Syndicate's existing total exposure to the Timbercorp Group; and

4. the liquidators have formed the view that each of the Almond Schemes has a negative net present value and/or is otherwise not viable;

we confirm that the Syndicate Banks are unable to provide the funding sought.

Any future requests for funding will be considered by the Syndicate Banks on their merits, and consistent with a general approach that funding may be provided where it is necessary to preserve the value of the secured assets. In this regard, we note that the Syndicate Banks:

(a) have agreed in principle to provide funding of $1.726 million to the liquidators to fund the head office and corporate services provided by Timbercorp Limited (in liquidation) to the Timbercorp Group and for the benefit of investors generally; and

(b) are currently considering a request to fund $1.3 million with respect to pollination and weed control costs for the Almond Schemes.

If you have any questions then please do not hesitate to contact the writer.

Yours faithfully

Ross McClymont
Partner
T 61 3 9679 3025
M 0412 700 255
ross.mcclymont@blakedawson.com

r43.06

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

LIST E

No 7114 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)

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Arnold Bloch Leibler
Lawyers and Advisers
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(Leon Zwier)

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Before me: ....

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Exhibit "F"
Letter from Commonwealth Bank of Australia

"F"

Commonwealth Bank

Commonwealth Bank of Australia
ACN 123 123 124

Risk Management
Credit Management - Sydney

Level 8
48 Martin Place
Sydney
NSW 2000
Australia

PO Box 4719
Sydney
NSW 1155

Telephone (02) 9378 3010
Facsimile (02) 9378 5485
DX 1020 Sydney (2048 001)

Private and confidential

14 July 2009

KordaMentha Pty Ltd
Level 24
333 Collins Street
MELBOURNE VIC 3000
Attention: Andrew Malarkey

Dear Sirs

Timbercorp Olive Schemes

You have asked us to give an indication of the Bank's willingness to provide debt funding in connection with the "Olive" managed investment schemes conducted by Timbercorp Securities Limited.

Historically, the Bank has provided debt funding to the Timbercorp Group which has been applied toward the acquisition costs of certain land upon which various Timbercorp "Eucalyptus" and "Olive" managed investment schemes are carried out. The Bank has not provided any working capital facilities to the Timbercorp Group and does not intend to provide day-to-day funding to the schemes themselves.

Were the schemes to be wound up then the Bank may be prepared to consider (subject to its usual credit approval process) providing limited short-term funding to secure and protect the assets during any sale process.

Yours sincerely

Ian Copp
Senior Executive Manager
Specialised Lending Services

r43.06

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

LIST E

No 7114 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)

ACN 092 311 469

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Second and Third Plaintiffs

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Before me: ....
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An Australian Legal Practitioner within the meaning of the Legal Profession Act 2004

Exhibit "H"
Email from Stuart Martyn

From: Martyn, Stuart [mailto:Stuart.Martyn@fnis.com]
Sent: Monday, 13 July 2009 3:44 PM
To: Antony Munro
Subject: Project "Grow Back" - Boort olive schemes
Importance: High

Antony,

As discussed earlier today, I am exploring a temporary funding arrangement with CBA to be utilised to pay Boort related farm and admin costs until grower money can be received from the 2009/10 annual contribution invoices that are normally due on 31 October each year.

The scenario that from my review of the relevant scheme documents could work is as follows:

a) Based on KM supplied schedule for the 2008 harvest proceeds approx $5.9m is due to be paid to the 2001 to 2004 olive scheme participants.
b) The 2001 to 2004 olive scheme investors were sent their 2009/10 annual contribution invoices that are due for payment on 31 October each year
c) Assuming the 2008 harvest proceed funds were held until after 31 October 2009, then to the extent that growers did not pay their 2009/10 annual contribution invoices this would trigger a default under the Licence and JV Agreement which would entitle TSL (or alternative RE) to give 30 days notice and then withhold payment of the 2008 harvest proceeds, utilising those monies withheld to repay or partially repay the amount owing on the 2009/10 annual contribution invoices. Using the 2001 olive scheme as an example the power to withhold harvest proceeds is contained in 2001 Constitution clause 13.7(a) to (c) with the amounts deducted to be applied in the order specified in 13.7(a)

Under this scenario the 2008 harvest proceeds of approx $5.9m owed to growers could be utilised to partially sub underwrite or effectively guarantee that at least $5.9m would be received by Olivecorp companies from the 2009/10 annual contribution invoices. If this assumption is accurate and the bank could be sure that such funds would be used to repay any temporary loan facility that CBA might make available then this would remove most of the banks concerns. Hence they would likely offer to make an appropriate temporary loan facility available to fund the Boort farm operations and admin costs for the next 2 – 3 months.

Regards

Stuart Martyn
Director of Finance & Administration
FIS Australasia

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Fax : + 61 (0)3 8615 1110
Mobile : + 61 (0)422 231 755

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r43.06

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

LIST E

No 7114 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)

ACN 092 311 469

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Exhibit "I"
Align announcement 23 June 2009

TIMBERCORP PRIMARY INFRASTRUCTURE FUND

ARSN 116 024 830

23 June 2009

ASX Online

TPF Investor Update

Align Funds Management Limited (ACN 105 684 231) (**Align**), as the responsible entity of the Timbercorp Primary Infrastructure Fund (ARSN 116 024 830) (**TPF**), wishes to update unitholders on the discussions that it has been having with TPF's senior lender (ANZ Bank), the voluntary administrators appointed to the Timbercorp Group (**Voluntary Administrators**), Select Harvests (as the existing agri-manager of the almond orchards situated on TPF's land) and CostaExchange Limited Group (**CostaExchange Group**) (as the existing agri-manager of the citrus orchards situated on TPF's properties).

Standstill proposal received from Voluntary Administrators

The Voluntary Administrators have submitted a proposal to Align on 18 June 2009 regarding a proposal for a "standstill" arrangement in relation to leases of TPF's properties on the following terms:

- TPF agrees to a standstill on the payment of rent for the period from 1 July 2009 to 30 September 2009 (**September Quarter**).
- Existing arrangements under the TPF Leases will be maintained and the Timbercorp Group will continue to use, occupy and remain in possession of the leased properties.
- The Voluntary Administrators will not personally adopt any of the TPF Leases and will not be personally liable for rent for the September Quarter.
- TPF's claims against the relevant Timbercorp Group companies will not be affected (i.e., TPF will still be able to claim in the administration, or subsequent liquidation, of the relevant Timbercorp Group companies for rent payable for the September Quarter).

The proposed standstill arrangement is to give the Voluntary Administrators time to finalise their investigations into the Timbercorp Group and examine whether to continue operating the various Timbercorp Grower projects being conducted on TPF's properties. The Voluntary Administrators have already indicated that they are unlikely to continue operating a citrus orchard on TPF's Solora South property that the Timbercorp Group operated for its own account.

Align is considering the Voluntary Administrators' proposed "standstill" arrangement in conjunction with its advisers and lenders, and will issue a further announcement when it has made a decision with respect to the Voluntary Administrators' proposal.

The Board of Align has however recognised that the standstill arrangement will require the procurement of a standstill (or moratorium) in respect to the payment of interest on debt facilities from TPF's senior lender and Bond Holders.

ALIGN
FUNDS MANAGEMENT

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www.alignfm.com.au
ACN 105 684 231 AFSL No 234554

TIMBERCORP PRIMARY INFRASTRUCTURE FUND

Moratorium proposals being submitted to the ANZ and TPF Bond Holders

Align has submitted proposals for a moratorium to the ANZ and TPF Bond Holders as a result of the insolvency of the Timbercorp Group and the Voluntary Administrators' proposal. The major aspect of the moratorium proposal is for a standstill on interest for 6 months (or until the proposals in relation to TPF's properties outlined below are implemented if that occurs at an earlier date) as it is unlikely that any rent will be received by TPF in the short-term.

In the event that ANZ and TPF Bond Holders do not agree to Align's moratorium proposals, Align is likely to seek to wind up TPF and its controlled entities, as TPF and its controlled entities will not have sufficient funds from which interest may be paid in full on the next interest payment dates to the ANZ (being 30 June 2009) and TPF Bond Holders (being 3 July 2009). Furthermore, other covenant breaches are also likely to arise.

In that case, Align anticipates that ANZ as the secured creditor in respect of TPF's properties would take possession of such properties itself or appoint a receiver/receiver and manager to do so. If upon realisation of those properties there were sufficient funds to pay out ANZ, then any surplus would be for the benefit of the TPF Bond Holders.

Long-term proposal being developed in relation to TPF's almond orchards

Align has been discussing with stakeholders a proposal to ensure the long-term viability of TPF's almond orchards (**Almond Proposal**). At this stage, the discussions with respect to the Almond Proposal have not been finalised, and the Almond Proposal may change as discussions progress. However, in broad terms the Almond Proposal would comprise the following:

- Growers agreeing to terminate the Timbercorp Almond projects conducted on TPF's properties and contribute their 2009 proceeds to fund the operation of TPF.
- Growers receiving an equity interest in TPF which, following the implementation of the proposal, would own both the property and farm production business of the two almond properties.
- Growers agreeing to release all claims against the Timbercorp Group entities, the Voluntary Administrators and any other relevant parties.
- The Timbercorp Group agreeing to terminate all internal and external arrangements that affect TPF's almond orchards and to transfer all assets that it owns in connection with the almond orchard operations to TPF.
- TPF raising additional equity from unitholders (including the Growers) to ensure that it is appropriately capitalised following the implementation of the Almond Proposal.

The Almond Proposal would also involve Align providing asset management services in respect of the almond orchards. As part of such operations, Align would seek to renegotiate the terms of the contract with existing agri-manager, Select Harvests.

The Almond Proposal is still to be formalised and is subject to definitive documentation being entered into by the parties. It would also be subject to a number of conditions, including compliance with all relevant regulatory requirements, court approvals, unitholder and grower approvals,

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financing approvals, completion of the equity raising, any tax rulings considered necessary and an independent expert's report being obtained in respect of the Almond Proposal.

Short-term proposal being developed in relation to TPF's citrus orchards

Align has been involved in extensive negotiations with the CostaExchange Group in order for the CostaExchange Group to manage the TPF citrus orchards and all of the assets of the Timbercorp Orchard Trust (ARSN 106 557 297) (**TOT**) on an interim basis whilst Align develops a long-term plan for those assets. Align will make a further announcement when such negotiations have been finalised.

We note that in the meantime CostaExchange Group has entered into crop sale agreements with the Voluntary Administrators in respect of the 2004 and 2005 Timbercorp Citrus Projects. The crop sale agreements allow for the costs of harvesting the citrus crop belonging to Growers in each of these Projects. The crop sale agreements terminate on 30 June 2009 unless TPF has agreed to a rental reduction in respect of its Solora South citrus orchard property (and TOT has agreed to a rental reduction in respect of its Kangara citrus orchard property).

The termination of the crop sale agreements would be expected to result in CostaExchange Group immediately withdrawing its management services in relation to the Solora South citrus orchard property owned by TPF.

Long-term proposal being developed in relation to TPF's citrus orchards

TPF has also been discussing with stakeholders the long-term future of TPF's citrus orchards (**Citrus Proposal**). At this stage, Align envisages that the Citrus Proposal would be similar to the Almond Proposal, except that:

- A separate agri-manager would be appointed. To that end, Align has been having discussions with CostaExchange Group in relation to the management of the TPF's citrus orchard property and TOT's properties on a long-term basis.
- A proposal is likely to be considered whereby the Solora South citrus orchard is transferred to TOT, which owns the Kangara citrus orchard property that is also managed by the CostaExchange Group. The reason for considering such a proposal is to obtain efficiencies associated with having the citrus orchard properties under common ownership. In the event that proposal was implemented, Growers that have interests in the 2005 Timbercorp Citrus Project conducted on Solora South would acquire an interest in TOT, rather than TPF.

The Citrus Proposal is still to be formalised and is subject to definitive documentation being entered into by the parties. It would also be subject to a number of conditions, including compliance with all relevant regulatory requirements, court approvals, unitholder and grower approvals, financing approvals, any tax rulings considered necessary and an independent expert's report being obtained in respect of the Citrus Proposal.

The report of Voluntary Administrators to creditors of the Timbercorp Group

We note that the Voluntary Administrators issued a report to creditors of the Timbercorp Group dated 18 June 2009. As part of the report, the Voluntary Administrators concluded that it was in their opinion that it would be in creditors' interests for each company within the Timbercorp Group to be

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wound up. Creditors of the Timbercorp Group (including TPF) will vote on whether to wind up the Timbercorp Group at 1.00 pm on Monday, 29 June 2009.

The relationship of the Timbercorp Group to Align and the Timbercorp Primary Infrastructure Fund

Align wishes to draw the following matters to the attention of investors:

- No executive of the Timbercorp Group is a director or officer of Align.
- We note that the Timbercorp Group holds Units in TPF (approximately 46.4%) and shares in Align (approximately 32.4%). However, the Voluntary Administrators of the Timbercorp Group have not sought to use such ownership interests to dictate how Align responds to the insolvency of the Timbercorp Group.

Yours sincerely

TREVOR MOYLE
CHAIRMAN

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

LIST E

No 7114 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 INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
Arnold Bloch Leibler
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

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(Leon Zwier)

This is the exhibit marked "J" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 15 July 2009.

Before me: ....

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

Exhibit "J"
Align announcement 29 June 2009

Timbercorp Primary Infrastructure Fund (TPF) ARSN 116 024 830

29 June 2009
ASX Online
Senior Debt – Interest Moratorium

Further to the ASX Announcement issued by Align Funds Management Limited (ACN 105 684 231) (**Align**), as the responsible entity of Timbercorp Primary Infrastructure Fund (ARSN 116 024 830) (**TPF**), on 23 June 2009, Align advises that it (as responsible entity of TPF) and the trustee of two wholly-owned sub-trusts of TPF entered into an Interest Moratorium Deed with the Australia and New Zealand Banking Group Limited (ACN 11 005 357 522) (**ANZ**) on 26 June 2009. The Interest Moratorium Deed relates to two of the separate ANZ facilities that have been provided to each of TPF's three sub-trusts. Interest under the two ANZ facilities was payable on 29 June 2009.

Under the Interest Moratorium Deed, ANZ has agreed that the interest amounts due to be paid under the two facility agreements on 29 June 2009 would now not be required to be paid until 29 July 2009.

Align is in continuing discussions with the TPF Bond Holders for them to also agree to an interest moratorium for a similar period.

The agreement on the moratorium with all lenders will assist the conduct of further negotiations on proposals to restructure arrangements on the ownership and management of the properties held by TPF. Align will continue to provide updates as soon as it is able to on significant developments as they occur.

Your sincerely

Asuka Sugimoto

Company Secretary

r43.06

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

LIST E

No 7114 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 INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
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Exhibit "K"
Solvency analysis for Olive Schemes

Timbercorp Olive Projects - Forecast 2010 Harvest Result

	2001	2002E	2002P	Combined	2003E	2003P	Combined	2004	2006	2007E	2007P	Combined	2008	Total
Gross Sales	9,424,345	5,004,518	1,918,845	6,923,363	5,537,797	900,246	6,438,043	1,139,288						
less: JV Partners Share	(942,434)	(500,452)	(191,884)	(692,336)										
Gross Grower Proceeds	8,481,910	4,504,066	1,726,960	6,231,026	5,537,797	900,246	6,438,043	1,139,288	5,131,894	2,894,307	661,895	3,556,202	8,191,539	39,169,901
less: Sales & Related Costs	(359,365)	(190,830)	(73,169)	(263,999)	(234,628)	(38,142)	(272,770)	(48,270)	(217,430)	(122,627)	(28,043)	(150,671)	(347,063)	(1,659,567)
less: Processing Fee	(812,255)	(431,324)	(165,379)	(596,703)	(662,896)	(107,763)	(770,659)	(136,377)				0		(2,315,994)
less: Storage Fee	(46,629)	(24,761)	(9,494)	(34,255)	(30,444)	(4,949)	(35,393)	(6,263)				0		(122,540)
Growers Net Proceeds	7,263,662	3,857,151	1,478,918	5,336,070	4,609,829	749,392	5,359,221	948,377	4,914,464	2,771,680	633,851	3,405,531	7,844,476	35,071,801
TIM Mgmt Fee	(548,272)	(135,867)	(52,094)	(187,961)	(150,809)	(24,516)	(175,325)	(47,732)	(196,579)	(100,788)	(23,049)	(123,837)	(235,334)	(1,515,040)
Admin Fee	(354,631)	(164,448)	(63,053)	(227,501)	(183,642)	(29,854)	(213,495)	(51,894)	(220,308)	(186,906)	(42,743)	(229,649)	0	(1,297,477)
Farm Operating Costs	(5,071,431)	(2,419,897)	(927,843)	(3,347,740)	(2,995,765)	(487,003)	(3,482,768)	(849,305)	(4,658,620)	(3,043,410)	(695,993)	(3,739,403)	(7,028,000)	(28,177,266)
Technical Fee	(117,262)	(55,953)	(21,454)	(77,406)	(71,578)	(11,636)	(83,214)	(20,712)	(90,752)	(81,206)	(18,571)	(99,777)	0	(489,124)
BB Management Fee	(571,621)	(272,756)	(104,581)	(377,337)	(348,927)	(56,723)	(405,649)	(100,967)	(457,324)	(183,000)	(41,850)	(224,850)	0	(2,137,748)
Temp Water	(1,018,450)	(485,966)	(186,330)	(672,297)	(621,679)	(101,063)	(722,741)	(179,891)	(851,078)	(602,488)	(169,275)	(771,763)	0	(4,216,220)
Licence Fee	(1,976,673)	(1,228,043)	(470,859)	(1,698,902)	(1,824,448)	(296,589)	(2,121,038)	(626,966)	(1,745,605)	(1,330,909)	(304,364)	(1,635,273)	(3,514,000)	(13,318,456)
AOA Levy	(13,227)	(6,311)	(2,420)	(8,731)	(8,074)	(1,313)	(9,386)	(2,336)	0	0	0	0	0	(33,680)
Total Operating Expenditure	(9,671,566)	(4,769,240)	(1,828,634)	(6,597,874)	(6,204,922)	(1,008,696)	(7,213,618)	(1,879,803)	(8,220,265)	(5,528,707)	(1,295,845)	(6,824,552)	(10,777,334)	(51,185,011)
Grower Net Operating Cashflow before CAPEX	**(2,407,904)**	**(912,089)**	**(349,715)**	**(1,261,804)**	**(1,595,092)**	**(259,304)**	**(1,854,397)**	**(931,425)**	**(3,305,801)**	**(2,757,027)**	**(661,994)**	**(3,419,021)**	**(2,932,858)**	**(16,113,211)**
Water Capital Expenditure	0	0	0	0	0	0	0	0	(2,532,322)	(2,290,047)	(523,708)	(2,813,755)	(3,811,095)	(9,157,172)
Non Water Capital Expenditure	(63,663)	(30,378)	(11,648)	(42,026)	(34,975)	(5,686)	(40,661)	(10,121)	(412,053)	(340,291)	(77,821)	(418,112)	(1,125,835)	(2,112,471)
2010 Capital Expenditure	(63,663)	(30,378)	(11,648)	(42,026)	(34,975)	(5,686)	(40,661)	(10,121)	(2,944,375)	(2,630,338)	(601,529)	(3,231,867)	(4,936,930)	(11,269,643)
Net Operating Cashflow after CAPEX	**(2,471,567)**	**(942,467)**	**(361,363)**	**(1,303,830)**	**(1,630,067)**	**(264,990)**	**(1,895,058)**	**(941,546)**	**(6,250,176)**	**(5,387,365)**	**(1,263,523)**	**(6,650,888)**	**(7,869,788)**	**(27,382,854)**

2010 Crop Variables

	2001	2002E	2002P	Combined	2003E	2003P	Combined	2004	2006	2007E	2007P	Combined	2008	Total
Litres per Ha (4 lots per hectare)	2,025	2,254	2,254		2,166	2,166		1,540	1,546	999	999		982	
Litres per Lot	506	563	563		542	542		385	387	250	250		245	
Wholesale Price (litre) $	4.75	4.75	4.75		4.75	4.75		4.75	4.75	4.75	4.75		4.75	
Net Sales Price (litre) $ - Wholesale less sales & related costs	4.55	4.55	4.55		4.55	4.55		4.55	4.55	4.55	4.55		4.55	
Sold Area (Ha)	979.75	467.50	179.25		538.25	87.50		155.75	698.75	610.00	139.50		1,757.00	
Water Allocation	40%	40%	40%		40%	40%		40%	40%	40%	40%		40%	
Temp Water Price $	350	350	350		350	350		350	350	350	350		350	
TIM Variable Mgmt Fee (PDS)	7.50%	3.50%	3.50%		3.25%	3.25%		5.00%	4.00%	3.64%	3.64%		3.00%	
JV Share	10%	10%	10%		0%	0%		0%	0%	0%	0%		0%	
Processing Fee (% of Wholesale proceeds less sales & related costs)	10%	10%	10%		12.5%	12.5%		12.5%	0%	0%	0%		0%	
Base Admin Fee per Lot (Adjusted annually for CPI from Project C'ment)	70	70	70		70	70		70	70	70	70		43	
Licence Fee per Lot (FY10 Rate - FY09 + CPI assumption) (per PDS)	504	657	657		847	847		1,006						
CPI Assumption	2.5%	2.5%	2.5%		2.5%	2.5%			625	545	545		500	
								2.5%	2.5%	2.5%	2.5%		2.5%	

Net Operating Cashflow Incurred to Date

	2001	2002E	2002P	Combined	2003E	2003P	Combined	2004	2006	2007E	2007P	Combined	2008	Total
2001	(23,526,000)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(23,526,000)
2002	(8,229,900)	(10,659,000)	[redacted]	(10,659,000)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(18,888,900)
2003	(8,274,420)	(3,085,500)	(4,086,900)	(7,172,400)	(8,416,271)	[redacted]	(8,416,271)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(23,863,091)
2004	(4,653,499)	(3,085,500)	(1,183,050)	(4,268,550)	(6,087,134)	(1,368,182)	(7,455,315)	(2,061,563)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(18,438,927)
2005	(3,448,258)	(2,522,761)	(967,283)	(3,490,044)	(6,075,467)	(1,366,288)	(7,441,755)	(1,291,311)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(15,671,369)
2006	584,121	(2,403,609)	(924,149)	(3,327,758)	(3,456,052)	(561,829)	(4,017,881)	(1,291,311)	(14,737,280)	[redacted]	[redacted]	[redacted]	[redacted]	(22,790,110)
2007	169,949	144,453	22,619	167,071	(3,410,077)	(554,355)	(3,964,432)	(1,272,783)	(4,319,561)	(12,633,277)	[redacted]	(12,633,277)	[redacted]	(21,853,033)
2008	(7,221,659)	(3,573,794)	(1,370,273)	(4,944,067)	(741,916)	(120,609)	(862,525)	(1,168,704)	(4,179,811)	(3,770,922)	(3,511,640)	(7,282,563)	(36,417,831)	(62,077,159)
2009	(6,272,565)	(2,831,631)	(1,094,044)	(3,925,675)	(4,959,931)	(806,306)	(5,766,236)	(1,191,536)	(4,879,284)	(3,770,898)	(862,361)	(4,633,259)	(10,542,000)	(37,210,556)
Total	(60,872,232)	(28,017,343)	(9,603,080)	(37,620,423)	(33,146,847)	(4,777,569)	(37,924,416)	(8,277,208)	(28,115,936)	(20,175,098)	(4,374,001)	(24,549,099)	(46,959,831)	(244,319,145)
Number of Grovelots	3,919	1,870	717	2,587	2,153	350	2,503	623	2,795	2,440	558	2,998	7,028	22,453
Cumulative Cashflow per Grovelot														
2001	(6,003)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2002	(2,100)	(5,700)	[redacted]	(4,120)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2003	(2,111)	(1,650)	(5,700)	(2,772)	(3,909)	[redacted]	(3,362)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2004	(1,187)	(1,650)	(1,650)	(1,650)	(2,827)	(3,909)	(2,979)	(3,309)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2005	(880)	(1,349)	(1,349)	(1,349)	(2,822)	(3,904)	(2,973)	(2,073)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2006	149	(1,285)	(1,289)	(1,286)	(1,605)	(1,605)	(1,605)	(2,073)	(5,273)	[redacted]	[redacted]	[redacted]	[redacted]	
2007	43	77	32	65	(1,584)	(1,584)	(1,584)	(2,043)	(1,545)	(5,178)	[redacted]	(4,214)	[redacted]	
2008	(1,843)	(1,911)	(1,911)	(1,911)	(345)	(345)	(345)	(1,876)	(1,495)	(1,545)	(6,293)	(2,429)	(5,182)	
2009	(1,601)	(1,514)	(1,526)	(1,517)	(2,304)	(2,304)	(2,304)	(1,913)	(1,746)	(1,545)	(1,545)	(1,545)	(1,500)	
Total	(15,533)	(14,983)	(13,393)	(14,542)	(15,396)	(13,650)	(15,152)	(13,286)	(10,059)	(8,268)	(7,839)	(8,188)	(6,682)	

r43.06

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

LIST E

No 7114 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 INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiffs

MARK ANTHONY KORDA and LEANNE KYLIE CHESSER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 15 July 2009
Filed on behalf of: the Plaintiffs
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This is the exhibit marked "L" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 15 July 2009.

Before me: ....

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Exhibit "L"

Solvency analysis for Almond Schemes

Timbercorp Almond Projects - Forecast 2010 Harvest Result

Scheme	2001	2002E	2002	Combined	2003E	2003P	Combined	2004	2005	2006	2007E	2007P	2008	Combined	Total
Net Sales	3,952,617	10,110,424	2,985,667	13,096,090	14,182,013	2,828,768	17,010,780	16,752,717	15,239,842	20,744,295	8,952,801	811,410	3,718,754	13,482,965	100,279,305
Less: JV Partners Share	(395,262)	(1,011,042)	(298,567)	(1,309,609)	(1,418,201)	(282,877)	(1,701,078)	0	0	0	0	0	0	0	(3,405,949)
Grower's Gross Proceeds	3,557,355	9,099,381	2,687,100	11,786,481	12,763,811	2,545,891	15,309,702	16,752,717	15,239,842	20,744,295	8,952,801	811,410	3,718,754	13,482,965	96,873,357
TIM Mgmt Fee	(213,441)	(272,981)	(80,613)	(353,594)	(382,914)	(76,377)	(459,291)	(586,345)	(685,793)	(1,037,215)	(604,314)	(54,770)	(251,016)	(910,100)	(4,245,780)
Admin Fee	(58,184)	(144,634)	(44,769)	(189,403)	(226,886)	(45,255)	(272,142)	(290,813)	(332,164)	(613,366)	(593,666)	(53,805)	(246,593)	(894,065)	(2,650,136)
Operating Costs	(2,549,277)	(6,568,451)	(1,987,382)	(8,555,834)	(9,879,484)	(1,970,578)	(11,850,063)	(13,724,756)	(14,822,649)	(25,358,279)	(21,660,437)	(1,963,127)	(8,997,166)	(32,620,730)	(109,481,588)
Temp Water	(353,588)	(904,444)	(279,956)	(1,184,400)	(1,462,781)	(291,769)	(1,754,550)	(2,133,250)	(2,237,572)	(3,552,749)	(2,595,054)	(235,195)	(1,077,916)	(3,908,165)	(15,124,274)
Licence Fee	(853,322)	(2,124,327)	(657,559)	(2,781,886)	(3,403,821)	(678,932)	(4,082,753)	(6,815,336)	(2,592,273)	(7,607,600)	(7,576,800)	(686,700)	(3,147,200)	(11,410,700)	(36,143,870)
Total Operating Expenditure	(4,027,811)	(10,014,837)	(3,050,280)	(13,065,117)	(15,355,888)	(3,062,911)	(18,418,798)	(23,550,501)	(20,670,451)	(38,169,209)	(33,030,272)	(2,993,597)	(13,719,891)	(49,743,760)	(167,645,647)
Net Operating Cashflow (excl capex)	(470,456)	(915,456)	(363,180)	(1,278,636)	(2,592,077)	(517,020)	(3,109,096)	(6,797,784)	(5,430,610)	(17,424,914)	(24,077,471)	(2,182,188)	(10,001,137)	(36,260,795)	(70,772,291)
Water Capital Expenditure	0	0	0	0	0	0	0	0	(7,423,427)	(23,110,567)	(21,302,569)	(1,709,365)	(7,834,151)	(30,846,085)	(61,380,079)
Non Water Capital Expenditure	(70,783)	(129,177)	(67,107)	(196,284)	(148,574)	(29,635)	(178,209)	(233,763)	(1,528,335)	(3,064,369)	(7,665,544)	(836,988)	(3,835,983)	(12,338,515)	(17,610,258)
Total Capital Expenditure	(70,783)	(129,177)	(67,107)	(196,284)	(148,574)	(29,635)	(178,209)	(233,763)	(8,951,762)	(26,174,936)	(28,968,113)	(2,546,353)	(11,670,134)	(43,184,600)	(78,990,337)
Net Operating Cashflow (incl capex)	(541,239)	(1,044,633)	(430,287)	(1,474,920)	(2,740,651)	(546,655)	(3,287,305)	(7,031,547)	(14,382,372)	(43,599,850)	(53,045,584)	(4,728,541)	(21,671,271)	(79,445,395)	(149,762,628)

2010 Crop Variables

	2001	2002E	2002	Combined	2003E	2003P	Combined	2004	2005	2006	2007E	2007P	2008	Combined	Total
Kilograms per Hectare (4 lots per hectare)	3,459	3,459	3,300		3,000	3,000		2,700	2,100	1,500	650	650	650		
Net Sales Price (Kg) $	5.09	5.09	5.09		5.09	5.09		5.09	5.09	5.09	5.09	5.09	5.09		
Permanent Water Right Allocation	40%	40%	40%		40%	40%		40%	40%	40%	40%	40%	40%		
Temporary Water Price $ per ML	350	350	350		350	350		350	350	350	350	350	350		
Sold Lots	898	2,297	711		3,715	741		4,876	5,703	10,868	10,824	981	4,496		
Sold Area (Ha)	224.50	574.25	177.75		928.75	185.25		1,219.00	1,425.75	2,717	2,706	245	1,124		
TIM Variable Mgmt Fee (PDS)	6.0%	3.0%	3.0%		3.0%	3.0%		3.5%	4.5%	5.0%	6.75%	6.75%	6.75%		
JV Share	10.0%	10.0%	10.0%		10.0%	10.0%		0.0%	0.0%	0.0%	0.00%	0.00%	0.00%		
Base Admin Fee per Lot (adjusted annually for CPI from Project c'ment)	50	50	50		50	50		50	50	50	50	50	50		
Licence Fee per Lot (FY10 Rate - FY09 + CPI assumption) (per PDS)	950	925	925		916	916		1,398							
CPI Assumption	2.5%	2.5%	2.5%		2.5%	2.5%		2.5%	2.5%	2.5%	2.5%	2.5%	2.5%		

Net Operating Cashflow Incurred to Date

	2001	2002E	2002	Combined	2003E	2003P	Combined	2004	2005	2006	2007E	2007P	2008	Combined	Total
Operating Cashflow before Tax															
2001	(4,898,186)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(4,898,186)
2002	(2,379,700)	(12,633,500)	(3,910,500)	(16,544,000)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(18,923,700)
2003	(1,930,700)	(5,638,101)	(1,745,185)	(7,383,286)	(20,483,135)	[redacted]	(20,483,135)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(29,797,121)
2004	(1,951,210)	(5,638,101)	(1,745,185)	(7,383,286)	(9,236,827)	(4,085,600)	(13,322,427)	(18,063,386)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(40,720,309)
2005	(1,842,906)	(4,850,691)	(1,554,580)	(6,405,271)	(9,236,827)	(1,842,393)	(11,079,220)	(13,320,036)	(36,291,839)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	(68,939,272)
2006	(179,233)	381,241	(1,343,287)	(962,046)	(8,735,302)	(1,742,358)	(10,477,660)	(13,298,217)	(10,369,138)	(74,099,980)	[redacted]	[redacted]	[redacted]	[redacted]	(109,386,274)
2007	417,738	352,077	(408,366)	(56,289)	(5,636,609)	(1,124,287)	(6,760,896)	(14,851,857)	(10,369,138)	(19,760,089)	(68,880,039)	[redacted]	[redacted]	(68,880,039)	(120,260,570)
2008	5,629	13,447	72,402	85,849	(6,584,349)	(1,313,325)	(7,897,674)	(14,425,527)	(13,944,976)	(19,760,089)	(19,685,543)	(7,920,011)	(36,785,508)	(64,391,062)	(120,327,850)
2009	(1,515,318)	(2,447,444)	(1,497,547)	(3,944,991)	(4,851,907)	(967,769)	(5,819,676)	(11,843,464)	(11,708,802)	(27,593,852)	(19,680,197)	(1,783,654)	(8,174,627)	(29,638,478)	(92,064,581)
Total	(14,273,886)	(30,461,072)	(12,132,248)	(42,593,320)	(64,764,956)	(11,075,732)	(75,840,688)	(85,802,487)	(82,683,893)	(141,214,010)	(108,245,779)	(9,703,665)	(44,960,135)	(162,909,579)	(605,317,863)
Almondlots	898	2,297	711	3,008	3,715	741	4,456	4,876	5,703	10,868	10,824	981	4,496	16,301	46,110
By Almondlot															
2001	(5,455)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2002	(2,650)	(5,500)	(5,500)	(5,500)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2003	(2,150)	(2,455)	(2,455)	(2,455)	(5,514)	[redacted]	(4,597)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2004	(2,173)	(2,455)	(2,455)	(2,455)	(2,486)	(5,514)	(2,990)	(3,705)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2005	(2,052)	(2,112)	(2,186)	(2,129)	(2,486)	(2,486)	(2,486)	(2,732)	(6,364)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2006	(200)	166	(1,889)	(320)	(2,351)	(2,351)	(2,351)	(2,727)	(1,818)	(6,818)	[redacted]	[redacted]	[redacted]	[redacted]	
2007	465	153	(574)	(19)	(1,517)	(1,517)	(1,517)	(3,046)	(1,818)	(1,818)	(6,364)	[redacted]	[redacted]	(4,226)	
2008	6	6	102	29	(1,772)	(1,772)	(1,772)	(2,958)	(2,445)	(1,818)	(1,819)	(8,073)	(8,182)	(3,950)	
2009	(1,687)	(1,065)	(2,106)	(1,311)	(1,306)	(1,306)	(1,306)	(2,429)	(2,053)	(2,539)	(1,818)	(1,818)	(1,818)	(1,818)	
Total	(15,895)	(13,261)	(17,064)	(14,160)	(17,433)	(14,947)	(17,020)	(17,597)	(14,498)	(12,994)	(10,001)	(9,892)	(10,000)	(9,994)	