

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

CON MOSHOPOLOUS
& ORS (according to the attached Schedule)

Defendants

SECOND AFFIDAVIT OF MARK ANTHONY KORDA
(FENCEPORT RIGHTS PROCEEDING)

Date of document: 2 October 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469) and
Olivecorp Management Limited (in liquidation) (ACN 089 542 343)

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

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 01-1601361
(Jane Sheridan - jsheridan@abl.com.au)

I, **MARK ANTHONY KORDA** of Level 24, 333 Collins Street, Melbourne in the State of
Victoria, Chartered Accountant, **MAKE OATH AND SAY** that:

- 1 I am with Leanne Kylie Chesser, the liquidator of Timbercorp Securities Limited (in liquidation) (ACN 092 311 469) (**TSL**) and with Mark Francis Xavier Mentha, the liquidator of Olivecorp Management Limited (in liquidation) (ACN 089 542 343) (**OML**).
- 2 I am authorised by Ms Chesser and Mr Mentha to make this affidavit on their behalf. References in this affidavit to "we", "us", "our" or "ourselves" and "Liquidators" are references to Ms Chesser and me when referring to TSL, and to Mr Mentha and me when referring to OML.
- 3 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information and belief, I believe those matters to be true.



4 I have previously sworn an affidavit in this proceeding on 18 September 2012 in my capacity as the liquidator of TSL and OML (**My First Affidavit**). I defined a number of terms in My First Affidavit and I adopt those definitions in this affidavit.

5 At paragraph 36 of My First Affidavit, I stated that:

"I am informed by Mr Munro that, in accordance with the Agreed Protocol, as a telephone call is received on the Hotline or an email is sent to the Grower Email Facility, the Timbercorp Grower Management Team document, in the Communications Report for that day, that telephone call or email and the response to that telephone call or email by the Timbercorp Grower Management Team. The Timbercorp Grower Management Team also indicate in the Communications Report whether the telephone call or email requires a response or further action on behalf of the Representative Growers (**Escalated Queries and Comments**)."

6 The completed Communications Reports for each business day from 14 August 2012 to 17 September 2012 are confidential exhibited to my First Affidavit and marked "**Confidential MAK-6**".

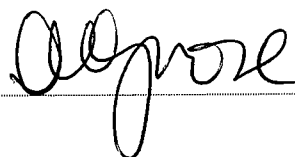
7 Since My First Affidavit, we have continued to monitor the Hotline and the Grower Email Facility and to complete Communications Reports each day in accordance with the Agreed Protocol. Now produced and shown to me and marked "**Confidential MAK-7**" are copies of the Communications Reports for each business day from 18 September 2012 to 26 September 2012 (save for the report in respect of 20 September 2012, which, due to an oversight on that date which was only recognised this morning, was not prepared on 20 September 2012 but is being prepared today).

SWORN at Melbourne
in the State of Victoria
by **MARK ANTHONY KORDA**
this 2nd day of October 2012

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)
)
)



Before me:



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

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

SCHEDULE OF PARTIES

FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121)

First Plaintiff

and

OLIVECORP LAND PTY LTD (IN LIQUIDATION) (ACN 090 141 512)

Second Plaintiff

and

MARK ANTHONY KORDA

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

Third Plaintiff

and

MARK FRANCIS XAVIER MENTHA

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

Fourth Plaintiff

and

CON MOSHOPOLOUS

**(in his capacity as a Grower in the 2000 Timbercorp Olive Project (Private Offer)
(Unregistered))**

First Defendant

and

PAULINE EMMA HAMMER

(in her capacity as a Grower in the 2001 Timbercorp Olive Project (ARSN 094 383 082))

Second Defendant

and

DAVID SYDNEY BUTTERFIELD

(in his capacity as a Grower in the 2002 Timbercorp Olive Project (ARSN 098 233 455))

Third Defendant

and

GRAHAM GOLDENBERG

(in his capacity as a Grower in the 2003 Timbercorp Olive Project (ARSN 104 648 473))

Fourth Defendant

and

SHUN KING LI

(in his capacity as a Grower in the 2004 Timbercorp Olive Project (ARSN 108 744 378))

Fifth Defendant

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& ORS (according to the attached Schedule)**

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 2 October 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469) and
Olivecorp Management Limited (in liquidation) (ACN 089 542 343)

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

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Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

This is the exhibit marked "**Confidential MAK-7**" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 2 October 2012.

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

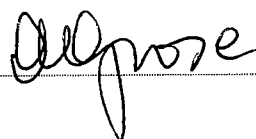
Before me: 

Exhibit "Confidential MAK-7"
Communications Reports for each business
day from 18 September 2012 to 26 September
2012 (save for 20 September 2012)