

Form 46A

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

LIST 2

No. S C 2009 10699

BETWEEN:

**BOSI SECURITY SERVICES LIMITED (A.C.N. 009 413 852) as trustee for  
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(A.C.N. 005 357 522 and BOS INTERNATIONAL (AUSTRALIA) LIMITED  
(A.C.N. 066 601 250) and WESTPAC BANKING CORPORATION (A.C.N. 007 457 141)**

Plaintiff

and

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(A.C.N. 005 357 522) & ORS (according to the attached Schedule)**

Defendants

**SUMMONS**

Date of document: 15 December 2009

Filed on behalf of: The Plaintiff

Prepared by:

**Blake Dawson**

Level 26

181 William Street

MELBOURNE VIC 3000

Solicitor's Code: 53

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Tel: (03) 9679 3000

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Ref: RWM CHFE

Attention: Mr R McClymont

Email: ross.mcclymont@blakedawson.com

TO: The First Defendant

c/- its solicitors:

Allens Arthur Robinson

Level 27, 530 Collins Street

Melbourne VIC 3000

The Second, Third and Fourth Defendants

c/- their solicitors

Arnold Bloch Leibler

Level 21, 333 Collins Street

Melbourne VIC 3000

Graham Goldenberg, Christopher Mark Littley, Constantine Moshopolous and David Butterfield

c/- their solicitors

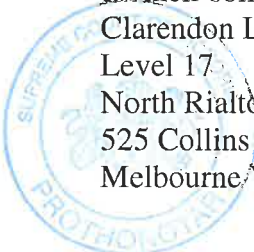
Clarendon Lawyers

Level 17

North Rialto Tower

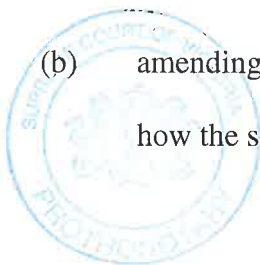
525 Collins Street

Melbourne VIC 3000



You are summoned to attend before the Court on the hearing of an application by the plaintiff for orders that:

1. Pursuant to rule 16.01(2) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic):
  - (a) Graham Goldenberg be appointed as the representative of the Growers in the 2002 Timbercorp Almond Project (ARSN 099 611 935);
  - (b) Christopher Mark Littlely be appointed as the representative of the Growers in the 2005 Timbercorp Almond Project (ARSN 112 935 092);
  - (c) Constantine Moshopoulos be appointed as the representative of the Growers in the 2006 Timbercorp Almond Project (ARSN 118 387 974);
  - (d) David Butterfield be appointed as the representative of the Growers in the 2007 Timbercorp Almond Project (ARSN 122 511 040); and
  - (e) David Butterfield be appointed as the representative of the Growers in the unregistered managed investment scheme known as the 2002 Timbercorp Almond Project (Private Offer No 1).
2. The persons appointed pursuant to paragraph 1 above, be joined as the fifth, sixth, seventh and eighth defendants in the proceeding pursuant to rule 9.02 and/or rule 9.06(b) of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic).
3. The plaintiff is granted leave to file and serve an amended originating motion on the defendants on or before 4pm 23 December 2009:
  - (a) incorporating a declaration as to what, if any, right the Growers represented by the fifth, sixth, seventh and eighth defendants have to the sale proceeds held on trust by the second defendant pursuant to paragraph 7 of the Orders; and
  - (b) amending paragraph 5 of the Originating Motion to read "A declaration as to how the sale proceeds held on trust by the second defendant pursuant to



paragraph 7 of the Orders ought to be distributed between the plaintiff and the first, fifth, sixth, seventh and eighth defendants."

4. The plaintiff is granted leave to proceed against Almond Land Pty Ltd A.C.N. 091 460 992 (in liquidation) pursuant to s.471B of the *Corporations Act* 2001 (Cth).
5. Further directions for the conduct of the proceeding.
6. Such other orders as the Court deems fit.

Court 2, 450 LITTLE BOURKE STREET MELBOURNE

The application will be heard before Justice Davies of the Supreme Court at ~~210 William~~ Street, Melbourne, on 18 December 2009 at 10 am or so soon afterwards as the business of the Court allows.

FILED:

15 DEC 2009

This summons was filed by Blake Dawson of Level 26, 181 William Street, Melbourne 3000, Solicitors for the Plaintiff.

**SCHEDULE**

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

No.

**BETWEEN:**

**BOSI SECURITY SERVICES LIMITED (A.C.N. 009 413 852) as trustee for  
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(A.C.N. 005 357 522) and BOS INTERNATIONAL (AUSTRALIA) LIMITED  
(A.C.N. 066 601 250) and WESTPAC BANKING CORPORATION (A.C.N. 007 457 141)**  
Plaintiff

and

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(A.C.N. 005 357 522)**

First Defendant

and

**ALMOND LAND PTY LTD (IN LIQUIDATION) (A.C.N 091 460 392)**

Second Defendant

and

**MARK ANTHONY KORDA  
(in his capacity as liquidator of Almond Land Pty Ltd (in liquidation))**

Third Defendant

and

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

Fourth Defendant