

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

r8.05

LIST E

No 7114 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED
(UNDER ADMINISTRATION)
ACN 092 311 469

TIMBERCORP SECURITIES LIMITED
(UNDER ADMINISTRATION) ACN 092 311 469
IN ITS CAPACITY AS RESPONSIBLE ENTITY OF EACH OF THE
MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiff

MARK ANTHONY KORDA and LEANNE KYLE CHESSER
Second and Third Plaintiffs

SUPPLEMENTAL AFFIDAVIT OF PAUL CHARLES RIORDAN

Date of document:
Filed on behalf of:
Prepared by:
Clarendon Lawyers
Level 17, Rialto North Tower
525 Collins Street
MELBOURNE VIC 3000

14 July 2009
Paul Charles Riordan
Tel: 03 8681 4400
Fax: 03 8681 4499
Solicitors Code: 101294
Ref: MAB:0900205

I, Paul Charles Riordan, 15 Murray Street, Gol Gol, NSW 2738, senior executive of Boundary Bend Limited (BBL), make oath and say that:

1. I reaffirm paragraphs 1-15 of my earlier affidavit dated 3 July 2009. Now produced and shown to me marked "PCR-1" is a copy of this affidavit.
2. The purpose of this supplemental affidavit is to provide further detail on the alternative proposals for TIM Olive Growers, referred to in my earlier affidavit, specifically in relation to the Special Purpose Vehicle (SPV) option referred to at paragraph 14 of that affidavit and to provide further detail on the operations carried out on the grove.

BOORT AND BOUNDARY BEND LIMITED PROJECTS PROPOSALS

3. BBL, or a sponsor of BBL intends to propose the establishment of one or more SPV's to acquire the Boort and Boundary Bend land, infrastructure and improvements currently owned by the Timbercorp Group (In Liquidation). The SPV may take the form of a corporate entity or trust. The SPV will bring together the olive grove and processing assets and the growers' lots into a single entity.



4. It is proposed that the acquisition will be funded by raising equity in the SPV. It is proposed that an entitlement offer will be made available to existing olive Growers, who will be invited:
 - (a) to effectively convert their lots and entitlement to olive oil proceeds into equity in the SPV; and
 - (b) contribute further funds to the SPV to fund the acquisition of the grove assets and to fund the working capital required for the operation of the groves.
5. In addition, in order to reduce management fees, it is proposed that BBL will vend in a proportion of its future management fees for equity in the SPV thereby aligning the interests of all parties.
6. BBL will also offer to underwrite the funding of the SPV to the extent to which Growers do not wish to participate. This will be subject to a minimum take up by the Growers.
7. Other key features of the SPV will include the following:
 - (a) the SPV will commence and operate with no, or a low level of debt;
 - (b) BBL as grove manager, will revise its fee structure, including:
 - (i) a reduction in management fees;
 - (ii) the aforementioned sacrificing of a portion of its management fees in exchange for equity in the SPV; and
 - (iii) a component of its fee will be performance based.
8. BBL believes that key benefits of the SPV proposal include:
 - (a) the alignment of interests of Growers and BBL through a single entity;
 - (b) delivering a capital structure that can address the risks inherent in agriculture;
 - (c) the Growers will share in the ownership of one of the world's best olive grove assets with processing infrastructure and the potential for capital gains;
 - (d) the SPV is intended to be self funding out of the initial contributions;
 - (e) it is possible that the SPV will be able to make annual distributions to investors as early as year 3; and
 - (f) ensuring that the grove manager has a demonstrated track record in running operations of the scale and complexity of the Boort and Boundary Bend olive groves.



OPERATIONS

9. At present, as no funding has been provided in relation to the operation of the olive groves since 1 July 2009, BBL has been funding the grove operations out of its own funds on a care and maintenance basis only, in expectation of future resolution.
10. I believe that within a period of six weeks the condition of the grove will substantially deteriorate and a large percentage of the 2010 and 2011 Crop will be at risk.
11. I believe it is in the Growers' best interests to convene a meeting of Growers to further direct Timbercorp Securities Limited (in liquidation), or whoever is in the position of the Responsible Entity of the Olive Projects, in relation to matters of funding these operations.
12. BBL supports the convening of a meeting of olive Growers as soon as possible, in any event in not less than four weeks, to consider further options.
13. It is intended that BBL will provide fully costed proposals in relation to options at that meeting.

SWORN by the said Paul Charles Riordan
at Melbourne in the State of Victoria
this 14 day of July

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)


Before me:.....

KATE FELICITY DESMOND

of Clarendon Lawyers Pty Ltd
Level 17, Rialto North Tower
525 Collins St, Melbourne Victoria 3000
an Australian Legal Practitioner within the
meaning of the *Legal Profession Act 2004*

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First Plaintiff

MARK ANTHONY KORDA and LEANNE KYLE CHESSEER
Second and Third Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document:
Filed on behalf of:
Prepared by:
Clarendon Lawyers
Level 17, Rialto North Tower
525 Collins Street
MELBOURNE VIC 3000

14 July 2009
Paul Charles Riordan
Tel: 03 8681 4400
Fax: 03 8681 4499
Solicitors Code: 101294
Ref: MAB:0900205

This is the exhibit marked "PCR-1" now produced and shown to PAUL CHARLES RIORDAN at the time of swearing his affidavit on 14 July 2009.

Before me:.....



KATE FELICITY DESMOND
of Clarendon Lawyers Pty Ltd
Level 17, Rialto North Tower
525 Collins St, Melbourne Victoria 3000
an Australian Legal Practitioner within the
meaning of the *Legal Profession Act 2004*

Exhibit "PCR-1"
Affidavit of Paul Charles Riordan dated 3 July 2009

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MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1
First Plaintiff


MARK ANTHONY KORDA and LEANNE KYLE CHESSER
Second and Third Plaintiffs

AFFIDAVIT OF PAUL CHARLES RIORDAN

Date of document:	3 July 2009
Filed on behalf of:	Paul Charles Riordan
Prepared by:	
Clarendon Lawyers	Tel: 03 8681 4400
Level 17, Rialto North Tower	Fax: 03 8681 4499
525 Collins Street	Solicitors Code: 101294
MELBOURNE VIC 3000	Ref: MAB:0900205

I, Paul Charles Riordan, 15 Murray Street, Gol Gol, NSW 2738, senior executive of olive company, make oath and say that:

1. I am the managing director of Boundary Bend Limited ACN 115 131 667 (BBL).
2. I make this affidavit on my own behalf and except where I otherwise indicate, the matters deposed to in this affidavit are deposed to from my own personal knowledge of the facts.
3. Where I depose to matters from information and belief, I believe such matters to be true.
4. Boundary Bend is supportive of the growers maintaining their interests in the following schemes:
 - (a) 2001 Timbercorp Olive Project ARSN 094 382 082;
 - (b) 2002 Timbercorp Olive Project ARSN 098 233 455;
 - (c) 2003 Timbercorp Olive Project ARSN 104 648 473;
 - (d) 2004 Timbercorp Olive Project ARSN 108 744 378;
 - (e) 2006 Timbercorp Olive Project ARSN 119 182 179;



(f) 2007 Timbercorp Olive Project ARSN 123 155 715; and

(g) 2008 Timbercorp Olive Project ARSN 129 307 722

(together, the **Projects**)

BACKGROUND

5. BBL was appointed to be the Boort grove farm manager in late 2004. This extended to selling olive oil through its marketing and distribution networks and via its labels, which include "Cobram Estate". BBL was also appointed to be the farm manager for the following schemes:

(a) 2006 Timbercorp Olive Project ARSN 119 182 179;

(b) 2007 Timbercorp Olive Project ARSN 123 155 715; and

(c) 2008 Timbercorp Olive Project ARSN 129 307 722

6. After Timbercorp Securities Limited (Under Administration) ACN 092 311 469 (TSL) was placed into voluntary administration on 23 April 2009 BBL initiated and organised a meeting of significant (by dollars invested) grower/advisors in Melbourne on 21 May 2009. BBL introduced the concept of a special purpose vehicle to that audience (SPV). It was rejected as being impracticable for a number of reasons by those present but the attendees were keen to see the Projects continue as managed investment schemes in some format.

BBL VIEW

7. We believe the Projects should be restructured in a way that maximises the chances of the Projects being viable without the problems of melding disparate schemes. This can be done relatively quickly and simply by continuing the 2,777 hectare Boort projects in a modified format but within the format of their current constituent documents.

8. Our current view is that the larger Boundary Bend projects (3,800 hectare) will require substantially more funding and hence is more of an issue for the growers. This is due in part to funding that would have ordinarily been forthcoming from TSL to develop the groves through to when they could be cash flow positive. As TSL is in liquidation there is no replacement funding available and the three product disclosure statements for these projects are now irrelevant. The relatively immature trees and the need for the growers to provide significant working capital before break even is achieved renders these projects problematic.

9. Accordingly the Projects should be considered separately in order to deal with Growers interests fairly given the current situation.

BOORT PROJECTS PROPOSAL (Boort Projects Proposal)

10. The Boort Projects Proposal relates to the following schemes:



- (a) 2001 Timbercorp Olive Project ARSN 094 382 082;
 - (b) 2002 Timbercorp Olive Project ARSN 098 233 455;
 - (c) 2003 Timbercorp Olive Project ARSN 104 648 473;
 - (d) 2004 Timbercorp Olive Project ARSN 108 744 378;
- (together the **Boort Projects**)


11. In summary, the Boort Projects Proposal is:

- (a) the existing or a proposed new responsible entity (RE), with assistance from BBL, prepares and analyses Boort Project budgets for the term of the Boort Projects to establish viability;
- (b) the RE, with assistance from BBL, if it confirms the Boort Projects are viable, provides annual budget to growers and calls for contributions with the first call being payable in August 2009;
- (c) BBL to approach Commonwealth Bank of Australia (CBA) to provide finance to keep the Boort grove in "best practice" condition until 31 August 2009;
- (d) if some growers fail to pay the calls due to lack of finance or lack of confidence given the recent public statements BBL is currently disposed to provide an "underwriting" for the failed calls;
- (e) BBL agrees to acquire the land, improvements and infrastructure at a negotiated price from TSL and lease to the Growers on commercial terms;
- (f) BBL agrees with the RE to provide a saving on the annual "licence fee" of approximately \$5.0million;
- (g) the Boort Projects be amended to allow for 100% of water to be leased as temporary water and to be a direct cost of the Boort Project;
- (h) TSL relinquishes all of its rights to interests and all other incentive arrangements and rights to all management fees; and
- (i) BBL reduces its management fees in return for an "at risk" fee to incentivise and reward.

BOUNDARY BEND PROJECTS (Boundary Bend Projects Proposal)

12. The Boundary Bend Projects Proposal relates to the following schemes:

- (a) 2006 Timbercorp Olive Project ARSN 119 182 179;
- (b) 2007 Timbercorp Olive Project ARSN 123 155 715; and

Two handwritten signatures are present at the bottom right of the page. The signature on the left is a stylized, somewhat abstract scribble. The signature on the right is more legible, appearing to be 'J.R.' or similar, written in a cursive style.

(c) 2008 Timbercorp Olive Project ARSN 129 307 722

(together, the **Boundary Bend Projects**)

13. In summary the Boundary Bend Projects Proposal is,

- (a) a New RE is appointed by the grower group;
- (b) the New RE, with assistance from BBL, prepares and analyses Boundary Bend Project budgets for the term of the Boundary Bend Projects to establish viability;
- (c) If the Boundary Bend Projects is viable then consider similar proposal to Boort Projects;
and
- (d) if it is unviable then the growers may consider terminating the Boundary Bend Projects.

SPV

14. BBL is open to the concept of an SPV acquiring the Boort land and improvements and Boort Projects interests. However, BBL believes the proposal set out in paragraph 11 is more likely to be successful for the Growers.

TIMING

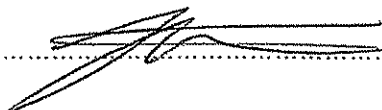
15. We believe this proposal can be completed before 31 August 2009.

SWORN by the said Paul Charles Riordan
at Melbourne in the State of Victoria
this 3rd day of July 2009

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Before me:



FRANCESCA FOGARTY
of Clarendon Lawyers Pty Ltd
Level 17, Rialto North Tower
525 Colling St, Melbourne Victoria 3000
an Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004