

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COURT OF APPEAL**

**SACPI 2011 0103**

**BETWEEN:**

**GRAHAM GOLDENBERG & ORS** (according to the Schedule)

Appellants

- and -

**BOSI SECURITY SERVICES LIMITED (ACN 009 413 852) & ORS** (according to the schedule attached)

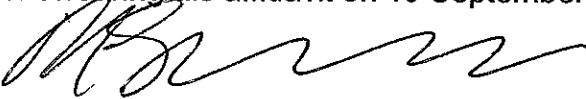
Respondents

**EXHIBIT EG-10**

Date of document:	19 September 2012
Filed on behalf of:	MRB Equities Pty Ltd, Redvi Pty Ltd and Ferrari Investments Holdings Pty Ltd
MGA Lawyers	Solicitors Code: 104101
Level 9,	Tel: 8631 5555
179 Queen Street	Fax: 8631 5599
MELBOURNE VIC 3000	Ref: MG5400/08

This is the exhibit marked "EG-10" now produced and shown to Eli Goldfinger at the time of swearing his affidavit on 19 September 2012.

Before me:



**MARK GEREMIA**  
Level 9 179 Queen Street, Melbourne VIC 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

.....  
MGA Lawyers, Level 9, 179 Queen St, Melbourne Vic  
An Australian Legal Practitioner with the meaning of the Legal Practice Act  
2001

**"EG-10"**  
**Emails between Tony Schubert and  
Michael Fernon dated 27 June 2012**

**From:** Michael Fernon <Michael.Fernon@clarendonlawyers.com.au>  
**Sent:** Wednesday, 27 June 2012 4:46 PM  
**To:** Thomas Schubert; Celia Armstrong  
**Cc:** Chris Garnaut; 'Eli Goldfinger'  
**Subject:** RE: Timbercorp Appeal Costs

Tom,

I refer to your email to Celia. I don't think the points you make are valid.

Chris may have made a representation to the funders that the costs would be approximately \$100,000. He would have made that representation based on an estimate given by counsel in conference at which we attended. It is always difficult to estimate costs in a litigation process because there are other parties and we have no control over their actions which can cause additional and unexpected costs to be incurred..

You make comments about the supervision of a junior. We engaged a graduate to attend to putting the appeal book together. This is a substantial task. You seem to be indicating that we ought not to have done that and that Celia herself should have attended to the appeal book. As Celia's charge out rate is \$425 and the graduate's charge out rate is \$135, there would have been a significant increase in costs if we had adopted this course. It is unreasonable to expect us, having engaged a graduate to do the task, not to supervise that graduate. We believe that our actions in this matter have saved the funders considerable costs, rather than causing them to incur additional costs. In addition to the appeal, Celia is running the other court matters and, in particular, the proposed settlement.

Your point about Celia chasing up costs is also not valid. The costs were not our costs but the costs awarded by the court to the other side who were threatening to take action to enforce them. In the circumstances it was entirely appropriate for a solicitor and not a secretary to chase them up. Our secretaries chase up our own costs, except when a director gets involved (which has occurred on this file) and no charge is made for that.

So far as next steps are concerned, we are waiting for the Appeal Court Registrar to advise us of the date when the appeal will be heard. There are no steps to be undertaken in the immediate future until the actual appeal hearing date. We anticipate that this may be 6 months to a year in the future.

We were very surprised to have received your email and the critical tone adopted in it. We would have thought a phone call may have resolved the matter.

Celia is working assiduously to achieve the settlement, which, subject to the court's approval, will result in a substantial premium being earned by the funders.

Kind regards

**Michael Fernon** | Director

Clarendon Lawyers | Level 17, Rialto North Tower, 525 Collins Street, Melbourne 3000  
T + 61 3 8681 4419 | F + 61 3 8681 4499  
[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

This email is confidential. If you are not the intended recipient, you must not disclose or use the information contained in it. If you have received this email in error, please notify us immediately and delete the document. Clarendon Lawyers is not responsible for any changes made to a document other than those made by Clarendon Lawyers, or for the effect of those changes on the document's meaning. Clarendon Lawyers accepts no liability for any damage caused by this email or its attachments due to viruses interference interception corruption or unauthorised access.

**From:** Thomas Schubert [mailto:tschubert@garnaut.com.au]  
**Sent:** Wednesday, 27 June 2012 1:08 PM  
**To:** Celia Armstrong  
**Cc:** Michael Fernon; Chris Garnaut; Eli Goldfinger  
**Subject:** Timbercorp Appeal Costs

Hi Celia,

The funding group are becoming very sensitive to the continued stream of high legal bills from Clarendons. Monthly invoices are ~\$15,000 and with potentially 3-4 months to run are concerned at the total cost involved. Clarendon's invoices to date are \$162,340 plus an additional \$25,000 for Ashurst when Chris Garnaut initially made representations that it would be ~\$100k to get the job completed.

The most recently issued invoice attached has you billing us to supervise a junior on many occasions. The funders will not accept paying two people to complete the job of one, if the junior cannot complete unsupervised then we would expect you do not charge for their time or complete the work yourself. The funders are all entrepreneurs with strong value principals and expect professionals which they engage to shares those principals.

In addition there is time charged to follow up the payment of an invoice, clearly this is unacceptable. If payment is that urgent then perhaps we could have your receptionist follow us up as opposed to yourself at a significant cost to us.

Could you also please provide us with an estimate to complete the job so we can update the funding group.

Regards

Tom



**Tom Schubert**

Private Wealth Adviser

[tschubert@garnaut.com.au](mailto:tschubert@garnaut.com.au)

T: +61 3 9856 4500 | M: +61 434 893 497 | F: +61 3 9820 8485

Level 10, 499 St Kilda Road, Melbourne VIC 3004

[www.garnaut.com.au](http://www.garnaut.com.au)

\*\*\*\*\*  
CAUTION

This email and its contents contain privileged information that is intended solely for the recipient. It may contain secret, confidential or legally privileged information. the intended recipient you are hereby notified that any use, dissemination, distribution or reproduction of this email is strictly prohibited. If you have received this email in error, please notify Garnaut Private Wealth Pty Ltd at [garnaut@garnaut.com.au](mailto:garnaut@garnaut.com.au) immediately. Any views expressed in this email are of the sender and may not necessarily reflect the views of Garnaut Private Wealth Pty Ltd.

We use virus scanning software but exclude all liability for viruses or similar in any attachment.