

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

LIST E  
S CI 2010 1354

BETWEEN

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

Plaintiff

and

**B.B. OLIVES PTY LTD (IN LIQUIDATION) (ACN 083 992 367) & ORS  
(according to the attached Schedule)**

Defendants

**SECOND AFFIDAVIT OF MARK ANTHONY KORDA  
(B.B. OLIVES RIGHTS PROCEEDING)**

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Date of document: 2 October 2012  
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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)

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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**).
- 2 I am authorised by Ms Chesser to make this affidavit on her behalf. References in this affidavit to "we", "us", "our" or "ourselves" and "Liquidators" are references to Ms Chesser and me.




- 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 (**My First Affidavit**). I defined a number of terms in My First Affidavit and I adopt those definitions in this affidavit.
- 5 At paragraph 32 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 business 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 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 2<sup>nd</sup> 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**

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

Plaintiff

**B.B. OLIVES PTY LTD (IN LIQUIDATION)  
(ACN 083 992 367)**

First Defendant

**ALMOND LAND PTY LTD (IN LIQUIDATION) (ACN 091 460 392)**

Second Defendant

**TIMBERCORP LIMITED (IN LIQUIDATION) (ACN 055 185 067)**

Third Defendant

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

Fourth Defendant

**LEANNE KYLIE CHESSER  
(in her capacity as liquidator of B.B. Olives Pty Ltd (in liquidation))**

Fifth Defendant

**MARK FRANCIS XAVIER MENTHA  
(in his capacity as liquidator of B.B. Olives Pty Ltd (in liquidation))**

Sixth Defendant

**MICHAEL CHARLES VICARY  
(as the representative of the Growers in the 2006 Timbercorp Olive Project (ARSN 119  
182 179))**

Seventh Defendant

**PAMELA JAN DRY  
(as the representative of the Growers in the 2007 Timbercorp Olive Project (ARSN 123  
155 715))**

Eighth Defendant

**DAVID BUTTERFIELD  
(as the representative of the Growers in the 2008 Timbercorp Olive Project (ARSN 129  
307 722))**

Ninth Defendant

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BOS INTERNATIONAL (AUSTRALIA) LIMITED (ACN 066 601 250) and  
WESTPAC BANKING CORPORATION (ACN 007 457 141)**

Plaintiff

and

**B.B. OLIVES PTY LTD (IN LIQUIDATION) (ACN 083 992 367) & 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)

Prepared by:

**ARNOLD BLOCH LEIBLER**

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

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Ref: 01-1601361

(Jane Sheridan - [jsheridan@abl.com.au](mailto: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)**