

24 July 2009

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Update for Investors in Timbercorp and Great Southern MIS Projects

We provide this update as a service to our clients. It will cover frequently asked questions and give further insights and reassurance to each of our clients.

Part A covers Timbercorp and Part B covers Great Southern.

Clients who are investors in Great Southern projects are encouraged to read our report concerning Timbercorp as well because many of the issues are expected to play out in a similar way for them.

A. Timbercorp

Almonds and Olives Projects: Future presently being determined

- Earlier this week the Victorian Supreme Court endorsed arguments put on behalf of the Timbercorp Growers Group that the best course would be to allow investors shape the future of the Almonds and Olives projects. That development represents a clear win for investors and demonstrates how collective action can bring about change and justice
- For investors in relevant Almonds projects there will be a meeting held on 31 July 2009, commencing at 10.00am at the aptly named "Victory Room" at Etihad Stadium, Level 1, Gate 9, Docklands, Melbourne
- Notices of meeting are being dispatched to investors giving further details, including the resolutions on which investors are asked to vote. The work done by a dedicated group of people to bring about the opportunity for such meeting has been enormous and fantastic. All investors are strongly encouraged by M+K to attend the meeting in person or by proxy
- All investors in these projects are encouraged to liaise with their financial planner concerning the meeting agenda and making every vote count
- The Olives projects will be dealt with in a separate meeting to be held on 17 August 2009. Investors in those projects are urged to also respond appropriately to the opportunity and get in touch with their financial planner as soon as they receive the notice of meeting from KordaMentha

Victoria
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Business contracts + advice
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Employment + industrial relations
(D1046245:1)

Intellectual property + trade
Litigation/dispute resolution
Property + construction

Tax + superannuation
Family law
Wills + estate planning



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- Meanwhile, we remind all investors to keep checking the dedicated website www.timbercorpgrowergroup.com.au for up-to-date information for all projects.

Mango and Avocado Projects: Timbercorp Out, Huntley Group In

- Investors in the 3 projects where the vote has already happened to place projects out of the hands of Timbercorp Securities Limited and into the hands of Huntley Group will be receiving invoices from Huntley Group to cover operational expenses moving forward
- We understand the invoices to be "future-looking" in terms of tending to the ongoing needs of the particular projects. We do not believe those invoices involve any element from the past, when the projects were controlled by Timbercorp. If you have any questions concerning the matter we suggest you contact your financial planner
- All investors' rights against Timbercorp Finance Pty Ltd and Timbercorp Securities Limited are still able to be asserted. M+K is still dedicated to seeking appropriate remedies on behalf of investors in the mango and Avocado projects (and all other projects). This includes challenging the validity of loans granted by Timbercorp Finance Pty Ltd.

"Final Demands" now calling for Timbercorp loans to be paid out in full

- Many borrowers have already received formal documents with a letter from Mills Oakley Lawyers, described as "Final Demands" calling for loans to be paid out in full. There is a threat of legal proceedings being commenced if the demands are not satisfied
- So far as Timbercorp Finance Pty Ltd is concerned, KordaMentha has missed a critical point. They still fail to recognise that the subject loan agreements made between the investors and Timbercorp Finance Pty Ltd are liable to be set aside as invalid
- The intimidatory "Final Demands" cannot themselves be regarded as valid if the underlying loan agreements themselves are invalid
- We will be writing letters on behalf of each M+K client to re-state our clients' position that the subject loan agreements are invalid and unenforceable. Our next letter will also call upon Timbercorp Finance Pty Ltd to withdraw the "Final Demands" or to agree not to take any further step in reliance on them until such time as a definitive Court ruling is obtained
- Anyone who receives from Mills Oakley Lawyers a "Final Demand" should immediately forward a copy to our office
- There is also another legal point available to aid the cause of investors now that Timbercorp Finance Pty Ltd is in liquidation. The point arises from a little-known provision in the *Corporations Act* (Section 553C)
- That section allows for offsets to be made in situations such as this where there have been mutual dealings between the company now in liquidation and any person who presses a claim against the company. As already noted above, M+K needs more information to be produced to us by Timbercorp's Liquidators.

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When that information is made available we will be in a position to work through the offsetting exercise which should be of some benefit to investors/borrowers.

Today's first visit to the Court in relation to loans granted by Timbercorp Finance Pty Ltd

- Recently the liquidators commenced proceedings in the Victorian Supreme Court against 9 clients of M+K, including 2 from Western Australia, looking to recover money said to be owing under various loan agreements
- Rob Downing, a Senior Associate at M+K, along with Barrister Cam Truong, attended Court for the first procedural hearing in both cases. Submissions were made to the Court, strongly, that those 9 cases bear strong similarities to the cases of nearly all of M+K's 1,600 clients' cases in the Timbercorp collapse. Accordingly the proper way to deal with the issues is not to have individual cases which would clog up the Courts and result in many inefficiencies. Rather, a representative proceeding or class action should go ahead so that all cases across Australia can proceed at once through a single case. That may well happen in the Federal Court of Australia
- The Court was attracted to our argument. An Order was made which now requires us to file with the Court a memorandum articulating precisely how the multitude of cases share factual issues and legal issues which are common among the cases. We need to submit that memorandum to the Court by 25 August 2009
- The Court has scheduled the procedural hearing to resume on 27 August 2009 so that appropriate case management issues can be further explored on that date.

For investors who are not yet clients of M+K

- If you would like further information on how to be counted in with the group which will be pressing claims in relation to Timbercorp please call Katrina Slifka on (03) 9794 2620 or email katrina.slifka@mk.com.au

B. Great Southern

Bendigo and Adelaide Bank

- Aside from writing to the Administrators of the Great Southern companies (Ferrier Hodgson) we are also writing to Bendigo and Adelaide Bank Ltd, care of its solicitors Allens Arthur Robinson
- We are yet to receive a substantive response to the letters we have written to Bendigo and Adelaide Bank
- Meanwhile, if any M+K clients receive ongoing communications from the bank calling for loan payments to be brought up to date the caller should be told simply that your matter is being handled by Macpherson + Kelley. We

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understand the continuous flow of demands is computer generated. Just because you receive demands does not mean your letter from us has not been sighted by Great Southern or Bendigo and Adelaide Bank

- If, as has happened with Timbercorp, investors/borrowers receive "Final Demands" for payout of loans the same situation as applied for Timbercorp will apply in the Great Southern case. That is, a demand is only as good as the underlying loan agreement on which it is based. The demand will be worthless (and unenforceable) if the underlying loan agreement is found to be invalid or unenforceable
- Our lengthy letters to Bendigo and Adelaide Bank and to Ferrier Hodgson as Administrators of the relevant Great Southern companies set out extensive grounds as to why we believe the underlying subject loans are invalid or unenforceable.

Borrowers who receive demands from Javelin Asset Management Pty Ltd

- Some borrowers will have received a demand for payment from Javelin Asset Management Pty Ltd, on the basis that the company claims to have taken an assignment of the loan from the person's previous financier. The demands for payment are relatively aggressive
- The demands assert that the company is entitled to be paid money but they assume the validity of the loans in the first place. Of course, M+K and its clients strongly challenge that assumption. We say the original loans are invalid and they cannot be "transformed" into valid loans just because somebody else has taken over the loans
- As part of the fixed fee offer to write letters on behalf of Great Southern investors, we will include letters to Javelin Asset Management Pty Ltd on behalf of any investor who receives a demand for payment from that company.

The future for Great Southern MIS Projects

- Our understanding is that viability assessments are still being carried out by the Receivers and Managers McGrathNicol. We anticipate that within the next week or two investors should be in receipt of some communications concerning the assessments made by the Receivers and Managers
- We will obviously give further consideration to the matter once we have seen the report issued by McGrathNicol.

For investors who are not yet clients of M+K

- If you would like more information on how to join the group of Great Southern clients being represented by M+K, you should call Tonya McDougal of (03) 9794 2690 or email tonya.mcdougal@mk.com.au

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Yours faithfully

A handwritten signature in black ink, appearing to read 'RW', followed by a long horizontal line extending to the right.

Macpherson + Kelley

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