

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

CORPORATIONS LIST

S CI 2011 6816

**IN THE MATTER OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS
APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)**

**WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION) (ACN 063 263 650) IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 2 AND IN ITS CAPACITY
AS MANAGER OF THE UNREGISTERED SCHEMES LISTED IN SCHEDULES 3 AND 4
AND ORS ACCORDING TO SCHEDULE 1**

Plaintiffs

ORIGINATING PROCESS

Date of document: 13 December 2011
Filed on behalf of: The Plaintiffs

Prepared by:
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A. DETAILS OF APPLICATION

This application is made under section 511 of the *Corporations Act 2001* (Cth) (**Act**).

The Second and Third Plaintiffs seek directions and orders in relation to the sale process for certain assets used in the managed investment schemes listed in Schedule 2 and the unregistered schemes listed in Schedules 3 and 4.

On the facts stated in the supporting affidavit of the Second Plaintiff, dated 13 December 2011 (the **Crosbie Affidavit**), the plaintiffs claim -



- 1 Pursuant to s 477(2B) of the Act, the Court approves entry by the Second and Third Plaintiffs (in their capacity as liquidators of the First Plaintiff) into the Sale Contracts (as defined in the Crosbie Affidavit).

- 2 A declaration pursuant to s 511 of the Act that the Second and Third Plaintiffs (in their capacity as Liquidators of the First Plaintiff) are justified in procuring the First Plaintiff to enter into and perform the Sale Contracts (as defined in the Crosbie Affidavit).
- 3 A direction pursuant to s 511 of the Act that the Second and Third Plaintiffs (in their capacity as Liquidators of the First Plaintiff) are justified and otherwise acting properly and reasonably in procuring the First Plaintiff, as responsible entity of the managed investment schemes listed in Schedule 2 to terminate or surrender each of the Project Documents (as defined in the Crosbie Affidavit) of the managed investment schemes listed in Schedule 2 and to surrender, relinquish or release the rights of the Growers in the Trees the subject of the Sale Contracts (as defined in the Crosbie Affidavit), on the basis that the net proceeds of sale under the Sale Contracts are distributed in accordance with the spreadsheets exhibited to the Crosbie Affidavit and marked Confidential CDC-22 and CDC-23.
- 4 A direction pursuant to s 511 of the Act that the Second and Third Plaintiffs (in their capacity as Liquidators of the First Plaintiff) are justified and otherwise acting properly and reasonably in procuring the First Plaintiff, as manager of the unregistered schemes listed in Schedule 3, to terminate or surrender the Project Documents of the unregistered schemes listed in Schedule 3 and to surrender, relinquish or release the rights of the Growers in the Trees the subject of the Sale Contracts (as defined in the Crosbie Affidavit), on the basis that the net proceeds of sale under the Sale Contracts are distributed in accordance with the spreadsheet exhibited to the Crosbie Affidavit and marked Confidential CDC-22 and CDC-23.
- 5 Pursuant to paragraph 3 of the orders made by Justice Dodds-Streton of the Federal Court of Australia on 29 June 2011, the Court consents to the disclaimer of the Project Documents of the Contractual and Partnership Schemes listed in Schedule 4 pursuant to s 568(1) of the Act by the Second and Third Plaintiffs (in their capacity as Liquidators of the First Plaintiff).
- 6 Exhibits CDC-13, CDC-14, CDC-15, CDC-16, CDC-17, CDC-18, CDC-19, CDC-20, CDC-21, CDC-22 and CDC-25 to the Crosbie Affidavit be kept confidential.



7 Such further or other orders as the Court deems fit.

DATE: 13 December 2011

Arnold Bloch Leibler
ARNOLD BLOCH LEIBLER
 Solicitors for the Plaintiffs

This application will be heard by the Justice
 Supreme Court,
 Melbourne at 10:00am on 16 December 2011

~~in Court No.~~ Old High Court 3



B. NOTICE TO DEFENDANT

Not applicable.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable.

D. FILING

Date of filing: 14 Dec 2011



This originating process is filed by Arnold Bloch Leibler of Level 21, 333 Collins Street, Melbourne, VIC, 3000, solicitors for the plaintiffs.

E. SERVICE

The plaintiffs' address for service is C/- Arnold Bloch Leibler, Level 21, 333 Collins Street, Melbourne, VIC, 3000.

It is intended to serve a copy of this originating process on each person listed below:

- (a) the Committee of Inspection;
- (b) the Australian Securities and Investments Commission;
- (c) Mark Korda, Bryan Webster and Mark Mentha of KordaMentha by their solicitors Allens Arthur Robinson;

- (d) the Willmott Growers Group by their solicitors Clarendons Lawyers; and
- (e) the Willmott Action Group by their solicitors Lloyd and Lloyd.

A copy of this originating process and the ~~Crosbie Affidavit~~ will also be posted on the websites of Arnold Bloch Leibler (www.abl.com.au) and ~~Prothonotary~~ (www.ppb.com.au).



SCHEDULE 1 - SCHEDULE OF PARTIES

**WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)
IN ITS PERSONAL CAPACITY AND IN ITS CAPACITY AS RESPONSIBLE ENTITY OF EACH OF THE MANAGED INVESTMENTS SCHEMES LISTED IN SCHEDULE 2 AND IN ITS CAPACITY AS MANAGER OF THE UNREGISTERED MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULES 3 AND 4**

First Plaintiff

and

**CRAIG DAVID CROSBIE
IN HIS CAPACITY AS LIQUIDATOR OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)**

Second Plaintiff

and

**IAN MENZIES CARSON
IN HIS CAPACITY AS LIQUIDATOR OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)**



Third Plaintiff

SCHEDULE 2 - REGISTERED MANAGED INVESTMENT SCHEMES

- 1 Willmott Forests 1989 - 1991 Project (ARSN 092 516 651)
- 2 Willmott Forests 1995 - 1999 Project (ARSN 089 598 612)
- 3 Willmott Forests Project (ARSN 089 379 975)
- 4 BioForest Dual Income Project 2006 (ARSN 119 153 623)
- 5 BioForest Sustainable Timber and Biofuel Project 2007 (ARSN 124 135 535)
- 6 Willmott Forests Premium Forestry Blend Project (ARSN 131 549 589)
- 7 Willmott Forests Premium Forestry Blend Project - 2010 Project (ARSN 131 549 589)
- 8 Willmott Forests Premium Timberland Fund No. 1 (ARSN 136 768 520)



**SCHEDULE 3 - UNREGISTERED MANAGED INVESTMENT SCHEMES:
PROFESSIONAL INVESTOR SCHEMES**

- 1 Willmott Forests - Professional Investor - 2001 Project - 2001 Information Memorandum
- 2 Willmott Forests - Professional Investor - 2002 Project - 2002 Information Memorandum
- 3 Willmott Forests - Professional Investor - 2003 Project - 2003 Information Memorandum (2003) and 2003 Information Memorandum (2004)
- 4 Willmott Forests - Professional Investor - 2004 Project - 2004 Information Memorandum and 2004 Information Memorandum (2005)
- 5 2005 BioForest Wholesale Project No. 2 - 2005 Wholesale Forestry Memorandum (Bioforest)
- 6 Willmott Forests - Professional Investor - 2006 Project - 2006 Information Memorandum



SCHEDULE 4 - UNREGISTERED MANAGED INVESTMENT SCHEMES: CONTRACTUAL SCHEMES AND PARTNERSHIP SCHEMES

Contractual Schemes

- 1 1983 (No Project)
- 2 1984 (No Project)
- 3 1985 (No Project)
- 4 1986 (No Project)
- 5 1987 (No Project)
- 6 1989 (No Project)
- 7 1990 (No Project) Interest Only Offer
- 8 1991 (No Project)
- 9 1995 (No Project) (Custom)
- 10 Sharp/Reed Plantation Project -1998 Information Memorandum
- 11 2001 (No Project)



Partnership Schemes

- 12 McKenzie & Partners - Forestry Partnership No.1 (1993)
- 13 Grimsey & Associates Pty Ltd - Forestry Partnership No. 1 (1994)
- 14 Grimsey & Associates Pty Ltd - Forestry Partnership No. 2 (1994)
- 15 Grimsey & Associates Pty Ltd - Forestry Partnership No. 3 (1994)
- 16 McKenzie & Partners - Forestry Partnership No. 2 (1994)