

Solomon Brothers

Barristers, Solicitors, Attorneys

Level 40, Exchange Plaza, 2 The Esplanade, Perth, Western Australia. 6000
PO Box Z5360, St George's Terrace, Perth 6831 Telephone: + (618) 9282 5888 Facsimile: + (618) 9282 5855

12 April 2010

Our Ref: CSW/DJM/5109712
Enquiries: Chris Williams
Email: cwilliams@solbros.com.au
Direct Line: (08) 9282 5830

Your Ref: JMH:20090355.348237

Middletons Lawyers
Level 2
6 Kings Park Road
WEST PERTH WA 6005

By Facsimile: 9216 0901
Confirmation by Courier

Dear Sir

GREAT SOUTHERN MANAGERS AUSTRALIA LTD & ORS v THACKRAY & ORS
COR 35 of 2010

We enclose, by way of service, a copy of:

1. A notice of appearance filed on behalf of GP Levvey Pty Ltd and Phillip Capicchiano.
2. An interlocutory process seeking pre-emptive costs orders and orders requiring your clients to serve copies of the confidential affidavits on GP Levvey Pty Ltd and Mr Capicchiano.
3. An affidavit sworn by Christopher Stephen Williams in support of that application.

Yours faithfully



encs



IN THE SUPREME COURT OF WESTERN AUSTRALIA

COR 35 of 2010

IN THE MATTER OF GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION)

BETWEEN:

GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION) IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1

First Plaintiff

- and -

GREAT SOUTHERN OLIVES COMPANY LIMITED (ACN 121 381 208) (IN LIQUIDATION)

Second Plaintiff

- and -

GREAT SOUTHERN OLIVE HOLDINGS PTY LIMITED (ACN 111 092 374) (IN LIQUIDATION)

Third Plaintiff

- and -

ANDREW JOHN SAKER

Fourth Plaintiff

- and -

MARTIN BRUCE JONES

Fifth Plaintiff

- and -

DARREN GORDON WEAVER

Sixth Plaintiff

- and -

JAMES HENRY STEWART

Seventh Plaintiff

- and -

JAMES THACKRAY

First Defendant

- and -

TONY MCGRATH

Second Defendant

- and -

COLIN NICOL

Third Defendant

- and -

THE GROWERS LISTED IN SCHEDULE 8 OF THE APPLICATION

Fourth Defendants

NOTICE OF APPEARANCE

Date of Document: 12 April 2010
Filed on behalf of: Those of the fourth defendants listed in Schedule A hereto
Date of Filing: 12 April 2010
Prepared by:

Clarendon Lawyers
Level 17
Rialto Tower
525 Collins Street
MELBOURNE VIC 3000

Tel: (03) 8681 4400
Fax: (03) 8681 4499

Ref: MAB:MOC:0900568

A. Details of Person Intending to Appear


Notice is given that those of the fourth defendants listed in Schedule A hereto intend to appear before the Court at the hearing of the application to be held at Supreme Court of Western Australia, Stirling Gardens, Barrack Street at Perth in the State of Western Australia on 14 April 2010.

B. Grounds for Opposition to Winding Up Application

Not applicable.

C. Service

The Address for service of the persons giving this notice is c/- Clarendon Lawyers, Level 17, Rialto Tower, 525 Collins Street, Melbourne, in the State of Victoria.



for and on behalf of Clarendon Lawyers
Solicitors for those of the fourth defendants
listed in Schedule A hereto

TO: The plaintiffs

AND TO: Their solicitors

Middletons

Level 2

6 Kings Park Road

WEST PERTH WA 6005

Your Ref: JMH:20090355.349940

SCHEDULE A

1. GP Levvey Pty Ltd.
2. Mr Phillip Capicchiano

IN THE SUPREME COURT OF WESTERN AUSTRALIA

COR 35 of 2010

IN THE MATTER OF GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION)

BETWEEN:

GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION) IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1

First Plaintiff

- and -

GREAT SOUTHERN OLIVES COMPANY LIMITED (ACN 121 381 208) (IN LIQUIDATION)

Second Plaintiff

- and -

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Third Plaintiff

- and -

ANDREW JOHN SAKER

Fourth Plaintiff

- and -

MARTIN BRUCE JONES

Fifth Plaintiff

- and -

DARREN GORDON WEAVER

Sixth Plaintiff

- and -

JAMES HENRY STEWART

Seventh Plaintiff

- and -

JAMES THACKRAY

First Defendant

- and -

TONY MCGRATH

Second Defendant

- and -

COLIN NICOL

Third Defendant

- and -

THE GROWERS LISTED IN SCHEDULE 8 OF THE APPLICATION

Fourth Defendants

INTERLOCUTORY PROCESS

Date of Document: 12 April 2010

Filed on behalf of: Those of the fourth defendants listed in Schedule A to the Notice of Appearance filed on 12 April 2010

Date of Filing: 12 April 2010

Prepared by:

Clarendon Lawyers
Level 17
Rialto Tower
525 Collins Street
MELBOURNE VIC 3000

Tel: (03) 8681 4400

Fax: (03) 8681 4499

Ref: MAB:MOC:0900568

A. Details of Application

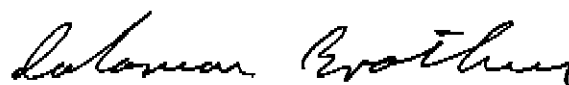
This application is made in the inherent jurisdiction of the Court.

On the facts stated in supporting affidavit(s), the applicants, those of the fourth defendants listed in Schedule A of the Notice of Appearance filed on 12 April 2010 (the "Growers") apply for the following relief:

1. The plaintiffs shall serve on the Growers a copy of the confidential affidavits of:
 - 1.1. Andrew John Saker (2) sworn 10 March 2010;
 - 1.2. Mark Peter Kailis sworn 9 March 2010;
 - 1.3. Jerome Clement Lumley (1) sworn 9 March 2010;
 - 1.4. Jerome Peter Lumley (2) sworn 15 March 2010; and
 - 1.5. Andrew John Saker sworn 7 April 2010,and the annexures attached to them.

2. The Growers' costs of this application and of the proceedings shall be paid from the assets of the first plaintiff, the second plaintiff and/or the third plaintiff.

Date: 12 April 2010



For and behalf of Clarendon Lawyers

Solicitors for the Growers

This application will be heard by a Judge/Master in Supreme Court, Stirling Gardens, Barrack Street, Perth at 9:15am on 14 April 2010.

B. Notice to Respondent(s) (if any)

TO: The plaintiffs

OF: C/- Middletons

Middletons

Level 2

6 Kings Park Road

WEST PERTH WA 6005

Your Ref: JMH:20090355.349940

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence.

Before appearing before the Court, you must, except if you have already done so or you are the plaintiff in this proceedings, file a notice of appearance, in the prescribed form in the Registry and serve a copy of it on the plaintiff in the originating process.

C. Filing

This interlocutory process is filed by Clarendon Lawyers, solicitors for the applicants.

D. Service

The applicant's address for service is c/- Clarendon Lawyers, Level 17, Rialto Tower, 525 Collins Street, Melbourne, in the State of Victoria. It is intended to serve a copy of this interlocutory process on each of the plaintiffs and first to third defendants and any persons listed below:

Bendigo and Adelaide Bank Ltd

C/- Allens Arthur Robinson

Level 27

530 Collins Street

MELBOURNE VIC 3000

Your Ref: BHTM:MTM:606114130

IN THE SUPREME COURT OF WESTERN AUSTRALIA

COR 35 of 2010

IN THE MATTER OF GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION)

BETWEEN:

GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION) IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1

First Plaintiff

- and -

GREAT SOUTHERN OLIVES COMPANY LIMITED (ACN 121 381 208) (IN LIQUIDATION)

Second Plaintiff

- and -

GREAT SOUTHERN OLIVE HOLDINGS PTY LIMITED (ACN 111 092 374) (IN LIQUIDATION)

Third Plaintiff

- and -

ANDREW JOHN SAKER

Fourth Plaintiff

- and -

MARTIN BRUCE JONES

Fifth Plaintiff

- and -

DARREN GORDON WEAVER

Sixth Plaintiff

- and -

JAMES HENRY STEWART

Seventh Plaintiff

- and -

JAMES THACKRAY

First Defendant

- and -

TONY MCGRATH

Second Defendant

- and -

COLIN NICOL

Third Defendant

- and -

THE GROWERS LISTED IN SCHEDULE 8 OF THE APPLICATION

Fourth Defendants

**AFFIDAVIT OF CHRISTOPHER STEPHEN WILLIAMS
IN SUPPORT OF INTERLOCUTORY PROCESS
SWORN 12 APRIL 2010**

Date of Document: 12 April 2010
Filed on behalf of: Those of the fourth defendants listed in Schedule A
to the Notice of Appearance filed on 12 April 2010

Date of Filing: 12 April 2010

Prepared by:

Clarendon Lawyers
Level 17
Rialto Tower
525 Collins Street
MELBOURNE VIC 3000

Tel: (03) 8681 4400
Fax: (03) 8681 4499

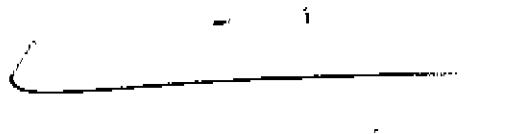
Ref: MAB:MOC:0900568

I, **CHRISTOPHER STEPHEN WILLIAMS**, of level 40, Exchange Plaza 2 The Esplanade, Perth in the State of Western Australia, Solicitor, being duly sworn MAKE OATH AND SAY as follows:-

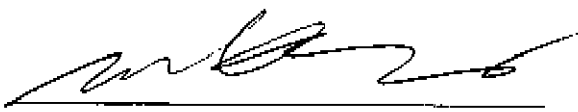
1. I am solicitor employed by Solomon Brothers. I assist David Marsh, a partner of Solomon Brothers, with conduct of this matter on behalf of those of the fourth defendants named in Schedule A to the notice of appearance filed 12 April 2010 (the "Growers").
2. I swear this affidavit in support of the Growers' interlocutory process seeking a pre-emptive costs order and orders requiring the plaintiffs to serve them with copies of the confidential affidavits of:
 - 2.1. Andrew John Saker (2) sworn 10 March 2010;
 - 2.2. Mark Peter Kailis sworn 9 March 2010;
 - 2.3. Jerome Clement Lumley (1) sworn 9 March 2010;
 - 2.4. Jerome Peter Lumley (2) sworn 15 March 2010; and
 - 2.5. Andrew John Saker sworn 7 April 2010.

3. I swear this affidavit from my own knowledge, except or where otherwise indicated, in which case I state the grounds and sources of my belief believe the grounds to be true and the sources to be correct.
4. Solomon Brothers has been engaged by Clarendons Lawyers, the solicitors for the Growers, to act as counsel for the Growers on instructions from Clarendon Lawyers.
5. I have been advised by Clarendon Lawyers, and I do believe, that the Growers are all members of one or more of the Olive Schemes (as defined in paragraph 6 of the affidavit sworn by Andrew John Saker on 10 March 2010).
6. I have also been advised by Clarendon Lawyers, and I do believe, that the Growers are not able to make an informed decision as to their position in relation to the relief sought by the plaintiffs in the interlocutory process dated 7 April 2010 without being able to inspect and give consideration to the confidential affidavits described above. In particular, the Growers need to give consideration to the commerciality of the agreements to sell assets to Kailis Organic Olive Groves Ltd and Sumich EVOO Australia Pty Ltd. The commerciality of those agreements is not a matter about which solicitors and counsel can advise. Further, the Growers want to obtain an opinion from an independent agricultural expert that they engage regarding the Growers' rights and entitlements in respect of the Olive Schemes.
7. I have also been advised by Clarendon Lawyers, and I do believe, that it is intended that an affidavit will be sworn by Robert Burns, a representative of the Growers who is currently in Sydney, in support of the application but, due to timing issues, that affidavit is not yet ready to be sworn, filed and served.

Affirmed by the deponent at Perth)
 in the State of Western Australia)
 the 12th day of April 2010)



Before me:



An experienced legal practitioner within the meaning of section 8 of the *Oaths, Affidavits and Statutory Declarations Act 2005 (WA)*

TRACY HONG HONG
 A legal practitioner who has held a practice certificate for at least two years and who holds a current practice certificate