



BOUNDARY BEND

LIMITED

Australia's premier olive company

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Submission to the Senate Economics Committee by Boundary Bend Limited

RE: Role of liquidators and administrators, their fees and their practices, and the involvement and activities of ASIC prior to and following the collapse of a business

Introduction

Boundary Bend Limited is the largest producer and marketer of Australian extra virgin olive oil. Boundary Bend was founded in Victoria in 1998 and now employs in excess of 200 full time equivalent staff across 7 sites in rural Victoria. Boundary Bend has been instrumental in developing export markets for Australian olive oil and in 2007 was awarded both the Victorian and then Australian **Agribusiness exporter of the year**.

Boundary Bend was a major service provider to Timbercorp Limited offering a turnkey service in all aspects of Timbercorp's olive business. On the 23rd of April 2009 KordaMentha were appointed administrators of Timbercorp and shortly thereafter Timbercorp went into liquidation.

The timing of Timbercorp's collapse could not have been worse for Boundary Bend and the rural communities within which we operate. We were only 1 week into an 8 week olive harvest, spending \$260,000 per day with approximately 300 staff and contractors working around the clock to harvest and process the fruit into oil.

Boundary Bend was in a very difficult position with no foreseeable way of recovering the money that was being spent on the harvest due to the trees and land being owned by Timbercorp, the olives on the trees owned by thousands of MIS growers but all the staff and contractors employed directly by Boundary Bend.

If harvest were not completed the loss of revenue was estimated at \$40m from the 2009 harvest and approximately \$50m from the 2010 harvest with almost complete destruction of the groves which would cost in excess of \$260m to replace.

Had KordaMentha, their lawyers and the courts not acted quickly (within days) to resolve this situation the groves and olive crop would have wasted, putting hundreds of staff out of work in rural Victoria and, more importantly, destroying 50% of Australia's production and its exports, thereby setting this important and growing industry back many years.

Not only did KordaMentha and the courts manage to resume harvest within days they also worked closely with Boundary Bend in the following months to ensure the groves were properly maintained until they could be sold through a due process. As it turned out Boundary Bend was the eventual purchaser of these assets. However, the point is that had KordaMentha or the courts been tardy and not understood the importance of timing with a "live" asset, the crop and trees would have wasted with the Australian economy the big loser.

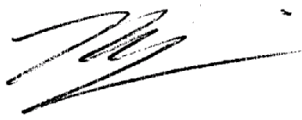
I worked closely with KordaMentha, their lawyers and various grower representatives over the course of the Timbercorp administration and liquidation. The complexity of this administration and the number of parties involved is hard to comprehend.

I have the following observations/ comments that may be useful to this enquiry:

- I. Whilst I understand administrations and liquidations are not court appointed proceedings, I observed KordaMentha sought court guidance on a number of occasions to address matters that might be regarded as controversial or particularly complicated. We needed confidence that KordaMentha were making legally correct decisions as this then gave Boundary Bend the assurance we needed to fund significant grove operating costs without too much risk.
- II. On these occasions I was impressed by the commerciality of the outcomes delivered by the Federal and Supreme Courts. The matters were heard at very short notice and judgements handed down very quickly. On one occasion the judge extended the court session until after 7.30pm which clearly showed he understood the critical issue that Timbercorp's olive assets were "wasting" ie assets and crops would spoil very quickly without horticultural management.
- III. The MIS structures were extremely complicated from a legal perspective but KordaMentha and their legal advisers were able to work through a large amount of documentation and issues quickly and then developed strategies that were both commercial and achievable. Without this timely and commercial approach there was a real risk the olive plantations would have been irreparably damaged.

IV. I understand the purpose of administrations is to maximise the chances of a company or its businesses continuing in existence to exist. Whilst I understand Timbercorp Group will not continue to trade as a MIS business, the outcome of the administration and liquidation conducted by KordaMentha did result in the restructure of the olive assets and the safeguarding of hundreds of jobs in and around Robinvale and Boort in rural Victoria. The loss of this number of jobs in a rural environment would have had a significantly detrimental impact on the local economy and community.

Kindest regards

A handwritten signature in black ink, appearing to read 'Rob McGavin', with a long horizontal stroke extending to the right.

Rob McGavin

Executive Chairman

Boundary Bend Limited