

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: BS. 3383 of 2013

Applicants: RAYMOND EDWARD BRUCE AND VICKI PATRICIA BRUCE

AND

First Respondent: LM INVESTMENT MANAGEMENT LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) ACN 077 208 461 IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND

AND

Second Respondent: THE MEMBERS OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288

AND

Third Respondent: ROGER SHOTTON

AND

Intervener: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

APPLICATION

TAKE NOTICE that David Whyte ("the Applicant") is applying to the Court for the following orders:

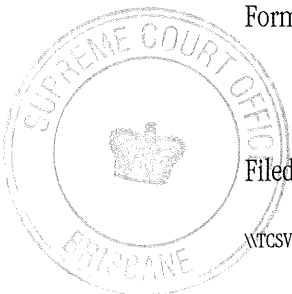
1. An order or direction that the Applicant is justified in taking steps to bring about the appointment of the Applicant and Andrew Fielding as agents of The Trust Company (PTAL) Ltd, in lieu of LM Investment Management Ltd (receivers and managers appointed) (in liquidation), in respect of the securities it holds from the following companies, namely:
 - (a) Cameo Estates Lifestyle Villages (Launceston) Pty Ltd (receivers and managers appointed) ACN 098 955 296;
 - (b) Bridgewater Lake Estate Pty Limited (in liquidation) ACN 086 203 786;

APPLICATION:
Form 9 r.32

Filed on behalf of the Applicant

TUCKER & COWEN
Solicitors
Level 15
15 Adelaide Street
Brisbane, Qld, 4000.
Tele: (07) 300 300 00
Fax: (07) 300 300 33

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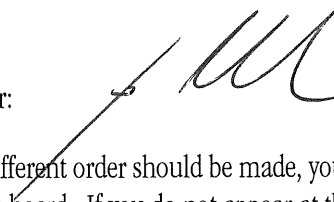


- (c) OVST Pty Ltd (controller appointed)(in liquidation) ACN 103 216 771;
 - (d) Redland Bay Leisure Life Pty Ltd (in liquidation) ACN 109 932 916;
 - (e) Redland Bay Leisure Life Development Pty Ltd (in liquidation) ACN 112 002 383;
 - (f) Pinevale Villas Morayfield Pty Ltd (in liquidation) ACN 116 192 780.
2. Further or in the alternative, orders or directions in respect of the proposed appointments referred to in paragraph 1 above as to whether the Applicant is justified in accepting such appointments of himself in his capacities as the person appointed pursuant to paragraph 2 of the Order of Justice Dalton of this honourable Court dated 21 August, 2013 and as the receiver of the assets of the LM First Mortgage Income Fund appointed pursuant to paragraph 5 of that Order.
 3. An order that the Applicant's costs of this application be paid out of assets of the LM First Mortgage Income Fund on the indemnity basis.
 4. Such further or other orders or directions as the Court thinks fit.

This application will be heard by the Court at 415 George Street, Brisbane on Monday, the 15th day of September 2014 at 10.00 am.

Filed in the Brisbane Registry on 4 September 2014:

Registrar:



If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the application the applicant intends to rely on the following affidavits:

1. Affidavit of David Whyte, to be sworn and filed

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 1 hours

Signed:



Tucker & Cowen

Description:

Solicitors for the Applicant, David Whyte

Dated:

4 September, 2014

This application is to be served on:

Raymond Edward Bruce and Vicki Patricia Bruce, c/- Piper Alderman, Level 23, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000

And:

LM Investment Management Limited (receivers and managers appointed) (in liquidation) ACN 077 208 461 c/- FTI Consulting, 22 Market Street, Brisbane QLD 4000

And:

Roger Shotton of Phirom Gardens – Flat F9A, 11, Sukhumvit Road 41, Wattana, Bangkok 10110.

And:

Australian Securities and Investments Commission, Level 20, Commonwealth Bank Building, 240 Queen Street, Brisbane QLD 4000

And:

The Trust Company (PTAL) Limited ACN 008 412 913 of Level 11, 241 Adelaide Street, Brisbane QLD 4000

And:

Deutsche Bank AG of Level 16, Deutsche Bank Place, cnr Hunter & Phillip Streets, Sydney NSW 2000

And:

Joseph Hayes and Anthony Connelly, both c/- McGrathNicol, Level 31, 60 Margaret Street, Sydney NSW 2000

And:

Trilogy Funds Management Limited, as responsible entity of the LM Wholesale First Mortgage Income Fund, Level 10, Brisbane Club Tower, 241 Adelaide Street, Brisbane QLD 4000