

**SUPREME COURT OF QUEENSLAND**

**REGISTRY: Brisbane**  
**NUMBER: 3508 of 2015**

**IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION)(RECEIVERS APPOINTED) ACN 077 208 461**

First Applicants: **JOHN RICHARD PARK AND GINETTE DAWN MULLER AS LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION)(RECEIVERS APPOINTED) ACN 077 208 461 THE RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

AND

Second Applicant: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION)(RECEIVERS APPOINTED) ACN 077 208 461 THE RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

AND

Respondent: **DAVID WHYTE AS THE PERSON APPOINTED TO SUPERVISE THE WINDING UP OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288 PURSUANT TO SECTION 601NF OF THE CORPORATIONS ACT 2001**

**ORDER**

Before: Justice Jackson  
Date: 12 November, 2015  
Initiating document: Originating Application filed 8 April, 2015

**THE ORDERS OF THE COURT ARE THAT:-**

1. By no later than 20 November, 2015, the Applicants are to file, in these proceedings, an Amended Originating Application and any further applications (“a Further Application”) for orders pursuant to sections 447D or 511 of the *Corporations Act 2001* (C’th) or section 96 of the *Trusts Act 1973* (Qld) relating to:-

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**ORDER**

Filed on behalf of the Applicants

Form 59 Rule 661

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Order of Jackson J (12 November 2015)

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- (a) the approval of the First Applicants' remuneration as liquidators and administrators;
  - (b) the costs and expenses of the First or Second Applicants;
  - (c) the extent to which such remuneration, costs or expenses are claimable out of the property of any of the funds or trusts of which the Second Applicant is the responsible entity or trustee ("the Funds");
  - (d) to the extent which such remuneration, costs or expenses are claimable out of more than one such Fund, the proportion in which such remuneration, costs or expenses are to be borne by the various Funds.

2. By no later than 20 November, 2015, the Applicants are to file any affidavit material in support of any Further Application.

3. Notice is to be given to the members of the Funds ("the Members") of:-

- (a) any Further Application; and
- (b) any affidavit in support of such an application,

by the First Applicants:-

- (i) causing, on or before 23 November, 2015, each of the documents mentioned above and a copy of a notice for each application in a form substantially similar to the form of Annexure A to the order of this Honourable Court dated 8 May, 2015 ("the Notice") to be posted in a prominent place on the website [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com); and
- (ii) sending, on or before 23 November, 2015, a copy of the Notice to the Members by each Member's preferred method of receipt or distribution

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of notices as recorded in the register of members for the respective Funds.

4. Notice will be deemed to have been given to the Members of the documents mentioned in paragraph 3 herein ten days after the posting of the documents to the website in accordance with paragraph 3 herein.

5. Notice is to be given to the Members of any further documents filed in these proceedings by the Applicants causing such documents to be posted to the website [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com).

6. By no later than 23 November, 2015, the Applicants are to serve, pursuant to Part 4 of Chapter 4 of the *Uniform Civil Procedure Rules 1999* (Qld), the documents referred to in paragraph 3 herein, on:-

- (a) the Respondent;
- (b) the trustees of the LM Managed Performance Fund; and
- (c) any creditor of the Second Applicant.

7. By no later than 4 December, 2015, any party other than the Respondent who wishes to appear at the hearing of any Further Application shall file and serve, at the Applicants' address for service, a Notice of Appearance in Form 4.

8. By no later than 11 December, 2015, the Respondent file and serve any affidavit upon which he intends to rely at the further hearing of the Originating Application filed 8 April, 2015 ("the OA") or at the hearing of any Further Application.

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9. By no later than 11 December, 2015, any party other than the Respondent who has filed a Notice of Appearance in accordance with paragraph 7 is to file any affidavit upon which it intends to rely at the hearing of any Further Application.

10. By no later than 14 December, 2015, the Applicants are to file and serve a written outline of submissions.

11. By no later than 16 December, 2015, the Respondent, and any party who has filed a Notice of Appearance in accordance with paragraph 7, is to file and serve a written outline of submissions.

12. The OA and any Further Application be set down for hearing on 17 December, 2015 and 18 December, 2015.

13. Costs reserved.

14. Liberty to apply.

Signed:

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Registrar