

**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 IN THEIR CAPACITIES  
AS JOINT AND SEVERAL LIQUIDATORS  
OF LM INVESTMENT MANAGEMENT  
LIMITED (IN LIQUIDATION)(RECEIVERS  
APPOINTED) ACN 077 208 461**

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 CORPROATIONS ACT 2001**

**APPLICATION**

**TAKE NOTICE** that the Applicants are applying to the Court for the following  
Orders:-

1. Consequent upon paragraphs 7 and 8 of the order of Jackson J dated  
17 December, 2015 ("**the Order**"), a declaration that the following items are Eligible  
Claims within the meaning of paragraph 8(b) of the Order, for which LMIM has a  
right to be indemnified from the property of the LM First Mortgage Income Fund

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**APPLICATION**

Filed on behalf of the Applicants

Form 9 Rule 31

  
**Russells**  
Level 18  
300 Queen Street  
**BRISBANE 4000**  
Phone: 07 3004 8888  
Fax: 07 3004 8899

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("Fund") as an Administration Indemnity Claim or Recoupment Indemnity Claim (as those terms are defined in the Order) as the case may be:-

- (a) the sum of \$241,453.54 claimed pursuant to paragraph 6 of the Order by the Applicants' solicitor's letter to the Respondent's solicitors dated 10 February, 2016;
- (b) the sum of \$169,241.30 claimed pursuant to paragraph 6 of the Order by the Applicants' letter to the Respondent dated 15 February, 2016, more particularly set out in the Schedule to this application.

2. An order that the Respondent pay to the Applicants the sum of \$410,694.84 from the assets of the Fund, or in the alternative such other sum as is declared to be an Administration Indemnity Claim or Recoupment Indemnity Claim for which LMIM has a right to be indemnified from the property of the Fund pursuant to paragraph 1 herein.

3. The Applicants' costs of the application be paid on the indemnity basis out of the assets of the Fund.

This Application will be heard by the Court at 415 George Street, Brisbane, Queensland on a date to be fixed.

Filed in the Brisbane Registry on 20 May, 2016.

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.

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On the hearing of the Application the Applicants intend to rely on the following Affidavits:-

1. Affidavit of John Richard Park to be sworn.

**THE APPLICANTS ESTIMATE THE HEARING SHOULD BE ALLOCATED ONE HOUR AND THIRTY MINUTES.**

Signed:   
**Russells**

Description: Solicitors for the Applicants

Dated: 20<sup>th</sup> day of May, 2016

This Application is to be served on:-

Mr David Whyte of c/- his solicitors, Tucker & Cowen.

**SCHEDULE**

<b>Consultant</b>	<b>Invoice Number</b>	<b>Invoice Date</b>	<b>Claimed Amount</b>
Russells	B17294	10/03/2014	\$25,476.94
Russells	1042	11/09/2014	\$4,950.00
Russells	B22299	15/07/2015	\$315.33
Hartwell Lawyers	N/A	02/01/2016	\$9,068.68
Russells	B17488	28/03/2014	\$1,265.01
Russells	B18884	26/08/2014	\$566.48
Russells	B24316	29/01/2016	\$1,920.42
Russells	B18603	28/07/2014	\$92.69
Russells	B22433	02/01/2016	\$9,967.32
Russells	B22832	31/08/2015	\$3,525.82
Russells	B23055	30/09/2015	\$1,390.62
Russells	B13460	30/10/2015	\$4,646.14
Russells	B23746	30/11/2015	\$5,857.84
Russells	B18824	20/08/2014	\$9,750.00
Russells	B20191	22/12/2014	\$2,200.00
Russells	B22835	31/08/2015	\$7,826.96
Russells	B23062	30/09/2015	\$3,506.23
Russells	B23465	30/10/2015	\$10,000.83
Russells	B23749	30/11/2015	\$16,174.44
Russells	B23944	21/12/2015	\$1,067.91
<i>Less partial payment of B22835, B23062, B23465, B23749, B23944</i>			<i>(\$18,000.00)</i>
Hartwell Lawyers	N/A	02/01/2016	\$399.21
Hartwell Lawyers	N/A	02/01/2016	\$606.60
Hartwell Lawyers	N/A	02/01/2016	\$2,699.84
Hartwell Lawyers	N/A	02/01/2016	\$2,361.45

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Hartwell Lawyers	N/A	02/01/2016	\$212.76
Arthur J Gallagher	289543/289547	02/11/2015	\$61,391.78
		<b>Total</b>	<b>\$169,241.30</b>