

Duplicate

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: S3383 of 2013

IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) IN
ITS CAPACITY AS RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME
FUND ARSN 089 343 288

ACN: 077 208 461

Applicants: RAYMOND EDWARD BRUCE AND VICKI PATRICIA
BRUCE
AND
First Respondent: LM INVESTMENT MANAGEMENT LIMITED (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

ORDER

Before: Mullins J
Date: 22 May 2019
Initiating document: Interlocutory Application filed 1 February 2019

THE ORDER OF THE COURT IS THAT:

1. It is directed in the inherent jurisdiction of this Honourable Court that David Whyte as the person appointed under section 601NF(1) of the *Corporations Act* 2001 (Cth) to ensure that the LM First Mortgage Income Fund (**FMIF**) is wound up in accordance with its constitution and any orders of the Court, and as the receiver of the property of the FMIF (**Mr Whyte**), is justified in settling Supreme Court proceeding 13534 of 2016 on the terms set out in the Deed of Settlement and Release as varied by the Deed of Variation ("**the Deed of**

Order
Form 59 R 661
Filed on behalf of David Whyte



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Settlement”), and in causing LM Investment Management Limited (in liquidation) (**LMIM**) as responsible entity of the FMIF (receiver appointed) to enter into and perform the Deed of Settlement.

2. It is directed in the inherent jurisdiction of this Honourable Court that Mr Whyte is justified in making an interim distribution to the members of the FMIF, if he is conferred with the authority to do so on his application dated 1 February 2019 filed in Supreme Court proceeding 3508 of 2015, of 6.5 cents per unit in the FMIF.
3. Mr Whyte's costs of and incidental to the application filed 1 February 2019 be paid from the assets of the FMIF.

Signed: _____

Deputy Registrar

