

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3383 of 2013

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

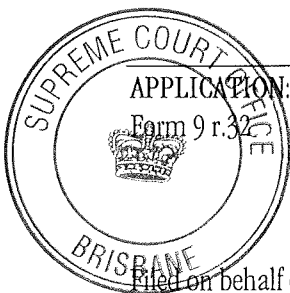
AND

Intervener: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

APPLICATION

TAKE NOTICE that Mr David Whyte, the person appointed pursuant to section 601NF(1) of the *Corporations Act 2001* (Cth) to take responsibility for ensuring that the FMIF is wound up in accordance with its constitution is applying to the Court pursuant to rule 1.8 of Schedule 1A of the *Uniform Civil Procedures Rules 1999* (Qld) ("UCPR") for the following orders:-

1. That service on the members of the FMIF of the application filed on 2 May 2014 for approval of Mr Whyte's remuneration ("the Application") and the supporting affidavit of Mr Whyte sworn on 2 May 2014 ("the Affidavit") be effected by:
 - (a) posting in a prominent place on the website "lmfmif.com" ("the Website"):



Filed on behalf of the Applicant, Mr David Whyte

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

- (i) a notice substantially in the form of Annexure A to this application (“the Notice”);
 - (ii) the Application and the Affidavit; and
- (b) sending a copy of the Notice to all members of the FMIF by each member’s preferred method for distribution of notices recorded on the FMIF’s register of members.
2. Alternatively, that service of the Application and Affidavit, and any further supporting affidavits, on each of the members of the FMIF pursuant to rule 112 of the *Uniform Civil Procedure Rules* 1999 (Qld) be dispensed with.
3. That service of the Application and the Affidavit be deemed effected on each of the members of the FMIF five (5) days after those documents are posted in a prominent place on the Website.
4. That service on the members of the FMIF of any further affidavits filed in the Court on Mr Whyte’s behalf in support of the Application be effected by the method in subparagraph 1(a) above.
5. That service of any affidavits referred to in paragraph 4 above be deemed effected on each of the members of the FMIF five (5) days after those documents are posted in a prominent place on the Website.
6. Costs reserved.
7. That all further applications for approval of the remuneration of Mr Whyte be served in accordance with these orders.

This application will be heard by the Court at Brisbane

on: 5/5/14 at 10 am.

Filed in the Brisbane Registry on 2 May 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 affidavit:

1. Affidavit of David Whyte sworn 2 May 2014.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 20 Minutes

Signed:



Tucker & Cowen

Description:

Solicitors for the Applicant, Mr David Whyte

Dated:

2 May 2014

It is not intended to serve a copy of this application on any person.

ANNEXURE A

TO THE MEMBERS OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288 (Receivers and Managers Appointed)(Receiver Appointed) ("FMIF")

TAKE NOTICE that David Whyte, the person appointed pursuant to section 601NF(1) of the *Corporations Act 2001* (Cth) to take responsibility for ensuring that the FMIF is wound up in accordance with its constitution, has applied to the Supreme Court of Queensland for an order that the amount that Mr Whyte is entitled to claim as remuneration in respect of time spent by him and by any servants or agents of BDO who have performed work in the winding up of the FMIF for the period 8 August 2013 to 31 March 2014 be fixed in the amount of \$702,480.35 (inclusive of GST).

This application is set down to be heard by the Supreme Court at Brisbane on [date] at [time].

Copies of the court documents in respect of this application will be available on the website www.lmfimf.com.

Any member who reasonably requires a hard copy of the application and supporting material should call Investor Relations on +61 7 5584 4500 or BDO on +61 7 3237 5999.