

Duplicate

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: BS3508/2015

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

First Applicant: JOHN RICHARD PARK AS LIQUIDATOR OF LM INVESTMENT
MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND
MANAGERS 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 AND MANAGERS 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: 19 November 2018
Initiating document: Application filed 10 October 2018

THE ORDER OF THE COURT IS THAT:

1. Directions pursuant to section 511(1) of the *Corporations Act 2001* as in force immediately before 1 March 2017 and section 601NF (2) of the *Corporations Act 2001* or, alternatively section 90-15(1) of schedule 2 to the Act and section 601NF(2) of the Act:

ORDER
Form 59 R.661

Filed on behalf of the Respondent

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- (a) That by no later than 27 November 2018 the First Applicant ("**Liquidator**") file an affidavit setting out estimates of his remuneration and expenses ("**the Budget**") up to and including the payment of the final distribution to the creditors of the First Applicant ("**LMIM**") and final distribution to the members of each of the following funds ("**the LM Funds**");
- (i) LM First Mortgage Income Fund ARSN 089 343 288 ("**FMIF**");
 - (ii) LM Cash Performance Fund ARSN 087 304 032 ("**CPF**");
 - (iii) LM Currency Protected Australian Income Fund ARSN 110 247 875 ("**CPAIF**");
 - (iv) LM Institutional Currency Protected Australian Income Fund ARSN 122 052 868 ("**ICPAIF**");
 - (v) LM Australian Income Fund ARSN 133 497 917 ("**AIF**"); and
 - (vi) LM Australian Structured Products Fund ARSN 149 875 669 ("**ASPF**").
- (b) The Budgets set out in the affidavits to be filed in accordance with paragraph 1 are to include:
- (i) estimates of the monthly remuneration of the Liquidator up to and including the payment of the final distribution to the creditors of LMIM and the members of the Funds, being the final distribution in respect of the winding up of LMIM and the final distribution in respect of each of the LM Funds, being distributions after payment of all proper debts ("**the Conclusion**");
 - (ii) an estimate of the monthly expenses of the Liquidator up to the Conclusion;
 - (iii) an estimate by the Liquidator of the costs of making an interim distribution to members of the FMIF ("**the Interim Distribution**");
 - (iv) an estimate by the Liquidator of the costs of making a final distribution to members of FMIF up to the Conclusion ("**the Final Distribution**");
 - (v) an estimate of the total remuneration and expenses up to the Conclusion;
 - (vi) a description of the work to be carried out by the Liquidator in respect of his estimated remuneration;
 - (vii) an estimate as to the expenses to be incurred by the Liquidator up to the Conclusion; and
 - (viii) a description of the expenses to be incurred by the Liquidator up to the Conclusion.

2. On or before 30 November 2018, the Respondent file and serve any Affidavits upon which he intends to rely at the hearing of the application filed 10 October 2018 ("**Application**").
3. On or before 5 December 2018, the Applicants file and serve:-
 - (a) any Affidavits in reply to the Respondent's Affidavits; and
 - (b) the Applicants' written outline of submissions.
4. On or before 7 December 2018, the Respondent file and serve the Respondent's written outline of submissions.
5. The parties are directed to send by email copies of their respective written outlines of submissions to the Associate to Justice Jackson on the day of filing.
6. On or before 22 November 2018, the Applicants serve a copy of these Orders on the Australian Securities and Investments Commission ("**ASIC**").
7. ASIC has liberty to apply, including to be heard in relation to the Application.
8. On or before 22 November 2018, the Applicants serve a copy of these Orders on Mr Said Jahani, of Grant Thornton, the receiver and manager of LMIM in its capacity as responsible entity of the LM Currency Protected Australian Income Fund ARSN 110 247 875 and in its capacity as responsible entity of the LM Institutional Currency Protected Australian Income Fund ARSN 122 052 868 ("**Mr Jahani**").
9. Mr Jahani has liberty to apply, including to be heard in relation to the Application.
10. The Application is set down for a one-day hearing before Justice Jackson on 10 December 2018.
11. The Respondent:-
 - (a) give notice to members of the LM First Mortgage Income Fund ARSN 089 343 288 ("**FMIF**"), by sending a written notice in such form as the Respondent considers appropriate, and otherwise in accordance with paragraphs 5(b), (c) and (d) of the Order made in this proceeding on 3 October 2018 ("**Notice Order**"), of the date of hearing of the Application as fixed by paragraph 6 of this Order and of the fact that the affidavits filed or to be filed by the parties in respect of the Application will be made available on the website identified in paragraph 5(d) of the Notice Order;
 - (b) is not required to take further steps to serve or give notice to the members of the FMIF of the date of hearing of the Application or of any affidavit filed in respect of the Application.
12. Paragraph 5(e) of the Notice Order is varied by replacing "Respondent" with "Applicant".

13. Without limiting paragraph 6 of the Notice Order, the First Applicant upload any material filed by the Respondent in respect of the Application to the Website (as that term is used in the Notice Order).
14. Costs reserved.

Signed:

Deputy Registrar

