

Duplicate

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: BSBS3508/2015

Applicant:

JOHN RICHARD PARK AS LIQUIDATOR OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 007 208 461 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: Jackson J

Date: 18 July 2018

Initiating document: Application filed on 17 July 2018.

THE ORDER OF THE COURT IS THAT:

1. Notice of the Application filed on 17 July 2018 ("**the Application**") be given to the members of the Funds, other than the LM First Mortgage Income Fund ARSN 089 343 288 ("**FMIF**"), as follows:
 - (a) by the First Applicant uploading to the website www.lminvestmentadministration.com ("**the Website**"); copies of this Application, a Notice to Members in the form of Schedule 1 to this Application



ORDER
Filed on behalf of the Applicants
Form 59, Version 1
Uniform Civil Procedure Rules 1999
Rule 661

Russells
Level 18, 300 Queen Street
Brisbane QLD 4000
Tel: (07) 3004 8888
Fax: (07) 3004 8899
Ref: JTW:20131259

- (“**the Notice**”), any order made as to service and any substantive affidavit (including all exhibits) that the First Applicant intends to rely upon in support of this Application;
- (b) by sending an email to those members of the Funds, for whom an email address is recorded:
 - (i) attaching the Notice; and
 - (ii) stating that they may view all substantive Court documents upon which the First Applicant intends to rely in support of the Application on the Website; and
 - (c) where the First Applicant receives a response to an email that indicates the email was not received, or if the First Applicant does not hold an email address for any member, and the First Applicant has a postal address for those members, the First Applicant is to post the Notice to the postal address of those members.
2. Notice of the Application be given to the creditors of the Second Applicant as follows:
- (a) by the First Applicant uploading to the Website: a Notice to Creditors in the form of Schedule 2 to this Application (“**the Creditors’ Notice**”) any order made as to service and any substantive affidavit (including all exhibits) that the First Applicant intends to rely upon in support of this Application;
 - (b) by sending an email to those creditors of the Second Applicant, for whom an email address is recorded:
 - (i) attaching the Creditors’ Notice; and
 - (ii) stating that they may view all substantive Court documents upon which the First Applicant intends to rely in support of the Application on the Website; and
 - (c) where the First Applicant receives a response to an email that indicates the email was not received, or if the First Applicant does not hold an email address for any creditor, and the First Applicant has a postal address for those creditors, the First Applicant is to post the Notice to the postal address of those creditors.
3. Notice of the Application in accordance with any orders made be deemed effective on each of the members of the Funds, other than the FMIF, and the creditors of the Second Applicant.

4. Notice of this Application and any affidavits relied on in support of this application on the members of the FMIF be effected as follows and be deemed effective 10 days after the last of the following steps have been taken in respect thereof, as applicable:-
 - (a) service by the Applicant of such documents on the Respondent;
 - (b) the Respondent sending the Notice by email to those members of the FMIF for whom an email address is recorded in the register of members maintained by the Respondent (**the Register**);
 - (c) where the Respondent receives a response to an email that indicates the email was not received, or if the Respondent does not hold an email address for any member, and the Respondent has a postal address for those members, the Respondent posting the FMIF Notice to the postal address of those members recorded in the Register, if any;
 - (d) the Respondent uploading to the website <http://www.lmfimf.com/> a copy of this Application, the Notice, and a link to the location on the First Applicant's website where the material uploaded pursuant to order 1(a) of this Order has been placed; and
 - (e) in respect of any further material, the Applicant taking the steps set out in order 1(a) of this Order.
5. Where the First Applicant intend to rely on further material, notice of that material will be deemed effective by the First Applicant uploading the material to the Website and sending an email (or, where the First Applicant does not hold a valid email address, a notice by post) to the members of the Funds other than the FMIF and creditors informing them that further material in relation to the Application has been uploaded to the Website.
6. The First Applicant not be required to take further steps to serve or give notice to the members of the Funds or creditors of the Second Applicant whose email addresses return permanent undeliverable receipts and for whom the Applicants do not have a postal address.
7. By no later than 27 July 2018, the Applicants comply with paragraphs 1 and 2 of this order.
8. By no later than 27 July 2018, the Applicants are to file any further affidavit material in support of the Application and upload such affidavit material to the Website.
9. By no later than 24 August 2018, the Respondent is to file and serve any affidavits upon which he intends to rely at the hearing of the Application.

10. The parties exchange any outlines of argument by 4 September 2018
11. The Application be set down for hearing on 6 September 2018.
12. Costs reserved.

Signed:

Deputy Registrar

