

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: BS3508/2015

IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED)

First 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 AND MANAGERS APPOINTED) ACN 077 208 461 THE RESPONSIBLE ENTITY OF LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

AND

First 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**

AND

Second Respondent: **SAID JAHANI IN HIS CAPACITY AS RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKING, RIGHTS AND INTERESTS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 077 208 461 AS THE RESPONSIBLE ENTITY OF THE LM CURRENCY PROTECTED AUSTRALIAN INCOME FUND ARSN 110 247 875 AND THE LM INSTITUTIONAL CURRENCY PROTECTED AUSTRALIAN INCOME FUND ARSN 122 052 868**

THIRD AFFIDAVIT OF RENEE LOBB

RENEE LOBB care of Level 20, Central Plaza One, 345 Queen Street, Brisbane in the state of Queensland, Chartered Accountant states on oath:

Page 1

Deponent 

Taken by 

THIRD AFFIDAVIT OF RENEE LOBB

Filed on behalf of the Applicants

Form 46, Version 1

Uniform Civil Procedure Rules 1999

Rule 43

Russells

Level 18, 300 Queen Street

Brisbane QLD 4000

Tel: (07) 3004 8888

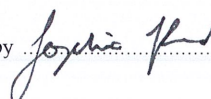
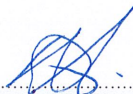
Fax: (07) 3004 8899

Ref: MKR:SEH:20190205

1. I am a Managing Director in the Corporate Finance/Restructuring Division of FTI Consulting (Australia) Pty Ltd (**FTI**). I assist Mr John Park, who is the Liquidator of the Second Applicant (**LMIM**), in the day to day administration of the winding-up.
2. I refer to the Application made by Mr Park in respect of his Corporate, Category 1 and Category 2 remuneration from 1 October 2015 to 31 October 2020 filed in this proceeding (**the Application**).
3. I swear this affidavit in support of the Application and, in particular, the orders sought as to giving notice of the Application to the members of the LM Funds (a term defined in paragraph 6 below) and the creditors of LMIM.
4. I am responsible for day-to-day tasks in the liquidation of LMIM under the supervision of Mr Park as the Liquidator of LMIM and Ms Kelly-Anne Trenfield, an Official Liquidator who works extensively on the liquidation of LMIM. The tasks for which I am responsible include, but are not limited to:
 - (a) attending to investor enquiries;
 - (b) emailing updates and notices to the members of the LM Funds and the creditors of LMIM as and when required by order of the Court;
 - (c) drafting and uploading updates and notices to members of the LM Funds and creditors of LMIM to the website www.lminvestmentadministration.com (**the Website**); and
 - (d) uploading Court documents to the Website.
5. I have carried out that work since 19 March 2013 under the supervision of Mr Park and Ms Trenfield.

Members of the LM Funds and creditors of LMIM

6. LMIM is the responsible entity of the following Funds:
 - (a) the LM Australian Income Fund ARSN 133 497 917 (**AIF**);
 - (b) the LM Australian Structured Products Fund ARSN 149 875 669 (**ASPF**);
 - (c) the LM Cash Performance Fund ARSN 087 304 032 (**CPF**);



(d) the LM Currency Protected Australian Income Fund ARSN 110 247 875 (CPAIF);

(e) the LM Institutional Currency Protected Australian Income Fund ARSN 122 052 868 (ICPAIF); and

(f) LM First Mortgage Income Fund ARSN 089 343 288 (FMIF).

(referred to together as “**the LM Funds**”)

7. I oversee the maintenance of member registers for the CPAIF and ICPAIF under the supervision of Mr Park and Ms Trenfield. If there is any change in respect of the memberships of the LM Funds I delegate to FTI Consulting staff to attend to the required changes with the relevant member registers.

8. A third-party service provider, Advance Share Registry maintains the registers in respect of AIF and ASPF. I do not maintain the register in respect of FMIF, Mr David Whyte having been appointed as the receiver of the property of FMIF on 21 August 2013. I do however have access to records in respect of the members of FMIF.

9. As at 30 June 2020:

(a) AIF had 725 members;

(b) ASPF had 118 members;

(c) CPF had 41 members;

(d) CPAIF had 2,666 members; and

(e) ICPAIF had 41 members.

10. As at 30 June 2020, LMIM had received proofs of debt from approximately 104 creditors.

Difficulty in serving the members of the LM Funds and the creditors of LMIM

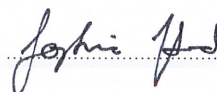

11. The cost and delay associated with personal service would be very substantial.

12. I believe that it will be costly and time consuming to serve the members of the LM Funds and the creditors of LMIM personally, or even by posting to them a covering letter, the Application and affidavits in support.

13. Given the number of members and creditors, FTI does not have the facilities to attend to that mail out itself.
14. It would therefore be necessary to engage a contractor to attend to the mail out if service of the Application and supporting affidavit were to occur by post. Previous mail-outs in respect of the voluntary administration and liquidation of LMIM have occurred by FTI engaging a print service, Worldwide Printing to carry out the work.
15. From previous mail outs in this and other administrations, I am aware that the rates charged by Worldwide Printing. I estimate that if a cover letter, the Application and the supporting affidavit of Ms Trenfield (being approximately 348 pages) were to be sent out to the 4,245 investors and creditors, the costs of doing so would be in excess of \$100,000 (including postage).
16. Further, many of the members of the LM Funds and creditors of LMIM live overseas. Not all of the members' addresses are regularly updated and some of those addresses may be out of date.

Giving notice to members of the LM Funds and the creditors of LMIM


17. The Application, in part, seeks orders permitting service to occur by:
- (a) emailing a notice to members and the notice to creditors of the members of the LM Funds and to the creditors of LMIM respectively; and
 - (b) uploading those notices, the Application, the substantive supporting affidavit and any further affidavit material to the Website.
18. This process can be carried out by FTI without the need to engage a print service or other contractor. I have previously sent emails to the members of the LM Funds and creditors of LMIM in this way.
19. I am the person responsible for maintaining the Website. If orders are made by the Court, I will upload material to the Website, the creditors and members then being able to access those Court documents from the Website.
20. I have email addresses for the majority of the members of the LM Funds and the creditors of LMIM. I believe that the majority of those email addresses are current except for the email addresses in respect of the members of FMIF, which I understand to be maintained



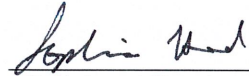
by Mr Whyte. Where I do not have an email address for a member of the LM Funds or a creditor of the LMIM, I will affect service on that member or creditor by prepaid post.

21. All the facts and circumstances deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by **RENEE LOBB** on 23 December 2020 at Brisbane in the presence of:



Deponent



Solicitor/ ~~Barrister~~/ Justice of the Peace