

SUPREME COURT OF QUEENSLAND

Registry: Brisbane  
Number: BS3383/2013

**Applicant:** RAYMOND EDWARD BRUCE AND VICKI PATRICIA  
BRUCE  
  
AND  
  
**First Respondent:** LM INVESTMENT MANAGEMENT LIMITED  
(ADMINISTRATORS APPOINTED), 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

**A. DETAILS OF INTERLOCUTORY APPLICATION**

This interlocutory application is made under sections 601ND, 601NF and 1101B of the *Corporations Act 2001* (Cth) (**the Act**).

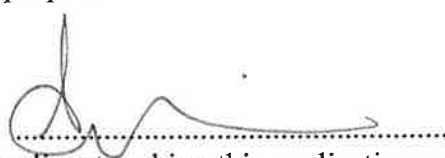
On the facts stated in the supporting affidavit, the applicant, the Australian Securities and Investments Commission, applies for the following relief:

1. Pursuant to section 601ND(1)(a) of the Act, LM Investment Management Limited (Administrators Appointed) ACN 077 208 461 be directed to wind up the LM First Mortgage Income Fund ARSN 089 343 288 (**FMIF**).
2. Pursuant to section 601NF(1) of the Act, Derrick Vickers (**Mr Vickers**), Darryl Kirk (**Mr Kirk**) and Gregory Hall (**Mr Hall**) be appointed to take responsibility for ensuring that the FMIF is wound up in accordance with its constitution.
3. Pursuant to section 1101B(1) of the Act, Mr Vickers, Mr Kirk and Mr Hall be appointed as joint and several receivers of the property of the FMIF.
4. Pursuant to section 601NF(2) of the Act, Mr Vickers, Mr Kirk and Mr Hall be appointed as joint and several receivers of the property of the FMIF.

5. Pursuant to section 1101B(1) of the Act, Mr Vickers, Mr Kirk and Mr Hall have, in relation to the property for which they are appointed receivers pursuant to paragraph 3 above, the powers set out in section 420 of the Act in addition to the powers set out in section 1101B(8)(a) to (c) of the Act.
6. Pursuant to section 601NF(2) of the Act, Mr Vickers, Mr Kirk and Mr Hall have, in relation to the property for which they are appointed receivers pursuant to paragraph 4 above, the powers set out in section 420 of the Act and the powers set out in section 1101B(8)(a) to (c) of the Act.
7. Pursuant to section 1101B(1) of the Act, that Mr Vickers, Mr Kirk and Mr Hall in respect of the appointment made in paragraph 3 above:
  - (a) have access to the books and records of LM Investment Management Limited (Administrators Appointed) which concern the FMIF;
  - (b) be indemnified out of the assets of the FMIF in respect of any proper expenses or costs incurred in effecting the winding up of the FMIF; and
  - (c) be entitled to claim remuneration in respect of the time spent by Mr Vickers, Mr Kirk and Mr Hall and by any servants or agents of PricewaterhouseCoopers who perform work in the winding up of the FMIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the FMIF in respect of such remuneration.
8. Pursuant to section 601NF(2) of the Act, that Mr Vickers, Mr Kirk and Mr Hall in respect of the appointment made in paragraph 4 above:
  - (a) have access to the books and records of LM Investment Management Limited (Administrators Appointed) which concern the FMIF;
  - (b) be indemnified out of the assets of the FMIF in respect of any proper expenses or costs incurred in effecting the winding up of the FMIF; and
  - (c) be entitled to claim remuneration in respect of the time spent by Mr Vickers, Mr Kirk and Mr Hall and by any servants or agents of PricewaterhouseCoopers who perform work in the winding up of the FMIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the FMIF in respect of such remuneration.
9. That by 4:00pm, 14 May 2013, LM Investment Management Limited (Administrators Appointed) publish a copy of any order, in PDF form on the following websites, by way of notice to the members of the FMIF:
  - (a) the website of LM Investment Management Limited (Administrators Appointed) at [www.lmaustralia.com](http://www.lmaustralia.com); and
  - (b) the website created by the administrators of LM Investment Management Limited (Administrators Appointed) at [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com).
10. Such further directions as to the winding-up of the FMIF as the Court thinks necessary.

11. Such further or other orders as the Court considers appropriate.

Date: 3 May 2013

  
Signature of applicant making this application or  
applicant's legal practitioner

**B. NOTICE TO RESPONDENT(S)**

TO: Raymond Edward Bruce & Vicki Patricia Bruce  
LM Investment Management Limited (Administrators Appointed)  
The members of the LM First Mortgage Income Fund ARSN 089 343 288  
Roger Shotton

This application will be heard by the Court at 415 George Street, Brisbane Queensland at 10:00am on 13 May 2013.

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. In addition you must before the day for hearing file a notice of appearance in this Registry. The notice should be in Form 4. You must serve a copy of it at the applicant's address for service shown in this application as soon as possible.

*Note:* Unless the Court otherwise orders, a respondent that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

**C. FILING**

This interlocutory application is filed by the Australian Securities and Investments Commission.

**D. SERVICE**

The applicant's address for service is:

Name:	Australian Securities and Investments Commission
Applicant's address:	Level 20, 240 Queen St, Brisbane, Queensland, 4000
Applicant's solicitor's name:	Anne Gubbins
Telephone:	07 3867 4871
Fax:	07 3867 4793
Reference:	13-40003

It is intended to serve a copy of this interlocutory application on each respondent and on any person listed below:

Raymond Edward Bruce & Vicki Patricia Bruce  
C/- Piper Alderman  
Level 23, Governor Macquarie Tower  
1 Farrer Place  
Sydney, NSW

LM Investment Management Limited (Administrators Appointed)  
C/- Ginette Muller and John Park  
FTI Consulting  
22 Market Street  
Brisbane, Qld

The members of the LM First Mortgage Income Fund ARSN 089 343 288

Roger Shotton  
c/- Tucker & Cowen  
Level 15  
15 Adelaide Street  
Brisbane Qld