

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane  
NUMBER: 3383  
of 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

AFFIDAVIT OF DAVID WHYTE

I, DAVID WHYTE of Level 18, 300 Queen Street, Brisbane  
in the State of Queensland, Registered and Official  
Liquidator, state on oath:-

1. I am:-

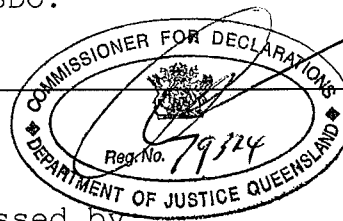
(a) An official liquidator; and

(b) A partner in the firm of BDO.

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Signed:

Witnessed by.



**AFFIDAVIT:**

Form 46, R.431

TUCKER & COWEN

Solicitors

Level 15

15 Adelaide Street

Brisbane, Qld, 4000.

Filed on behalf of the Respondent Tele: (07) 300 300 00

Fax: (07) 300 300 33

2. I consent to be appointed by the Court to take responsibility for ensuring that the LM First Income Mortgage Fund ASRN 089 343 288 (the "**Fund**"), is wound up in accordance with its constitution, and such other orders or directions as the Court thinks necessary.
3. Further and in the alternative to paragraph 2 above, I consent to be appointed as a receiver and manager of the Fund, or such assets of the fund that the Court shall direct.
4. I am not aware of any conflict of interest or duty that would make it improper for me to act if so appointed.
5. I am not aware of any of the relevant relationships mentioned in section 60 of the Corporations Act (if those provisions are applicable).
6. If I employ any staff of either LM Investment Management Limited, its related entities or the Fund to assist me with winding up the Fund, I will only seek to recover their direct employment costs from the Fund by way of indemnity and not seek to charge a mark up or margin on their salaries.
7. A copy of my curriculum vitae appears at page 1 of exhibit "DW-1".
8. A schedule of hourly rates charged by BDO appears at page 2 of exhibit "DW-1".

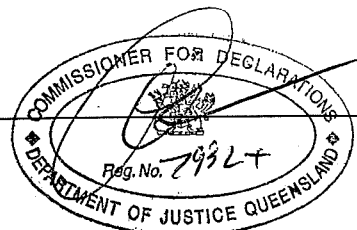
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Signed:

Witnessed by:

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Files\Content.Outlook\8FAN07X9\Affidavit\_of\_David\_Whyte re LM FMIF (TCS00510500).doc

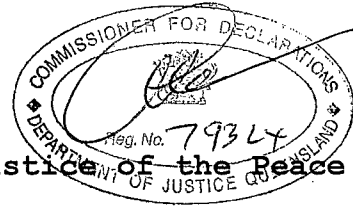


9. All the facts and circumstances above deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by **DAVID WHYTE** on the *29* day of April 2013 at Brisbane in the presence of:

  
Deponent

Solicitor/A Justice of the Peace



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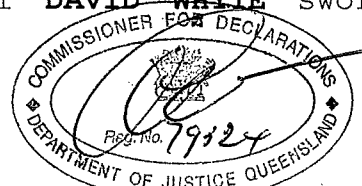
Second Respondent: THE MEMBERS OF THE LM FIRST MORTGAGE  
INCOME FUND ARSN 089 343 288

CERTIFICATE OF EXHIBIT

Exhibit "DW-1" to the Affidavit of DAVID ~~WHYTE~~ sworn  
this 29 day of April 2013



Deponent



Solicitor/A Justice of the Peace



# Profile



## DAVID WHYTE

### Partner

#### Business Recovery & Insolvency

Originally from the UK, David spent 22 years with a major UK bank in a variety of credit and relationship management roles, including the last ten years specialising in workouts and restructuring. David's final position in the UK was Head of Specialised Lending Services, Scotland, where he was responsible for a corporate problem loan portfolio in excess of \$1Bn and where the bank had a 38% market share.

Since migrating to Australia in 2001, David has worked with corporate turnaround and insolvency firms in a wide range of assignments and industry sectors, both locally and nationally. David is a registered and official liquidator and as such acts as a Receiver and Manager, Administrator and Liquidator, including court appointments.

david.whyte@bdo.com.au

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(QLD) Pty Ltd  
Level 18, 300 Queen St  
Brisbane QLD 4000

Tel: +61 7 3237 5999

Fax: +61 7 3221 9227

www.bdo.com.au

### Expertise Summary

- Agribusiness, Construction and Property Investment/Development
- Manufacturing, Service industry, Motor industry, Franchising
- Managed Investment Schemes
- Investigating accountant's reviews for major financiers, business reconstruction, turnarounds and strategic financial advice
- Managing formal insolvency appointments and corporate problem loans on behalf of banking institutions

### Key assignments

- Equititrust Income fund
- GRS Contracting
- Independent Forklift Services Group
- Dreamy Donuts Group
- Asia Australia Developments Group
- Battery World Australia
- Major bank outsourcing project - managing problem loans
- Major Furniture Manufacturer
- Receiver and Manager of a significant number of properties including rural properties, residential subdivisions and commercial properties
- Mortgagee in possession of a resort, golf course, conference centre, marina, caravan park, residential subdivision and other undeveloped land.

### Qualifications & memberships

- Associate - Insolvency Practitioners Association of Australia
- Affiliate - Institute of Chartered Accountants in Australia
- Member ASIC Liaison Committee

**BDO Business Recovery & Insolvency (Qld)****SCALE OF INSOLVENCY**  
**HOURLY CHARGE OUT RATES**

<b>FEES</b>	<b>\$ (Exc GST)</b>	<b>\$ (Inc GST)</b>
Partner	560	616
Associate Director	480	528
Senior Manager	425	467.50
Manager	390	429
Supervisor	350	385
Senior Accountant I	310	341
Senior Accountant II	270	297
Accountant I	220	242
Accountant II	190	209
Financial Assistant	180	198
Undergraduate	155	170.50
Practice Assistant	150	165
Administration Assistant	75	82.50
<b>OUTLAYS</b>		
Postage	At cost	At cost
Phone	At cost	At cost
Photocopying	30c a copy	33c a copy
Fax	\$1 per page	\$1.10 per page
Company Search	At cost	At cost
File Setup & Document Storage	60	66

These rates are current from 1 July 2012.

The Partners of BDO Business Recovery & Insolvency (Qld) are members of the Insolvency Practitioners Association and follow the IPA Statement of Best Practice - Remuneration.

A copy of this statement may be found on the IPA website ([www.ipaa.com.au](http://www.ipaa.com.au)).

It is considered appropriate to keep and maintain a number of different staff levels. This is a reflection of the different levels of staff required and experience necessary in order to undertake the various tasks in an insolvency appointment.