

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane  
NUMBER: 3383 2013

Applicants:

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

ORIGINATING APPLICATION

To the respondents, LM Investment Management Limited (Administrators Appointed) (LM) and the members of the LM First Mortgage Income Fund (the **Income Fund**),

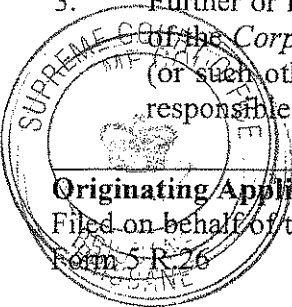
**TAKE NOTICE** that the Applicants are applying to the Court for the following orders:

Leave to Proceed

1. An order pursuant to section 440D of the *Corporations Act (Cth) 2001* (the **Corporations Act**) that the Applicants be granted leave to bring these proceedings against the First Respondent, in its capacity as responsible entity of the Income Fund.

Replacement of LM as responsible entity of the Income Fund

2. An order pursuant to sections 601FN and 601FP of the Corporations Act, that Trilogy Funds Management Limited (or such other company as the court determines appropriate) is appointed temporary responsible entity of the Income Fund.
3. Further or in the alternative to order 2 hereof, an order pursuant to regulation 5C.2.02 of the *Corporations Regulations 2001 (Cth)* that Trilogy Funds Management Limited (or such other company as the court determines appropriate) is appointed temporary responsible entity of the Income Fund.



Originating Application  
Filed on behalf of the Applicants

Piper Alderman  
Level 23, Governor Macquarie Tower  
1 Farrer Place  
SYDNEY NSW 2000  
Tel: +61 2 9253 9999  
Fax: +61 2 9253 9900  
Ref: AKB.SP.380287-0001

4. In the alternative to orders 2 and 3 hereof, an order pursuant to section 80 of the *Trusts Act (Qld) 1973*, that Trilogy Funds Management Limited (or such other company as the court determines appropriate) be appointed responsible entity/trustee of the Income Fund until further order of the court or an extraordinary resolution of the Income Fund's members providing for an alternative appointment.

#### **Notification Procedures**

5. An order that the Applicants shall serve the originating application and any supporting affidavit (s) filed in respect of the originating application on the Australian Securities and Investments Commission (ASIC).
6. An order that the Applicants shall serve the Second Respondents, the members of the Income Fund (the **Members**) with the originating application and any supporting affidavit (s) filed in respect of the originating application (the **Originating Documents**) by:-
  - 6.1 sending the Originating Documents by ordinary post to the Members at their last known address as contained on the Income Fund's register of members; and/or
  - 6.2 sending the Originating Documents by email to the Members where the Members have an email address known to the Applicants.
7. An order that the Originating Documents be made available in pdf. format on the websites of the:-
  - 7.1 First Respondent, being [www.lmaustralia.com](http://www.lmaustralia.com); and
  - 7.2 Applicants' solicitors, being [www.piperalderman.com.au](http://www.piperalderman.com.au),within 3 working days of the date of order.
8. An order that service of any further Court documents on the Members, including any orders made in respect of the originating application be effected by those Court documents being made available in pdf. format on the websites of the:-
  - 8.1 First Respondent, being [www.lmaustralia.com](http://www.lmaustralia.com); and
  - 8.2 Applicants' solicitors, being [www.piperalderman.com.au](http://www.piperalderman.com.au),within 3 working days of the date of order.

This application will be heard by the Court at Brisbane

on: 20 April 2013 at 10 am

Filed in the Brisbane Registry on 15 April 2013

Registrar:

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 may before the day for hearing file a Notice of Address for Service in this Registry. The Notice should be in Form 8 to the Uniform Civil Procedure Rules. You must serve a copy of it at the applicant's address for service shown in this application as soon as possible.

On the hearing of the application the Applicants intend to rely on the following affidavit:

1. Affidavit of Raymond Edward Bruce, sworn 14 April 2013.

If you intend on the hearing to rely on any affidavits they must be filed and served at the Applicants' address for service prior to the hearing date.

If you object that these proceedings have not been commenced in the correct district of the Court, you must apply to the Court for dismissal of the proceedings.

The First Respondent is sued in its capacity as responsible entity of the Income Fund.

THE APPLICANTS' ESTIMATE THE HEARING SHOULD BE ALLOCATED 2 HOURS.

**PARTICULARS OF THE APPLICANTS:**

Applicants' Names: Raymond Edward Bruce and Vicki Patricia Bruce

Applicants' residential or business address: 167 Foreshore Road, RD1, KAITAIA  
0481 NEW ZEALAND

Applicants' solicitor's name	Amanda Kim Banton
and firm name:	Piper Alderman
Solicitor's business address:	Level 23, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
Address for service:	Level 23, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
DX:	10216 Sydney Stock Exchange
Telephone:	+61 2 9253 9999
Fax:	+61 2 9253 9900
E-mail address:	<a href="mailto:abanton@piperalderman.com.au">abanton@piperalderman.com.au</a>

Signed:



Description: Solicitor for the Applicants

Dated: 15 April 2013

This application is to be served on:

LM Investment Management Limited  
(Administrators Appointed)  
of: Level 4, RSL Centre, 9 Beach Road, Surfers Paradise QLD 4217

and

John Richard Park and Ginette Dawn Muller in their capacity as administrators of LM  
Investment Management Limited  
FTI Consulting  
Corporate Centre One  
Level 9, 2 Corporate Court  
Bundall Qld 4217

and

The members of the LM First Mortgage Income Fund, by post and/or email

and

Australian Securities and Investments Commission

Attention: Tim Walker  
GPO Box 9827  
Sydney NSW 2001