

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: 5329/15

Applicant:

**KORDAMENTHA PTY LTD (ACN 100 169 391) AS
TRUSTEE OF THE LM MANAGED PERFORMANCE
FUND**

ORIGINATING APPLICATION

TAKE NOTICE that KordaMentha Pty Ltd (ACN 100 169 391) as trustee of the LM Managed Performance Fund ("Applicant") is applying to the Court for the following orders:

1. Directions pursuant to section 96 of the *Trusts Act 1973* (Qld), as to whether the Applicant would be justified in prosecuting proceedings against the defendant for the relief claimed in the Claim and Statement of Claim filed in Supreme Court of Queensland proceeding number 8032/14.
2. Directions pursuant to section 96 of the *Trusts Act 1973* (Qld), as to whether the Applicant would be justified in prosecuting proceedings against the defendant for the relief claimed in the Claim and Statement of Claim filed in Supreme Court of Queensland proceeding number 8034/14.
3. The Applicant's costs and expenses of and incidental to this application be paid on the indemnity basis out of the LM Managed Performance Fund.
4. Such further and other orders or directions as this Honourable Court deems appropriate.

This application for directions will be heard by the Court at Brisbane

ORIGINATING APPLICATION

Filed on behalf of the Applicant

Form 9 Rules 31 and 116

ME_121419757_3 (W2003x)

MINTER ELLISON

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Reference: NYB DOB 407747737

on: Wednesday, 17 June 2015 at 10.00 am.

Filed by leave on 29 May 2015

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.

On the hearing of the application for directions the Applicant intends to rely on the following affidavits:

1. Affidavit of Jarrod Villani to be filed;
2. Affidavit of David Thomas O'Brien to be filed;
3. Statement of Facts pursuant to section 96(1) of the *Trusts Act 1973* (Qld).

If you intend on the hearing to rely on any affidavits they must be filed and served at the applicant's 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 APPLICANT ESTIMATES THE HEARING OF THE APPLICATION FOR DIRECTIONS SHOULD BE ALLOCATED 1.5 HOURS

Applicant: KORDAMENTHA PTY LTD (ACN 100 169 391) AS TRUSTEE OF THE LM MANAGED PERFORMANCE FUND

Applicant's residential or business address: Level 14, 12 Creek Street, Brisbane, Qld 4000

Applicant's solicitors name: David Thomas O'Brien

and firm name: Minter Ellison

Solicitor's business address: Lvl 22 Waterfront Pl, 1 Eagle St, Brisbane Qld

Address for service: Lvl 22 Waterfront Pl, 1 Eagle St, Brisbane Qld
4000

Dx if any

Telephone: 07 3119 6000

Fax: 07 3119 10000

E-mail address if any david.obrien@minterellison.com

Signed: 
Description: MINTER ELLISON
Solicitors for the Applicant

Dated: 29 May 2015

This application is not intended to be served on any other party.

Notice of this application is to be given to:

The defendant in Supreme Court of Queensland proceedings numbered 8032/14 and 8032/14, LM INVESTMENT MANAGEMENT LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 077 208 461)

AND TO

Mr David Whyte, Partner of BDO Australia Limited in his capacity as the person authorised to defend proceedings on behalf the LM First Mortgage Income Fund ARSN 089 343 288 pursuant to Order 7(b) of the Orders made by the Honourable Justice Dalton on 21 August 2013.