

SUPREME COURT OF QUEENSLAND

REGISTRY Brisbane
NUMBER 12317 of 2014

Plaintiff **LM INVESTMENT MANAGEMENT LIMITED
(RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION) (ACN 077 208 461) AS RESPONSIBLE
ENTITY OF THE LM FIRST MORTGAGE INCOME
FUND ARSN 089 343 288**

AND

First Defendant **PETER CHARLES DRAKE**

AND

Second Defendant **LISA MAREE DARCY**

AND

Third Defendant **EGHARD VAN DER HOVEN**

AND

Fourth Defendant **FRANCENE MAREE MULDER**

AND

Fifth Defendant **JOHN FRANCIS O'SULLIVAN**

AND

Sixth Defendant **SIMON JEREMY TICKNER**

AND

Seventh Defendant **LM INVESTMENT MANAGEMENT LIMITED
(RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION) (ACN 077 208 461)**

APPLICATION

Filed on behalf of the Eighth Defendant



MINTER ELLISON

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AND

Eighth Defendant

**KORDA MENTHA PTY LTD ACN 100 169 391 AND
CALIBRE CAPITAL PTY LTD ABN 66 108 318 985 IN
THEIR CAPACITY AS JOINT AND SEVERAL
TRUSTEES OF THE LM MANAGED PERFORMANCE
FUND**

APPLICATION

TAKE NOTICE that the eighth defendant 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 eighth defendant would be justified in defending the plaintiff's claim on the grounds set out in the draft defence ("Defence") exhibited to the first affidavit of Jarrod Villani to be sworn and filed herein.
2. If the eighth defendant is advised and directed that it would be justified in defending the plaintiff's claim, a direction that the eighth defendant file and serve its notice of intention to defend and the Defence within 7 days of the making of the direction in paragraph 1 above.
3. That the eighth defendant'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 or other orders or directions as to this Honourable Court may seem appropriate.

This application will be heard by the Court at Brisbane
on: Thursday, 19 March 2015 at 10.00am.

Filed in the Brisbane Registry on:

17 February, 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 the applicant intends to rely on the following affidavits and documents:

1. Statement of facts pursuant to section 96(1) of the *Trusts Act* 1973 (Qld) to be filed.
2. Affidavit of Jarrod Villani to be sworn and filed.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED
1.5 HOURS

Signed:



Description:

MINTER ELLISON
Solicitors for the Eighth Defendant

Dated:

17 February 2015

This application is not intended to be served on the defendant.