

SUPREME COURT OF QUEENSLAND

REGISTRY Brisbane
NUMBER 8792 of 2013

Applicants

**KORDAMENTHA PTY LTD (ACN 100 169 391) AND
CALIBRE CAPITAL LTD (ACN 108 318 985) IN THEIR
CAPACITY AS TRUSTEES FOR THE LM MANAGED
PERFORMANCE FUND**

AND

Respondent

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

AFFIDAVIT

JARROD VILLANI of Level 14, 12 Creek Street, Brisbane in the State of Queensland,
chartered accountant, states on oath:

Introduction

1. I am an Executive Director of KordaMentha and am involved with the administration of applicants in their capacity as trustees of The LM Managed Performance Fund ('MPF').
2. This affidavit is sworn in support of an application by the applicants for directions pursuant to section 96 of the *Trusts Act* 1973 (Qld) as to whether they are justified in commencing and maintaining Court proceedings against the first respondent (LMIM) for possible breaches by LMIM during the period it was trustee of MPF. In this affidavit I refer to those potential Court proceedings as 'the claim against LMIM'.

Page 1

Signed: 

Taken by: 

Affidavit of Jarrod Villani

Filed on behalf of the applicants

MINTER ELLISON LAWYERS
Waterfront Place, 1 Eagle Street
BRISBANE QLD 4000
DX 102 BRISBANE

Telephone (07) 3119 6000

Facsimile (07) 3119 1000

Email david.obrien@minterellison.com

Reference DOB NSB 40-7744031

3. Except where otherwise indicated, the matters deposed to in this affidavit are deposed to from my own personal knowledge of the facts and circumstances. Where I depose to matters from information and belief, I believe those matters to be true.
4. I am informed by Nadia Braad, solicitor of Minter Ellison Lawyers and verily believe that at 2:45pm on 8 October 2014, Minter Ellison Lawyers were served with:
- (a) a copy of an Originating Application in proceedings BS8884 of 2014;
 - (b) a copy of the Affidavit of John Richard Park sworn 2 October 2014; and
 - (c) a copy of the Affidavit Simon Jeremy Tickner sworn 2 October 2014 (**Mr Tickner's Affidavit**).
5. I have been provided with a copy of Mr Tickner's Affidavit

Meeting with Mr Tickner

6. I seek leave to refer to paragraph 4 of Mr Tickner's Affidavit. I attended a meeting with Mr Tickner and others on or about 28 May 2013 (**First Meeting**), at the Gold Coast. I attended that meeting acting in my capacity as a representative of KordaMentha Pty Ltd in its capacity as a trustee of the MPF.
7. The First Meeting was held on a without prejudice basis at the request of representatives of the respondent. Without revealing the detail of the discussions, I spoke at the First Meeting to Mr Tickner about, among other things, some the factual matters the subject of these proceedings and Mr Tickner told me his views about those matters.
8. I attended a further meeting with Mr Tickner and others on or about 19 June 2013 (**Second Meeting**). The other persons present at that meeting were Thomas Davis of KordaMentha, Trevor Fenwick, who was also previously involved in administering the MPF and Ryan Zogdrager of FTI Consulting.



9. The Second Meeting was also held on a without prejudice basis at the request of representatives of the respondent. Without revealing the detail of the discussions, I spoke at the Second Meeting to Mr Tickner about, among other things, some of the factual matters the subject of these proceedings and Mr Tickner told me his views about those matters.

SWORN by JARROD VILLANI on

at Brisbane



Deponent

14 October 2014

in the presence of:



Solicitor/Commissioner for
Declarations/Justice of the Peace

Nicole Helen Hamvosi