

Duplicate

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**

ORDER

Before: Justice Douglas

Date: 9 May 2018

Initiating document: Application filed 4 May 2018

THE ORDER OF THE COURT IS THAT:

1. The applicant serve the application for direction under section 96 of the *Trusts Act* 1973 (Qld) on unitholders of the Managed Performance Fund ('MPF') in accordance with this order.
2. By 4.00pm on 17 May 2018, the applicant is to email to the MPF unitholders a notice informing them that the applicant has applied ("**S 96 Application**") to this Honourable Court for directions under section 96 of the *Trusts Act* 1973 (Qld) to discontinue Supreme Court proceedings BS8032/14 and BS8034/14 against LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) (ACN 077 208 461) and Mr David Whyte in his capacity as Court Appointed Receiver of the property of the LM First Mortgage Income Fund, and that they may view all substantive Court documents upon which the applicant intends to rely in support of its S 96 Application on the web-site the address of which is: <http://www.kordamentha.com/creditor-information/australia/109> ("**Website**").
3. Where the applicant receives a response to an email that indicates the email was not received and the applicant has a postal address for any relevant MPF



ORDER

Filed on behalf of the applicant

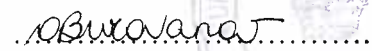
Form 59 Rule 661

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Reference NYB DOB 407747729

unitholder or unitholders, the applicant is to post the email to the postal address of the MPF unitholder.

4. Service of the S 96 Application be deemed to be effective on each of the MPF unitholders as of 24 May 2018.
5. Before sending the emails referred to in paragraph 2 of this order, the applicant is to upload to the Website, copies of:
 - (a) the S 96 Application;
 - (b) the application for directions about service;
 - (c) the affidavit of Jarrod Villani to be filed in support of the application for directions about service;
 - (d) the affidavit of David O'Brien to be filed in support of the application for directions about service;
 - (e) this order;
 - (f) the Statement or Statements of Facts drawn pursuant to section 96 (1) of the *Trusts Act* 1973 (Qld); and
 - (g) the substantive affidavits (including all the exhibits) that the applicant intends to reply upon in support of its S 96 Application.
6. Where the applicant proposes to rely on further material in support of its S 96 Application, it may serve that material by uploading the material to the website, sending letters to a postal address to unitholders to whom order 3 applies, and otherwise by email to the unitholders.
7. The applicant is not required to take further steps to serve MPF unitholders whose email addresses return permanent undeliverable receipts and for which the applicant does not have a postal address.
8. The applicant's costs and expenses of and incidental to its application for this order are reserved.
9. The applicant is to serve a copy of this order on LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) (ACN 077 208 461) and Mr David Whyte in his capacity as Court Appointed Receiver of the property of the LM First Mortgage Income Fund.

Signed:


Deputy Registrar



-1 JUL 2018