

**Duplicate**

**SUPREME COURT OF QUEENSLAND**

**REGISTRY** Brisbane  
**NUMBER** 1076/17

Plaintiff: **KORDAMENTHA PTY LTD (ACN 100 169 391) IN ITS  
CAPACITY AS TRUSTEE OF THE LM MANAGED  
PERFORMANCE FUND**  
AND  
Defendant: **LM INVESTMENT MANAGEMENT LIMITED  
(RECEIVERS AND MANAGERS APPOINTED) (IN  
LIQUIDATION) (ACN 077 208 461)**

**ORDER**

Before: Justice Applegarth

Date: 20 November 2018

Initiating document: Application filed 8 November 2018

**THE ORDER OF THE COURT IS THAT:**

1. The plaintiff 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 22 November 2018, the plaintiff is to email to the MPF unitholders a notice informing them that the plaintiff has applied ("**S 96 Application**") to this Honourable Court for direction under section 96 of the *Trusts Act* 1973 (Qld) to discontinue this proceeding, and that they may view all substantive Court documents upon which the plaintiff intends to rely in support of its S 96

**ORDER**

Filed on behalf of the plaintiff

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1 Eagle Street  
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Form 59 Rule 661

Application on the web-site the address of which is:

<http://www.kordamentha.com/creditor-information/australia/109> ("Website").

3. Where the plaintiff receives a response to an email that indicates the email was not received and the plaintiff has a postal address for any relevant MPF unitholder or unitholders, the plaintiff 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 29 November 2018.
5. Before sending the emails referred to in paragraph 2 of this order, the plaintiff 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 filed 14 November 2018;
  - (d) the affidavit of David Thomas O'Brien filed 15 November 2018;
  - (e) this order;
  - (f) the Statement of Facts to be prepared pursuant to section 96 (1) of the *Trusts Act 1973* (Qld); and
  - (g) any substantive affidavits (including all the exhibits) that the plaintiff intends to reply upon in support of its S 96 Application.
6. Where the plaintiff 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 plaintiff is not required to take further steps to serve MPF unitholders whose email addresses return permanent undeliverable receipts and for which the plaintiff does not have a postal address.
8. The plaintiff's costs and expenses of and incidental to its application for this order be paid on the indemnity basis out of the MPF.

9. The plaintiff is to serve a copy of this order on LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) (ACN 077 208 461).

Signed:

