SUPREME COURT OF QUEENSLAND

REGISTRY:	Brisbane
NUMBER:	11593 of 2013

First Applicants	**KORDAMENTHA PTY LTD ACN 100 169 391 AND CALIBRE CAPITAL LTD ACN 108 318 985 IN THEIR CAPACITY AS TRUSTEES OF THE LM MANAGED PERFORMANCE FUND**
	AND
Second Applicant	**KORDAMENTHA PTY LTD ACN 100 169 391**
	AND
Third Applicant	**CALIBRE CAPITAL LTD ACN 108 318 985**
	AND
First Respondents	**JOHN RICHARD PARK AND GINETTE DAWN MULLER IN THEIR CAPACITY AS LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 077 208 461**
	AND
Second Respondent	**LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 077 208 461**
	AND
Third Respondent	**THE MEMBERS OF THE LM MANAGED PERFORMANCE FUND**

AFFIDAVIT

SIMON MICHAEL VERTULLO of Level 14, 12 Creek Street, Brisbane in the State of Queensland, Accountant, states on oath as follows:

1. I am a partner of KordaMentha Pty Ltd (**KordaMentha**), one of the Applicants to this proceeding. I am authorised to swear this affidavit on behalf of the Applicants.

Signed

Taken by P. S. Paul Spraythorpe Lawyer

Affidavit
Filed on behalf of the Applicants
Form 46 (Rule 431)

Piper Alderman
Level 23
Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000
Tel: +61 2 9253 9999
Fax: +61 2 9253 9900
Ref: AKB.AKD.386376

2. Except where otherwise indicated, I depose to the matters in this affidavit 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.

3. Throughout this affidavit, I make reference to various documents that are contained in a paginated bundle of documents exhibited to this affidavit and marked "**SMV-12**" (the **Fourth Exhibit**).

4. On 14 November 2013 I swore an affidavit which was subsequently filed in proceeding BS3691/2013. A copy of that affidavit and its exhibit is at pages 1-20 of the Fourth Exhibit.

5. I confirm that the content of that affidavit is correct, and that where I deposed to the circumstances as they were on the date I swore it, those matters are still relevantly the same as at the date of swearing this further affidavit.

6. In particular, the matters set out in paragraphs 20 to 25 of that affidavit as to the cost and inconvenience of serving all of the material for this application on the third respondents are directly relevant to the material required to be served for the current application.

7. I note further to the comments in that earlier affidavit that it would be exceedingly difficult to serve each of the 4500 members personally given the large number of them who are overseas, in a number of different countries.

8. The only significant difference between the circumstances of this application and the previous one is that the material for this application comprises approximately 1400 pages, rather than around 500 pages as was the case for the application referred to in my earlier affidavit.

9. I have obtained a quotation of $307,022.73 plus GST to have 4500 copies made of this material. Page 21 of the Fourth Exhibit is a copy of this quotation.

10. The total cost of sending these copies by post is also likely to be significantly more than the amount of $225,000 referred to in paragraph 23 of my earlier affidavit.

11. On Friday 6 December 2013 I caused the originating application in this proceeding to be made available on the KordaMentha website on the page dedicated to the Fund with the url http://www.kordamentha.com/creditor-information/australia/109 (**Website**).

Signed

Taken by Paul Sprotling

12. On Tuesday 10 December 2013 I caused emails to be sent to each of the members of the Fund at the last known email address held for them in the records of the Fund. Each email was in identical terms as follows:

Dear Unitholders

As you may be aware from our earlier circulars, the Administrators of the former trustee of the LM Managed Performance Fund (the Fund) hold a claim over the assets of the Fund for work undertaken predominately prior to the appointment of KordaMentha Pty Ltd and Calibre Capital Limited (collectively the Current Trustees). This position has been referred to as the Administrators Lien in 'Update 10' and was discussed in that update.

On Friday, 29 November 2013 the Current Trustees and the Administrators of the former trustee attended a mediation to resolve the value of their claim. At the mediation an amount was agreed.

In order to finalise the matter, all parties have agreed to apply to the Supreme Court of Queensland for ratification of the settlement. Accordingly, we hereby give you notice of the application for the Approval of Settlement Agreement and have made the Originating Application available on our website: http://www.kordamentha.com/creditor-information/australia/109. All supporting documentation filed by the Current Trustees will be uploaded to this website as it becomes available.

Unitholders are not obliged to take any action in response to this matter, however investors are welcome to engage their own legal counsel in this matter at their discretion.

Should you have any queries regarding the above, please contact the Trustees on +61 7 3338 0286 or lminvestors@kordamentha.com. Please note we are receiving a large number of requests to this email address covering a variety of matters and therefore it is taking some time to move through the backlog. We appreciate your patients in the time taken to respond.

Regards

13. On Friday 13 December 2013 I caused the affidavit of Simon Michael Vertullo sworn 13 December 2013 to be made available on the Website.

14. On Friday 13 December 2013 I also caused emails to be sent to each of the members of the Fund at their last known email address. Each email was in identical terms as follows:

Signed

Taken by P. Smith

Paul Spottiswood

Dear Unitholders

Further to our email of 10 December 2013 regarding the application to the Supreme Court of Queensland in relation to the Administrator's Lien, please take note that the affidavit of Mr Simon Vertullo and its exhibits supporting the aforementioned application is now available on our website: http://www.kordamentha.com/creditor-information/australia/109

Unitholders are not obliged to take any action in response to this matter, however investors are welcome to engage their own legal counsel in this matter at their discretion.

Should you have any queries regarding the above, please contact the Trustees on +61 7 3338 0286 or lminvestors@kordamentha.com. Please note we are receiving a large number of requests to this email address covering a variety of matters and therefore it is taking some time to move through the backlog. We appreciate your patients in the time taken to respond.

Further to the above, please note our office will be closed during the period 21 December 2013 to 5 January 2013.

Regards

15. A copy of a screenshot of the Website obtained 16 December 2013 showing the material available to members on it is at pages 22 to 23 of the Fourth Exhibit.

Sworn by Simon Michael Vertullo on 17 December 2013 at Brisbane in the presence of:

Signed .... Witnessed .... P. Smith

Paul Smythe
Lawyer

who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit.

SUPREME COURT OF QUEENSLAND

REGISTRY:	Brisbane
NUMBER:	11593 of 2013

First Applicants	KORDAMENTHA PTY LTD ACN 100 169 391 AND CALIBRE CAPITAL LTD ACN 108 318 985 IN THEIR CAPACITY AS TRUSTEES OF THE LM MANAGED PERFORMANCE FUND
	AND
Second Applicant	KORDAMENTHA PTY LTD ACN 100 169 391
	AND
Third Applicant	CALIBRE CAPITAL LTD ACN 108 318 985
	AND
First Respondents	JOHN RICHARD PARK AND GINETTE DAWN MULLER IN THEIR CAPACITY AS LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 077 208 461
	AND
Second Respondent	LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 077 208 461
	AND
Third Respondent	THE MEMBERS OF THE LM MANAGED PERFORMANCE FUND

EXHIBIT CERTIFICATE

This is the Exhibit marked "**SMV-12**" referred to in the second affidavit of Simon Michael Vertullo sworn 17 December 2013.

Before me:

....

Solicitor/~~Justice of the Peace~~

Paul Spotting

....

Deponent

Affidavit of Simon Michael Vertullo
Filed on behalf of the Applicants
Form 46 (Rule 431)

Piper Alderman
Level 23, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000
Tel: +61 2 9253 9999
Fax: +61 2 9253 9900
Ref: AKB.PS.MB.386376

28747705v1

INDEX TO EXHIBIT SMV-12

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Screenshot of website: http://www.kordamentha.com/creditor-information/australia/109	16 December 2013	22-23

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: 3691/2013

Applicants	**KORDAMENTHA PTY LTD (ACN 100 169 391)**
	AND
	CALIBRE CAPITAL LTD (ABN 66 108 318 985) IN THEIR CAPACITY AS TRUSTEES FOR THE LM MANAGED PERFORMANCE FUND
	AND
First Respondent	**THE MEMBERS OF THE LM MANAGED PERFORMANCE FUND**
	AND
Second Respondent	**JOHN RICHARD PARK AND GINETTE MULLER IN THEIR CAPACITY AS JOINT AND SEVERAL LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 077 208 461**

AFFIDAVIT

I, **SIMON MICHAEL VERTULLO** of Level 14, 12 Creek Street, BRISBANE QLD 4000, Partner, say on oath:

1. I am a Partner of KordaMentha Pty Ltd and am authorised to swear this affidavit on behalf of the Applicants. I am the person principally responsible for conducting the affairs of the LM Managed Performance Fund ("**Trust**") at KordaMentha.

2. By order of this Court dated 12 April 2013:

Signed Taken by

Affidavit
Filed on behalf of the Applicants
Form 46 (Rule 431)

Piper Alderman
Level 23, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000
Tel: +61 2 9253 9999
Fax: +61 2 9253 9900
Ref: AKB.LG.ST.386376

2.1 LM Investment Management Limited (In Liquidation) ("**LMIM**") was removed as trustee of the Trust (**Former Trustee**); and

2.2 KordaMentha Pty Ltd and its related entity Calibre Capital Pty Ltd ("**the New Trustees**") were appointed jointly and severally as trustees of the Trust.

3. Throughout this affidavit, I make references to various documents which are contained in a paginated bundle of documents exhibited to this affidavit and marked "SMV-6" (the **Exhibit**) and the pages I refer to are the pages in the Exhibit. At page 8 of the Exhibit is a true and correct copy of the Orders under which the New Trustees were appointed.

4. The New Trustees have made an application for the winding up of the Trust and for related orders (**Application**).

5. I am seeking orders from the Court *inter alia*:

(a) That notice of the Application be made by the New Trustees in these proceedings be effected on the members of the Trust by:

(i) sending a notice of the Application by email to all known members of the Trust and/or their financial advisors at their last known email address; and

(ii) posting a notice of the Application in a prominent location on the website http://www.kordamentha.com/creditor-information/australia/109.

(b) That service of the Application, my supporting affidavit, any further court documents to be filed by the Applicants in these proceedings, and any orders made in respect of the Application be deemed effective on each of the members of the Trust five (5) days after those documents are made available in PDF on the website http://www.kordamentha.com/creditor-information/australia/109.

Signed

Taken by

Background

6. The Trust was established in 2001 as an Australian income fund suitable for global investors.

7. Prior to our appointment as the New Trustees, LMIM was the trustee and manager of the Trust. The Trust has never been registered as a managed investment scheme under Part 5.9 of the Corporations Act 2001 (Cth).

8. On 19 March 2013, Ginette Muller and John Park were appointed voluntary administrators of LMIM by resolution of the board of directors of LMIM pursuant to section 436A of the Corporations Act 2001 (Cth).

9. As detailed above, on 12 April 2013, by order of Chief Justice de Jersey, LMIM was removed as trustee of the Trust and the Applicants were appointed the joint and several trustees of the Trust.

10. The Trust allowed for investment by:

 10.1 investors outside Australia;

 10.2 indirect investors, including operators of global platforms, global portfolio bonds, master trusts and wrap accounts and institutions investing the funds of their clients ;

 10.3 certain wholesale investors by invitation only.

11. There are over 4,500 unit holders on the register of the Trust, and they reside predominantly overseas. This includes investors represented by financial advisors.

Communications with investors

12. Following our appointment, on 15 April 2013, the New Trustees sent an initial notification to investors by email at their last known email addresses. At page 10 of the Exhibit is a true and correct copy of the initial notification.

13. The New Trustees have also set up and maintained a website to communicate with investors, which is to be found at http://www.kordamentha.com/creditor-information/australia/109. A copy of the initial notification was posted to this website.

14. Since our appointment, the New Trustees have also sent a number of updates to investors in the Trust by email to their last known email addresses. The New Trustees have also sent a separate update to investors' financial advisors.

15. These updates set out in detail the financial position of the Trust and the actions that have been taken by the New Trustees from 12 April 2013 onwards. Certain of those updates are confidential and were not made publicly available as they contain sensitive information and may prejudice negotiations, asset realisations and potential litigation. For these reasons, the confidential updates do not appear on the website that KordaMentha has maintained to communicate with investors. The other updates that are not considered confidential by the New Trustees appear on the website.

16. In a non-confidential portion of a confidential update dated 16 September 2013 (**September Update**), the New Trustees advised investors (inter alia) that:

> *"Under the MPF's constitution the trustees have an obligation to consider the winding down of the Fund, if it is considered inter alia that the Fund is unable to achieve its objectives. Other reasons supporting a winding down of the Fund include:*
>
> > *The overall financial position of the Fund;*
> >
> > *The Fund is no longer in a position to accept/raise further funds due to its financial position;*
> >
> > *The likely return to investors is a small percentage of the amount originally invested;*
> >
> > *The future of the Fund only involves realising monies from existing mortgage assets or legal actions;*
> >
> > *There are further investigations to be conducted regarding such legal actions with respect to the conduct of the former trustees, directors and related parties which are typically conducted as part of a wind down process.*
> >
> > *There are various claims against the Fund and a priority arrangement needs to be in place for the Fund assets, dealing with the claims of, and distributing monies, to investors.*

Signed

Taken by

Over the course of the next month, the trustees will consider the position of the Fund and if it is deemed by the trustee to be in the best interest of Unitholders, the trustees will consider a winding down application."

17. Following the issue of the September Update, we have not received any correspondence from investors objecting to the proposed winding up of the Trust. However, the Trustees did receive a small number of communications from investors about whether the Trustees can raise funds to allow for the property developments of the Trust to continue.

Application for vesting orders

18. On 23 April 2013, the New Trustees filed an Originating Application which commenced these proceedings (**"application"**) seeking orders vesting certain choses in action in the New Trustees.

19. On 29 April 2013, Justice P Lyons made orders requiring the application and the service orders to be served on the members of the Trust by email. In addition, the New Trustees were ordered to provide copies of any supporting affidavits to any members who requested the affidavits by email. At page 12 of the Exhibit is a copy of the orders obtained in those proceedings dated 29 April 2103. Whilst the attached copy of the orders is not signed or sealed by the Court, I understand that these orders are the orders that were made by the Court as they were the orders confirmed to have been made by the Associate to His Honour in an email to the parties' solicitors. At page 14 of the Exhibit is a true copy of that email dated 30 April 2013.

20. I seek similar orders in this present application. I am concerned that if the New Trustees are required to serve any exhibits to any affidavits by email to members of the Trust, that service of those exhibits by email may not be effective, depending on the size of those exhibits. KordaMentha has an incoming and outgoing mail serve limit of 25 megabytes (MB) per email. I am informed by Mr Brendan Read of KordaMentha's forensic and IT team and verily believe that many companies have a mail server limit of 10MB per email and individual mailboxes vary significantly from 2MB to an unlimited size. In the event that the exhibits to any affidavits are voluminous, it would become necessary to split the exhibits and send multiple emails to investors.

Cost of service of the application and supporting material

21. In order to serve by postal mail each of the approximately 4,500 investors of the Trust, we would need to outsource the task of printing and compiling all of the relevant material (being the Application and supporting affidavits to be sworn).

22. I have obtained a quote for the cost of outsourcing the printing of the current application for the winding up of the Trust and the supporting affidavit and exhibits which is estimated to be at least $112,725. A copy of the quotation from Worldwide Printing Solutions is at page 18 of the Exhibit.

23. In addition, in order to issue the application and supporting affidavit by postal mail, I estimate the cost to be a further $225,000 in accordance with the rates advertised by Australia Post.

24. In respect of any further or ancillary applications, it is likely that similar costs would be incurred in outsourcing the printing for service and posting of each of those applications and the supporting affidavits.

25. Given that there are approximately 4,500 investors in the Trust of which the large majority are located outside Australia, it is not only impractical but costly and time consuming to serve the application and supporting documents on each investor in the manner prescribed by the *Uniform Civil Procedure Rules 1999 (QLD)*.

Service

26. Given that:

    26.1 there are approximately 4,500 investors the large majority of which are located outside Australia in the Trust and that it would be impractical and costly to serve the current application and any supporting documents on each investor in the manner prescribed by the *Uniform Civil Procedure Rules 1999 (QLD)*;

    26.2 pursuant to an order dated 29 April 2013 obtained by the New Trustees in these proceedings, service of the Court documents has been previously effected by emailing those documents to the members of the Trust;

    26.3 during the course of our appointment as the New Trustees, I have prepared updates to investors of the Trust updating them as to the financial position of the

Signed Taken by

Trust, and the actions taken by the New Trustees, and the New Trustees have emailed those updates to each of the investors' last known email address as well as posted them to the KordaMentha website;

I verily believe that by notifying the investors of the Trust of the Application and serving the documents in respect of same in the manner sought in this application, that the fact of the application for the winding up of the Trust will come to the attention of the investors of the Trust.

ALL THE FACTS and circumstances deposed to above are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by SIMON MICHAEL VERTULLO
on 14 November 2013
at Brisbane, Queensland, in the presence of:

Signed

Denis Beattie
Solicitor

28662714v1

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3691/2013

Applicants	**KORDAMENTHA PTY LTD (ACN 100 169 391)**
	AND
	CALIBRE CAPITAL LTD (ABN 66 108 318 985) IN THEIR CAPACITY AS TRUSTEES FOR THE LM MANAGED PERFORMANCE FUND
	AND
First Respondent	**THE MEMBERS OF THE LM MANAGED PERFORMANCE FUND**
	AND
Second Respondent	**JOHN RICHARD PARK AND GINETTE MULLER IN THEIR CAPACITY AS JOINT AND SEVERAL LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 077 208 461**

CERTIFICATE OF EXHIBIT

This is the Exhibit marked "**SMV-6**" to the affidavit of Simon Michael Vertullo sworn 14 November 2013

Deponent

Solicitor

Certificate for Exhibit
Filed on behalf of the Applicant
Form 47 Rule 435

Piper Alderman
Level 23, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000
Tel: +61 2 9253 9999
Fax: +61 2 9253 9900
Ref: AKB:LG.ST.386376

7A

INDEX TO EXHIBIT SMV-6

" SMV-6 "

SUPREME COURT OF QUEENSLAND

Duplicate

REGISTRY: Brisbane
NUMBER: 2869/13

IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (ADMINISTRATORS APPOINTED) ABN 68077 208 461 AND LM ADMINISTRATION PTY LTD (ADMINISTRATORS APPOINTED) ACN 055 691 426

Applicants	JOHN RICHARD PARK AND GINETTE MULLER IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF LM INVESTMENT MANAGEMENT LIMITED (ADMINISTRATORS APPOINTED) AND LM ADMINISTRATION PTY LTD (ADMINISTRATORS APPOINTED)
Respondents	THE MEMBERS OF THE MANAGED PERFORMANCE FUND

ORDER

Judge:	de Jersey CJ
Date:	12 April 2013
Initiating document:	Originating Application filed 26 March 2013

The Court orders that:

1. LM Investment Management Limited (Administrators Appointed) is removed as trustee of the trust named The LM Managed Performance Fund.

2. Korda Mentha Pty Ltd (ACN 100 169 391) and Calibre Capital Pty Ltd (ABN 66 108 318 985) are appointed as joint and several trustees of the trust named The LM Managed Performance Fund.

3. Orders 1 and 2 are made without prejudice to any lien or charge, or any right of reimbursement or any right of indemnity that:

(a) LM Investment Management Limited, as former trustee; and

SUPREME COURT OFFICE 75645v1 BRISBANE

Piper Alderman

(b) The Applicants in their capacity as joint and several administrators of LM Investment Management Limited,

may have against the assets of the trust.

4. The costs of both the applicants and the respondents shall be assessed on the indemnity basis and paid out of the assets of the trust.

REGISTRAR

27975645v1

KordaMentha

NOTIFICATION TO INVESTORS

15 April 2013

Dear Investor

LM Managed Performance Fund
ABN 95 595 833 174 ('the Fund')

On 12 April 2013, KordaMentha and our affiliated firm Calibre Capital Limited were appointed as trustees of the LM Managed Performance Fund pursuant to an Order of the Supreme Court of Queensland in Brisbane.

LM Investment Management Limited ('Administrators Appointed') ('LMIM') was previously the trustee of the Fund. We note that John Park and Ginette Muller of FTI Consulting were appointed as Voluntary Administrators of this company on 19 March 2013.

However, pursuant to our appointment, LMIM has been removed and replaced as trustee of the Fund.

Priorities as new trustee

Our initial priorities as trustee are to:

- preserve and retain the value of the assets and investments of the Fund
- assess the overall financial position of the Fund and its investments
- enable investors' concerns and desires to be communicated
- consider and investigate the previous operation of the Fund including historical application of investors' funds and transactions involving related parties
- enable the position of the Fund to be openly explained to investors.

Status of the Fund, redemptions and interest payments

The status of the fund is being investigated. Based on our preliminary investigations, it is our understanding that:

- the Fund is closed and no further monies are being accepted by the Fund
- all interest payments and redemptions are suspended
- the Fund is not considering any further investments.

Should our further investigations indicate anything to the contrary, we will notify investors.

[illegible]

info@kordamentha.com
www.kordamentha.com

Brisbane

KordaMentha Pty Ltd
ACN 100 169 391

Level 14, 12 Creek Street
Brisbane QLD 4000

GPO Box 964
Brisbane QLD 4001

Office: 07 3338 0222
Fax: 07 3338 0298

Offices

Adelaide
Brisbane
Gold Coast
Melbourne
New Zealand
Perth
Singapore
Sydney
Townsville

Cooperation with AlixPartners

Chicago
Dallas
Detroit
Düsseldorf
London
Los Angeles
Milan
Munich
New York
Paris
San Francisco
Shanghai
Tokyo
Washington, DC

Further communication with investors

On an ongoing basis we will be updating investors in relation to those priority issues listed above and all relevant matters in relation to the Fund.

Investors are able to obtain further information in the interim as follows:

- All investors can telephone +61 7 3338 0286
- All investors can access the KordaMentha website at www.kordamentha.com

Additionally, specific questions are able to be emailed to lminvestors@kordamentha.com. We will answer your questions as soon as possible. In the interim, you may also contact David James on +61 7 3338 0281 or djames@kordamentha.com if you have any questions.

We are in the process of obtaining the books and records of the Fund. If your contact details have changed since your initial investment, we ask that you forward these details to the above email address.

Yours sincerely

Simon Vertullo
Partner

David Winterbottom
Partner

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3691 of 2013

Applicants: KORDA MENTHA PTY LTD (ACN 100 169 391)

AND

CALIBRE CAPITAL LIMITED (ABN 66 108 318) (in their capacity as trustees of the LM MANAGED PERFORMANCE FUND)

Respondents: THE MEMBERS OF THE LM MANAGED PERFORMANCE FUND

ORDER

Before: Justice P Lyons

Date: 29 April 2013

Initiating document: Originating Application filed 23 April 2013

THE ORDER OF THE COURT IS THAT:

1. The applicants be granted leave to amend their Originating Application;

2. LM Investment Management Limited (administrators appointed) and John Richard Park and Ginette Muller in their capacity as administrators of LM Investment Management Limited (administrators appointed) be added as the second respondents to the proceeding;

3. Trust Company (PTAL) Limited be added as the third respondent to the proceeding;

4. The further hearing of the application be adjourned to 10am on Thursday 2 May 2013;

5. Costs reserved.

THE COURT DIRECTS THAT:

1. The applicants serve a copy of this order forthwith on the third respondent;

2. The applicants take all reasonable steps to serve by email this order, and the Amended Originating Application, on the persons who are the first respondents;

ORDER
Filed on Behalf of the Plaintiff
Form 59, Version 1

Uniform Civil Procedure Rules 1999
Rule 661
28002822v1

Name: Amanda Banton
Address: Piper Alderman
Level 23, 1 Farrer Place,
Sydney NSW 2000
Phone No: 9253 9999
Fax No: 92539900

3. Should any of the first respondents or the third respondent request copies of the affidavit material, the applicants provide that affidavit material forthwith by email;

4. The second respondents file and serve their affidavit material by 6pm on Tuesday 30 April 2013;

5. The parties exchange their list of objections to the affidavit material already received by 6pm Tuesday 30 April 2013;

6. The applicants file and serve their affidavit material in reply by 4pm on Wednesday 1 May 2013;

7. The parties exchange their written submissions and send them to the Associate to P Lyons J by 9am on Thursday 2 May 2013.

Signed:

28082822v1

Davina Holland

From:	Associate PLyons J <Associate.PLyonsJ@courts.qld.gov.au>
Sent:	Tuesday, 30 April 2013 2:37 PM
To:	Amanda Banton
Cc:	seanrussell@russellslaw.com.au; m.gill@dlapiper.com; Lisa Gallate; Davina Holland; Sarah Wooster; Jasmin Shaw
Subject:	RE: KordaMentha Pty Ltd and Calibre Capital Limited v The Members of the LM Managed Performance Fund - 3691 of 2013

Good afternoon

His Honour has made an order in terms of the draft. I will place it with the file this afternoon.

Thank you for your assistance.

Kind regards

Ben Grant
Associate to the Hon Justice Peter Lyons
Supreme Court of Queensland
t: +61 (0)7 3247 4291
f: +61 (0)7 3221 7565
e: Associate.PlyonsJ@courts.qld.gov.au

From: Davina Holland [mailto:DHolland@piperalderman.com.au] **On Behalf Of** Amanda Banton
Sent: Tuesday, 30 April 2013 10:47 AM
To: Associate PLyons J
Cc: seanrussell@russellslaw.com.au; SDC Orders; m.gill@dlapiper.com; Amanda Banton; Lisa Gallate; Davina Holland; Sarah Wooster; Jasmin Shaw
Subject: KordaMentha Pty Ltd and Calibre Capital Limited v The Members of the LM Managed Performance Fund - 3691 of 2013

Dear Associate

We refer to the orders made by the Honourable Justice Lyons in this matter yesterday.

As requested by His Honour, we attach a word copy of these orders.

We note that the Second Respondent's solicitors have also reviewed these orders.

Kind regards

Amanda Banton
Partner | Piper Alderman

PiperAlderman

t +61 2 9253 9929 | m +61 424 156 859 | f +61 2 9253 9900
abanton@piperalderman.com.au | www.piperalderman.com.au

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please reply to us immediately and delete the document.

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3691 of 2013

Applicants: KORDA MENTHA PTY LTD (ACN 100 169 391)

AND

CALIBRE CAPITAL LIMITED (ABN 66 108 318) (in their capacity as trustees of the LM MANAGED PERFORMANCE FUND)

Respondents: THE MEMBERS OF THE LM MANAGED PERFORMANCE FUND

ORDER

Before: Justice P Lyons

Date: 29 April 2013

Initiating document: Originating Application filed 23 April 2013

THE ORDER OF THE COURT IS THAT:

1. The applicants be granted leave to amend their Originating Application;

2. LM Investment Management Limited (administrators appointed) and John Richard Park and Ginette Muller in their capacity as administrators of LM Investment Management Limited (administrators appointed) be added as the second respondents to the proceeding;

3. Trust Company (PTAL) Limited be added as the third respondent to the proceeding;

4. The further hearing of the application be adjourned to 10am on Thursday 2 May 2013;

5. Costs reserved.

THE COURT DIRECTS THAT:

1. The applicants serve a copy of this order forthwith on the third respondent;

2. The applicants take all reasonable steps to serve by email this order, and the Amended Originating Application, on the persons who are the first respondents;

ORDER
Filed on Behalf of the Plaintiff
Form 59, Version 1

Uniform Civil Procedure Rules 1999
Rule 661
28082822v1

Name: Amanda Banton
Address: Piper Alderman
Level 23, 1 Farrer Place,
Sydney NSW 2000
Phone No: 9253 9999
Fax No: 92539900

3. Should any of the first respondents or the third respondent request copies of the affidavit material, the applicants provide that affidavit material forthwith by email;

4. The second respondents file and serve their affidavit material by 6pm on Tuesday 30 April 2013;

5. The parties exchange their list of objections to the affidavit material already received by 6pm Tuesday 30 April 2013;

6. The applicants file and serve their affidavit material in reply by 4pm on Wednesday 1 May 2013;

7. The parties exchange their written submissions and send them to the Associate to P Lyons J by 9am on Thursday 2 May 2013.

Signed:

Quotation

Worldwide.
printing solutions
M A R K E T S T

QUOTE DATE 13 Nov 2013
PRINT DATE 13 Nov 2013

Sprint Tyres Pty Ltd
Trading as Worldwide Printing Solutions Market Street
ABN: 23 976 705 494
10 Market Street
Brisbane QLD 4000
T (07) 3211 9550 F (07) 3211 9546
E marketst@worldwide.com.au

Korda Mentha
Level 14
12 Creek Street
BRISBANE QLD 4000

Korda Mentha
ATT Rachael Di Russo
Level 14
12 Creek Street
BRISBANE QLD 4000

Dear Rachael,
We thank you for your enquiry and have pleasure in providing a quotation for the following.

JOB TITLE	Large Run Printing - PRINTING ONLY		Quote Number: 4001-1768949
DESCRIPTION			TOTAL
4500 copies x 500pp A4 Document			$102,477.28
Print in black & white			
Print single sided			
Print on 80gsm bond			
Tinted paper in between each set			
		Total Ex GST	$102,477.27
		GST	$10,247.73
		TOTAL Inc GST	$ 112725.00

Kind Regards
Jessica Fillmore

PLEASE SIGN TO ACCEPT QUOTE

DATE

T 3338 0225 F M E rdirusso@kordamentha.com

Standard Terms & Conditions - QUOTATION IS VALID FOR 30 DAYS

DISCLAIMER:
All jobs sent for Off Set Printing at Worldwide Printing Solutions will take between 7 to 10 working days, from the date of upload.
All print orders must be paid in full prior to the job being uploaded to print, unless you are a business account of this store.
Clients paying by EFT are required to produce their banks confirmation of the transfer details, before the job will be uploaded.
Artwork/uploads are carried out between 9:00am & 4:00pm Monday to Friday.
Artwork received after 3:00pm Friday is not considered to be received until Monday at 9:30am. Orders will not proceed without a signed off proof or e-mailed acceptance of Print disclaimer & that the proof is correct and ready for print.

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QUOTE DATE 16 Dec 2013
PRINT DATE 16 Dec 2013

Quotation

Worldwide *printing solutions*

MARKET ST

Sprint Tyres Pty Ltd
Trading as Worldwide Printing Solutions Market Street
ABN: 23 976 705 494
10 Market Street
Brisbane QLD 4000
T (07) 3211 9550 F (07) 3211 9546
E marketst@worldwide.com.au

Korda Mentha

ATT Rachael Di Russo
Level 14
12 Creek Street
BRISBANE QLD 4000

Korda Mentha

ATT Rachael Di Russo
Level 14
12 Creek Street
BRISBANE QLD 4000

Dear Rachael,
We thank you for your enquiry and have pleasure in providing a quotation for the following.

JOB TITLE	Large Run Printing - PRINTING ONLY	Quote Number: 4001-1780294
DESCRIPTION		TOTALS
4500 copies x 1500pp A4 Document		$307,022.69
Print in black & white Print single sided Print on 80gsm bond Tinted paper in between each set		
	Total Ex GST	**$307,022.73**
	GST	$30,702.27
	TOTAL Inc GST	**$337,725.00**

Kind Regards
Jessica Fillmore

PLEASE SIGN TO ACCEPT QUOTE

DATE

T 3338 0225 F M E rdirusso@kordamentha.com

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All print orders must be paid in full prior to the job being uploaded to print, unless you are a business account of this store.
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KordaMentha

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Home Creditor information Australia LM Managed Performance Fund

LM Managed Performance Fund

Appointment Profile

Type of Appointment: Court appointed trustees of the LM Managed Performance Fund (ABN: 95 595 833 174)
Date of Appointment: 12 April 2013
Appointees: KordaMentha Pty Ltd and Calibre Capital Limited

Background Information

KordaMentha and its affiliated firm Calibre Capital were appointed Trustee of the Fund on 12 April 2013.

LM Managed Performance Fund is a Trust that was previously operated by LM Investment Management Limited ('LMIL').

John Park and Ginette Muller of FTI Consulting were on 19 March 2013 appointed as Joint and Several Voluntary Administrators of LMIL. However, in Brisbane on 12 April 2013, the Supreme Court of Queensland removed and replaced LMIL as Trustee of the Fund.

General Information

Please email lminvestors@kordamentha.com to query any of the information below.

Frequently asked questions	30/08/2013	284 kb

Tenth Update to Investors (16/09/2013) - removed until further notice due to commercial in confidence
Ninth Update to Investors (05/07/2013) - removed until further notice due to commercial in confidence
Eighth Update to Investors (03/06/2013) - removed until further notice due to commerical in confidence
Seventh Update to Investors (17/05/2013) - removed until further notice due to commercial in confidence
Sixth Update to Investors (13/05/2013) - removed until further notice due to commerical in confidence
Fifth Update to Investors (07/05/2013) - removed until further notice due to commercial in confidence

Fourth Update to Investors	02/05/2013	243 kb
Third Update to Investors	01/05/2013	747 kb
Second Update to Investors	30/04/2013	317 kb
Initial notification to investors	15/04/2013	236 kb
Frequently asked questions	15/04/2013	213 kb

Applications

Matter Number 8792/2013 - Directions Application

Peregian Beach - 1 Originating Application	93 kb
Peregian Beach - 2 SV Affidavit + Exhibits	7120 kb
Peregian Beach - 3 SV Affidavit + Exhibits	7907 kb
Peregian Beach - 4 SV Affidavit + Exhibits	8402 kb

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Matter Number 3691/2013 - Service Application		
Application to Wind Up Fund including order for service on members	18/11/2013	90 kb
Affidavit of Simon Vertullo in respect to Service	18/11/2013 .	3782 kb
Affidavit of Lisa Gallate and Exhibit LNG-1	18/11/2013	1094 kb
Orders and directions made re service on members	18/11/2013	84 kb
Matter Number 3691/2013 - Wind Up Application		
Application to wind up fund	19/11/2013	86 kb
Affidavit of Simon Vertullo in respect to Wind Up		1058 kb
Exhibit certificates SMV-7		1097 kb
Exhibits SMV-7 1-5		4478 kb
Exhibits SMV-7 6-11		6154 kb
Exhibits SMV-7 12-17		4356 kb
Exhibits SMV-7 18-23		25966 kb
Exhibits SMV-7 24-26		19248 kb
Exhibits SMV-7 27-30		11802 kb
Exhibits SMV-7 31-34		24685 kb
Matter Number 3691/2013 - Books and Records Application		
Affidavit of Simon Vertullo	18/11/2013	456 kb
Exhibit certificate SMV5 1-14		71 kb
Exhibit Certificate SMV5 15-32		64 kb
Exhibit SMV5 1-100		6044 kb
Exhibit SMV5 201-300		3183 kb
Exhibit SMV5 301-400		3495 kb
Exhibit SMV5 401-489		4182 kb
Index to SMV5		22 kb
Matter Number 11593/2013 - Approval of Settlement Agreement		
Originating Application	06/12/2013	58 kb
Affidavit of Simon Vertullo - including exhibit SMV-9		18386 kb
Exhibits SMV-10 Vol 1		13727 kb
Exhibits SMV-10 Vol 2		9242 kb
Exhibits SMV-10 Vol 3		17598 kb
Exhibits SMV-10 Vol 4		16698 kb
Exhibits SMV-10 Vol 5		8408 kb

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