

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

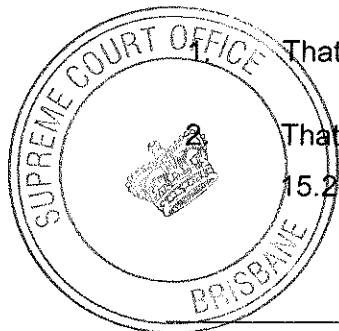
Second Respondent

**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**

APPLICATION

To the Respondents: TAKE NOTICE that the Applicants are applying to the Court for the following orders:

Winding up



1. That the LM Managed Performance Fund ("**the Trust**") be wound up;

2. That the Applicants be directed to wind up the Trust, pursuant to clause 15.2(c) of the Constitution of the Trust;

APPLICATION

Filed on Behalf of the Applicants
Form 9, Version 1
Uniform Civil Procedure Rules 1999
Rule 31

PIPER ALDERMAN:
Level 23, Governor Macquarie Tower
1 Farrer Place, SYDNEY NSW 2000
Phone No: (02) 9253 9999
Fax No: (02) 9253 9900
Ref: AKB.LG.386376

3. Without derogating in any way from orders (1) and (2), that the Applicants be authorised to exercise the powers contained in clauses 12 and 15.6 of the Constitution of the Trust, until such time as all winding up procedures have been completed;
4. Without derogating in any way from in any way from the Applicants' powers pursuant to these Orders, the Applicants are authorised to bring, defend or maintain any proceedings on behalf of the Trust as are necessary for the winding up of the Trust and the realisation of its assets (including any legal claims the Trust may have), including the execution of any documents as required and providing instructions to solicitors in respect of all matters in relation to the conduct of such proceedings including, if appropriate, instructions in relation to the settlement of those actions.

Quarantined Funds

5. Directions pursuant to s.96 of the Trusts Act 1973 (Qld) as to whether the Applicants are justified in repaying to the persons, who sought to invest in the Trust, to whom no units were issued.

Interlocutory orders - service on the members of the First Respondent

6. That notice of this Application be effected on the members of the First Respondent by:
 - (a) sending a notice of the Application by e-mail to all members at their last known email address; and
 - (b) posting a notice of the Application in a prominent location on the website <http://www.kordamentha.com/creditor-information/australia/109>.
7. That service of:
 - (a) The application and supporting affidavit of Simon Vertullo;
 - (b) Any further court documents to be filed by the Applicants in these proceedings; and
 - (c) Any orders made in respect of this Application;

be deemed effective on each of the members ~~Of~~ the First Respondent five (5) days after those documents are made ~~a~~available in PDF on the website <http://www.kordamentha.com/creditor-information/australia/109>.

Other

8. An order that the Applicants' costs of this application ~~be~~ paid from the assets of the Fund on an indemnity basis.
9. Such further or other orders as the Court sees fit.

This application will be heard by the Court at Brisbane on: Thursday 13 November 2013 for interlocutory orders as to service of the Application on the members of the Respondents, and any other appropriate directions.

Filed in the Brisbane Registry on 12 NOV 2013

Registrar: 

On the hearing of the application the applicant intends to rely on the following affidavits:

1. Affidavit of Simon Vertullo to be sworn.

THE APPLICANTS ESTIMATE THAT THE INTERLOCUTORY APPLICATION SHOULD BE ALLOCATED 45 MINUTES FOR SERVICE ORDERS AND DIRECTIONS

PARTICULARS OF THE APPLICANTS:

Applicants' Names:	KORDA MENTHA PTY LTD (ACN 100 169 391) AND CALIBRE CAPITAL LIMITED (ABN 66 108 318 985)
Applicants' residential or business address:	Level 14, 12 Creek Street, BRISBANE QLD 4000
Applicants' solicitor's name and firm name:	Amanda Kim Banton Piper Alderman
Solicitor's business address:	Level 23, Governor Macquarie Tower 1 Farrer Place, Sydney NSW 2000

Address for service:

Level 36, 123 Eagle Street
Brisbane Qld 4000

DX:

10216 Sydney Stock Exchange

Telephone:

+61 2 9253 9999

Fax:

+61 2 9253 9900

Email address:

abanton@piperalderman.com.au

Signed:

Piper Alderman

Description: Solicitor for the Applicants by her employed solicitor

Dated: *12* November 2013.

This application is intended to be served on the Respondents