SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: 9550 of 2013

First Applicants: **JOHN RICHARD PARK AND GINETTE DAWN MULLER**

AND

Second Applicant: **LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 (IN LIQUIDATION)**

AND

First Respondents: **KORDAMENTHA PTY LTD ACN 100 169 391 AND CALIBRE CAPITAL LIMITED ACN 108 318 985 AS TRUSTEE FOR THE LM MANAGED PERFORMANCE FUND**

AND

Second Respondent: **KORDAMENTHA PTY LTD ACN 100 169 391**

AND

Third Respondent: **CALIBRE CAPITAL LIMITED ACN 108 318 985**

ORDER

Before: Justice Martin

Date: 10 February 2014

Initiating document: Originating Application filed 10 October 2013

IT IS DECLARED THAT:

1. The First Applicants are entitled to receive out of the assets of the LM Managed Performance Fund ("**Fund**") their remuneration, costs and expenses from the assets of the Fund as a first priority ahead of any claim by the Respondents to receive any payment out of the Fund.

2. Without making any determination as to the quantum of any amounts in this clause, any claim by the Second Applicant to receive any payment out of the assets of the Fund is to rank behind the claim by the Respondents to:

    (a) the costs and expenses that have been reasonably incurred in the care, preservation and realisation of the assets of the Fund; and

    (b) the remuneration for work done by the Respondents for the exclusive purpose of raising the Fund.

ORDER
Filed on Behalf of the Respondents
Form 1, Version 1
Uniform Civil Procedure Rules 1999
Rule 6

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THE ORDER OF THE COURT IS THAT:

3. Subject to the priorities acknowledged by the making of the declarations in paragraphs 1 and 2 above and these Orders being made without prejudice to the Second Applicant (LM Investment Management Pty Ltd (in liquidation)) making a claim against the Fund's assets in respect of a claimed right of indemnity for liabilities of the Second Applicant incurred as trustee to the advisors and suppliers referred to at page 10 in exhibit KAT-1 to the affidavit of Kelly-Anne Trenfield filed 13 November 2013 in these proceedings, the application otherwise be dismissed.

4. Paragraph 1(v) of the orders of de Jersey CJ dated 23 May 2013 in proceedings 3691/13 and 2869/13 be varied, so that:

   (a) the Respondents are no longer required to hold the amount of $1,364,299 from the balance of the Fund's assets on account of the liens claimed by the first and second applicants; and

   (b) the Respondents are entitled to apply the amount of $1,364,299.

5. The Respondents' costs of and incidental to this application be paid from the assets of the Fund on the indemnity basis.

Signed: ______________________

Deputy Registrar