

**Duplicate**

**SUPREME COURT OF QUEENSLAND**

**REGISTRY** Brisbane  
**NUMBER** 12716/15

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 Jackson  
  
Date: 16 July 2018  
  
Initiating document: Application filed 5 July 2018

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

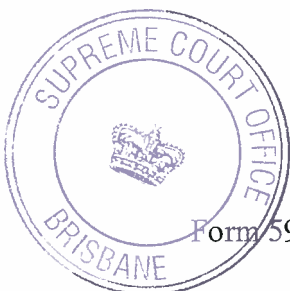
1. The plaintiff serve the application for direction under section 96 of the *Trusts Act* 1973 (Qld) on unitholders of the Managed Performance Fund ("MPF") in accordance with this order.
2. By 4.00pm on 17 July 2018, the plaintiff is to email to the MPF unitholders a notice informing them that the plaintiff 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

MINTER ELLISON  
Waterfront Place  
1 Eagle Street  
BRISBANE QLD 4000  
DX 102 BRISBANE  
Telephone (07) 3119 6000  
Facsimile (07) 3119 1000  
Email  
david.obrien@minterellison.com  
Reference NYB DOB 407747963



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 24 July 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 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 of Facts drawn 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 are reserved.
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) and Mr David Whyte in his capacity as Court Appointed Receiver of the property of the LM First Mortgage Income Fund.

Signed: \_\_\_\_\_

Deputy Registrar

