

**Duplicate**

**SUPREME COURT OF QUEENSLAND**

**REGISTRY:** Brisbane

**NUMBER:** 8792/13

Plaintiff: **KORDAMENTHA PTY LTD (ACN 100 169 391) AS  
TRUSTEE FOR THE LM MANAGED PERFORMANCE  
FUND**

AND

First Defendant: **LM INVESTMENT MANAGEMENT LIMITED  
(RECEIVERS AND MANAGERS APPOINTED) (IN  
LIQUIDATION)  
ACN 077 208 461**

AND

Second Defendant: **THE TRUST COMPANY (PTAL) LIMITED  
ACN 008 412 913**

**ORDER**

Before: Jackson J

Date: 5 November 2015

Initiating document: Application filed by leave on 5 November 2015

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

1. Service of the plaintiff/applicant's proposed application for directions under section 96 (1) the *Trusts Act* 1973 (Qld), and the material in support of that



ORDER

Filed on behalf of the applicant

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Form 59 Rule 661

application, be served upon the unitholders of the LM Managed Performance Fund ("MPF") as follows:

- (a) by 4pm on 11 November 2015, the applicant is to email to the MPF unit holders a notice informing them that the applicant has applied ("S 96 Application") to this Honourable Court for directions under section 96 (1) of the *Trusts Act 1973* (Qld) as to whether to settle this proceeding as against both defendant/respondents, and that the unitholders may view all substantive Court documents upon which the applicant intends to rely in support of its S 96 Application on the website whose address is:  
  
<http://www.kordamentha.com/creditor-information/australia/109>  
("Website")
- (b) Before sending the emails referred to in paragraph 1(a), the applicant is to upload to the Website, copies of:
  - (i) this application;
  - (ii) the affidavit of Jarrod Villani filed (including all the exhibits) in support of this application;
  - (iii) the order made in respect of this application;
  - (iv) the S 96 Application;
  - (v) the Statement of Facts to be drawn pursuant to section 96 (1) of the *Trusts Act 1973* (Qld); and
  - (vi) the substantive affidavits (including all the exhibits) that the applicant intends to rely upon in support of its S 96 Application.
- (c) Where the applicant receives a response to an email that indicates the email was not received and the applicant has a postal address for any relevant MPF unitholder or unitholders, the applicant is to post the email to the postal address of the MPF unitholder.
- (d) The applicant is not required to take further steps to serve MPF unitholders whose email addresses return permanent undeliverable receipts and for which the applicant does not have a postal address.

2. Service of the S 96 Application be deemed to be effective on each of the MPF unitholders as of 18 November 2015.
3. If the applicant 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 1(c) applies, and otherwise by email to the unitholders.
4. The Applicant's costs and expenses of and incidental to this application be paid on the indemnity basis out of the MPF.
5. The direction made in paragraph 5 of the Order made in this proceeding on 30 September 2015, be vacated. by Jackson J.  
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Signed: OBucavano  
Deputy Registrar

