

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: BS3508 of 2015

First Applicant: **JOHN RICHARD PARK AS LIQUIDATOR OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 007 208 461 THE RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

AND

Second Applicant: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 077 208 461 THE RESPONSIBLE ENTITY OF LM FIRST MORTGAGE INCOME FUND 089 343 288**

AND

First Respondent: **DAVID WHYTE AS THE PERSON APPOINTED TO SUPERVISE THE WINDING UP OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288 PURSUANT TO SECTION 601NF OF THE CORPORATIONS ACT 2001**

AND

Second Respondent: **SAID JAHANI IN HIS CAPACITY AS RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKING, RIGHTS AND INTERESTS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 077 208 461 AS THE RESPONSIBLE ENTITY OF THE LM CURRENCY PROTECTED AUSTRALIAN INCOME FUND ARSN 110 247 875 AND THE LM INSTITUTIONAL CURRENCY PROTECTED AUSTRALIAN INCOME FUND ARSN 122 052 868**

SIXTEENTH AFFIDAVIT OF KELLY-ANNE LAVINA TRENFIELD



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Deponent
KELLY-ANNE TRENFIELD

Witness
[Signature]

SIXTEENTH AFFIDAVIT OF KELLY-ANNE LAVINA TRENFIELD

Filed on behalf of the Applicants
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Uniform Civil Procedure Rules 1999
Rule 431

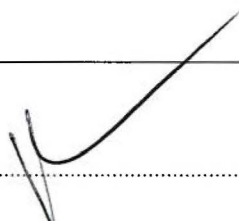
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I, **KELLY-ANNE LAVINA TRENFIELD** of Level 20, Central Plaza One, 345 Queen Street, Brisbane in the State of Queensland, Registered Liquidator and Chartered Accountant, state on oath:

1. I am a Senior Managing Director in the Corporate Finance and Restructuring Division of FTI Consulting (Australia) Pty Ltd (FTI). I have been a Registered Liquidator since March 2007 and since that time I have been appointed to in excess of 200 external administrations.
2. I have the day-to-day conduct of this proceeding and the liquidation of the Second Applicant (LMIM) under the supervision of Mr John Park, the Liquidator of LMIM.
3. I refer to my fifteenth affidavit filed in this proceeding on 18 April 2014 (at [CFI-337]) (**my Fifteenth Affidavit**). Capitalised terms in my Affidavit have the same meaning ascribed to them in my Fifteenth Affidavit.

Category 1 Work to be performed in respect of the FMIF during the FMIF Finalisation Period

4. In paragraphs 81 to 85 of my Fifteenth Affidavit, I depose to the Category 1 Work to be performed in respect of the FMIF from 1 February 2024 to the end of the FMIF Finalisation Period.
5. In the period 1 February 2024 to 12 May 2024, the Liquidator has undertaken the following Category 1 Work for the FMIF in respect of the work deposed to in paragraph 83 of my Fifteenth Affidavit:
 - (a) instructing lawyers in respect to conduct and settlement of FMIF proceedings including potential mediation, without prejudice discussions, dealings with directors representatives and insurers;
 - (b) liaising with the Receiver regarding settlement of proceedings and finalisation of winding up of FMIF;
 - (c) preparation for remuneration approval application and expense application;
 - (d) general dealings with the Receiver including provision of financial information and communication regarding renewal of AFSL;
 - (e) settlement of costs claims, receipt of same and payment of outstanding legal costs; and



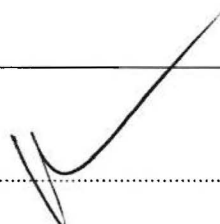
- (f) general conduct and administration – banking, file administration, dealings and communications with investors and advisors.
6. The amount of work in progress actually incurred for the work referred to in paragraph 5 above is \$23,853 (excluding GST). That work in progress is included in the amount sought to be fixed for remuneration for the Liquidator, his partners and staff for the work from 1 February 2024 to the finalisation of the FMIF.
7. In my view, in light of the current work in progress and the work still to be undertaken, the Liquidator's remuneration is likely to exceed \$55,000 including GST. However, to assist with the FMIF Finalisation, the Liquidator is prepared to fix his remuneration in that sum.

Final accounts of the FMIF

8. At paragraph 83(a) of my Fifteenth Affidavit, I depose that one of the FMIF Tasks to be undertaken by the Liquidator during the FMIF Finalisation Period is the completion of financial accounts and the final audited accounts for the year ended 30 June 2024 to accompany the ASIC Form 5138 required to be lodged upon completion of the FMIF wind up.
9. In:-
- (a) paragraphs 198 to 206 of Mr Whyte's affidavit filed 12 April 2024 in Supreme Court Proceeding No. BS3383 of 2013 (at [CFI-541] to [CFI-546]); and
- (b) paragraphs 23, 32 and 35 to 36 of Mr Whyte's affidavit filed 29 April 2024 in Supreme Court Proceeding No. BS3383 of 2013 (at [CFI-552]),

Mr Whyte deposes to work he proposes to do in respect of the final accounts and final audit of the accounts for the FMIF, including seeking dispensation for the requirement in the FMIF Constitution of an audit of the final accounts of the FMIF.

10. Having considered Mr Whyte's affidavit, the Liquidator and I are content to rely on the Receiver's audited (or unaudited if the dispensation sought by Mr Whyte is granted) accounts for those purposes, to the extent that the Liquidator needs to lodge any forms or other documents with ASIC or any other entities in respect of the FMIF's final accounts.
11. That will ensure that there is no duplication of work as between the Liquidator and the Receiver in respect of the final accounts of the FMIF.



The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.

I understand that a person who provides a false matter in an affidavit commits an offence.

SWORN by **KELLY-ANNE LAVINA TRENFIELD** on 20 May 2024 at Brisbane in the presence of:



.....
Kelly-Anne Lavina Trenfield
Deponent



.....
Name:
Lawyer/Commissioner for Declarations/
MILLCENT KATHRYN RUSSELL
SOLICITOR