



Federal Court of Australia

District Registry: Western Australia Registry

Division: General

No: WAD13/2024

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION** and others named in  
the schedule  
Plaintiff

**BRITE ADVISORS PTY LTD ACN 135 024 412 (RECEIVERS AND MANAGERS  
APPOINTED) (IN LIQUIDATION)**  
Defendant

### **ORDER**

**JUDGE:** Justice O'Sullivan

**DATE OF ORDER:** 19 February 2025

**WHERE MADE:** Perth

#### **For the purposes of this order:**

“Eligible Beneficiaries” means all Beneficiaries who (a) have completed the Identity Proofing process, and (b) have completed the Entitlement Verification process.

“Eligible Bespoke Assets” means any asset identified in a schedule of assets to be published by the Receivers, which shall include (a) bespoke assets held on the IB Platform where there is no variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, and (b) bespoke assets held on the IB Platform where there is a variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, but those assets are held by a single Beneficiary according to the 13 December 2023 Data. The Receivers may in their discretion exclude any assets from the schedule of assets to be published.

“Entitlement Verification process” means the entitlement verification process contemplated by Order 10 of the Orders made on 2 September 2024 in this matter.

“Identity Proofing process” means the Identity Proofing process contemplated by Order 8 of the Orders made on 2 September 2024 in this matter.

“Mapped Beneficiary” means any Beneficiary which falls into one of the following categories:

- a. The Beneficiary has expressly consented to the disclosure of their information to a Corporate Trustee; or
- b. The Beneficiary has not consented to the disclosure of their information to a particular Corporate Trustee, but by reconciling the records of a Corporate Trustee with those of Brite Advisors, the Receivers have formed the view that they have identified the Corporate Trustee that acts as trustee for that Beneficiary.

“Pension Entitlement Bespoke Assets” means either:



- a. Bespoke assets held on the IB Platform where there is no variance between the 13 December 2023 Data and the actual holdings of Brite Advisors; or
- b. Bespoke assets held on the IB Platform where there is a variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, but (i) those assets are designated as held by a single Beneficiary in the 13 December 2023 Data, and (ii) the actual holding of Brite Advisors is no less than 60% of the holding recorded in the 13 December 2023 Data.

## **THE COURT ORDERS THAT:**

### **Permitted Bespoke Trading Instructions**

1. The Receivers would be acting properly and are justified, for the purposes of exercising powers under Order 8 of the Orders made on 6 February 2024 in this matter, in dealing with Eligible Bespoke Assets as follows:
  - a. The Receivers may offer Eligible Beneficiaries whose verified entitlements as stated in their Valuation Notices include Eligible Bespoke Assets with an option to give instructions to sell those holdings;
  - b. The Receivers may determine, at their absolute discretion, the time at which to provide this option and the period during which such instructions may be given;
  - c. If instructions are received from those Eligible Beneficiaries (such instructions to be given through their Corporate Trustee where applicable), the Receivers may (but not must) instruct the Interim Fund Manager to sell that holding in a manner and over a period of time considered to be appropriate on advice from the Interim Fund Manager;
  - d. The Receivers are to deposit the cash proceeds of that sale in a bank account or term deposit, without converting the denominated currency and comingled only with the proceeds of other such sales, with an Australian Authorised Deposit-Taking Institution; and
  - e. The Receivers are to hold the funds until such time as that Eligible Beneficiary's rights to those funds can be finally determined and a distribution can be made.

### **Pension Withdrawal Amendment**

2. Order 4(b) of the Orders made on 21 December 2023 in WAD262/2023, as varied by Order 11 of the Orders made on 2 September 2024 in WAD13/2024, be varied by:
  - a. Deleting the words "50% of the value of the Beneficiary's cash holdings and model portfolio assets recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data"; and
  - b. Replacing those words with "the aggregate of (i) 50% of the value of the Beneficiary's cash holdings and model portfolio assets, and (ii) 30% of the value of the Beneficiary's Pension Entitlement Bespoke Assets (as defined in



the Orders made on [19] February 2025 in WAD 13/2024), recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data".

3. Order 9(b) of the Orders made on 6 February 2024 in WAD13/2024, as varied by Order 11 of the Orders made on 2 September 2024, be varied by:
  - a. Deleting the words "50% of the value of the Beneficiary's cash holdings and model portfolio assets recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data"; and
  - b. Replacing those words with "the aggregate of (i) 50% of the value of the Beneficiary's cash holdings and model portfolio assets, and (ii) 30% of the value of the Beneficiary's Pension Entitlement Bespoke Assets (as defined in the Orders made on [19] February 2025 in WAD 13/2024), recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data".

#### **Bishops Clients Entitlements**

4. The Receivers would be acting properly and are justified, in treating:
  - a. the administrators appointed to Corinthian Pension Trustees Limited (CPTL) as the representative of the group of unknown Beneficiaries whose entitlements are recorded in the 13 December 2023 Data with the account reference "411040-re Bishop Clients" (Bishops Clients);
  - b. the deposit of funds onto the IB Platform which took place on 24 October 2022 for the Bishops Clients as an investment to which the Bishops Clients are entitled; and
  - c. the administrators appointed to CPTL as having all authority which the Bishops Clients would have to make decisions and communicate with the Receivers regarding the Bishops Clients' entitlement, until further order of the Court.
5. Any party with sufficient interest has liberty to apply for the variation of Order 4.

#### **Opt-out Beneficiary Entitlements**

6. In circumstances where:
  - a. a Beneficiary has failed to complete the Identity Proofing process or has, prior to the Entitlement Verification process, asked that the Receivers cease contacting them or otherwise indicated that they do not wish to further participate in the Receivership; and
  - b. the Beneficiary's entitlement according to the 13 December 2023 Data would be US\$2,000 or less;



- c. the Receivers would be acting properly and are justified in:
- d. ceasing to attempt to communicate with those Beneficiaries;
- e. calculating that Beneficiary's entitlement in accordance with the Orders made on 2 September 2024 in WAD 13/2024 and treating that as their verified entitlement; and
- f. once final distribution orders are made, using that Beneficiary's verified entitlement in calculating the amount to be distributed in respect of that Beneficiary.

### **Deceased Estate Beneficiaries**

#### **7. In circumstances where:**

- a. a Beneficiary has failed to complete the Identity Proofing process and the Receivers have been informed that the Beneficiary is now deceased; and
- b. the Beneficiary's entitlement according to the 13 December 2023 Data would be US\$10,000 or less;
- c. the Receivers would be acting properly and are justified in:
- d. ceasing to attempt to take further steps to establish the authority and identity of the executor of the Beneficiary's estate or the person who is otherwise authorised to deal with the Receivers in respect of the Beneficiary's entitlement;
- e. calculating that Beneficiary's entitlement in accordance with the Orders made on 2 September 2024 in WAD 13/2024 and treating that as their verified entitlement; and
- f. once final distribution orders are made, using that Beneficiary's verified entitlement in calculating the amount to be distributed in respect of that Beneficiary.

### **Corporate Trustee Disclosure**

- 8. The Receivers would be acting properly and are justified in disclosing relevant information about each Mapped Beneficiary to their identified Corporate Trustee, including but not limited to information which is likely to be "personal information" as defined by the *Privacy Act 1988* (Cth) (Personal Information).
- 9. For the purposes of clause 6.2(b) of Schedule 1 to the *Privacy Act 1988* (Cth), being the Australian Privacy Principles, order 8 above has the effect of an order authorising the use or disclosure of the Personal Information.

### **Trading Orders**

- 10. Order 9 of the orders made on 6 February 2024 (and as amended by order 1 of the orders made on 10 January 2025) be further amended by deleting the words "28 March 2025" and replacing them with "30 April 2025".
- 11. Order 10 of the orders made on 6 February 2024 (and as amended by order 2 of the orders made on 10 January 2025) be further amended by deleting the words "28 March 2025" and replacing them with "30 April 2025".



### **Publication Orders**

12. The Receivers be authorised to publish on the creditor website established by the Receivers, with such redactions as permitted by the Court:
  - a. the sixteenth affidavit of Linda Methven Smith affirmed on 11 February 2025 (excluding its annexures) filed in these proceedings; and
  - b. the seventeenth affidavit of Linda Methven Smith affirmed on 18 February 2025 (excluding its annexures) filed in these proceedings.

Date orders authenticated: 20 February 2025

  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



## **Schedule**

No: WAD13/2024

Federal Court of Australia

District Registry: Western Australia Registry

Division: General

Interested Person	LINDA METHVEN SMITH AND ROBERT KIRMAN IN THEIR CAPACITY AS RECEIVERS AND MANAGERS OF BRITE ADVISORS ACN 135 024 412 (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)
Interested Person	ADRIAN CHARLES HYDE AND JOANNE SANDRA WILD IN THEIR CAPACITIES AS JOINT ADMINISTRATORS OF RELAY ADMINISTRATION LIMITED, CORINTHIAN PENSION TRUSTEES LIMITED AND PANTHEON TRUSTEES LIMITED (ALL IN ADMINISTRATION)