



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

**AMENDED ORDER**  
(Amended pursuant to r 39.05(e) of the *Federal Court Rules 2011* (Cth))

**JUDGE:** Justice O'Sullivan

**DATE OF ORDER:** 15 September 2025

**WHERE MADE:** Perth

**For the purposes of this order:**

The same definitions used in the Distribution Methodology Orders made on 15 September 2025 in these proceedings apply to these orders unless stated otherwise.

**THE COURT NOTES THAT:**

1. The Receivers must deduct from the Final Total Value, referred to above in order 3, an amount to be determined and approved by the Court. These funds are to be deducted prior to the Valuation Date and retained by the Receivers (**Retained Funds**).
2. The quantum of the Retained Fund is to be comprised of the following amounts, each to be specified on application to the Court and supported with evidence:
  - (a) An amount reflecting a conservative estimate of the potential tax liabilities of the Receivers, Brite Advisors or of Corporate Trustees / Beneficiaries to be satisfied from the Client AuM, including any interest or penalties, where there are unresolved tax issues at the time of determining the amount of any distribution;



- (b) An amount reflecting the Receivers' reasonable remuneration, costs and expenses in investigating and pursuing claims against third parties;
- (c) An amount reflecting the Receivers' reasonable remuneration, costs and expenses to resolve any other outstanding matter and a conservative estimate of any other potential liability identified at the time of determining the amount of any distribution, including without limitation, any potential adverse costs order that may be made against the Receivers or Brite Advisors; and
- (d) An amount reflecting the Receivers' reasonable remuneration, costs and expenses in managing the Retained Funds for the anticipated remaining length of the Receivership.

**THE COURT ORDERS THAT:**

***Interim Distribution Application***

1. The Receivers would be acting properly and are justified in bringing an interlocutory application, as set out in Orders 2 to 11 below, to make an interim distribution from the Trust Assets to Corporate Trustees and Beneficiaries (**Interim Distribution Application**).
2. By 7 October 2025, the Receivers are to:
  - (a) file and serve a minute of proposed orders that the Receivers seek by the Interim Distribution Application; and
  - (b) file and serve any affidavit evidence and any written outline of submissions, with such submissions being limited to 10 pages.
3. Any person who has been granted leave to be heard as an interested party in this matter without becoming a party to the proceeding is granted leave to be heard, if they so wish, in relation to the Interim Distribution Application.
4. Any person may seek leave pursuant to r 2.13(1) of the *Federal Court (Corporations) Rules 2000* (Cth) to be heard as an interested party in relation to the Interim Distribution Application. Any application for leave to be heard as an interested party must be filed with the Court and served on the Receivers by on or before 14 October



2025.

5. Any application for leave to be heard as an interested party pursuant to order 4 shall be determined by the Court on the papers.
6. By 28 October 2025, any interested party may file any affidavit evidence and any written outline of submissions, with such submissions being limited to 10 pages.
7. Any person who is not an interested party may provide the Receivers with any submissions or evidence they seek to put before the Court to determine the Interim Distribution Application by 28 October 2025. The Receiver must file with the Court an affidavit including any submissions or evidence so received by 30 October 2025.
8. By 4 November 2025, the Receivers may file any affidavit evidence and any outline of submissions in reply, with such submissions being limited to 5 pages.
9. Any outlines of submissions and affidavits must be easily legible using a font size of at least 12 points and 1 ½ line spacing throughout.
10. The Receivers are to file and serve a Court Book by 5 November 2025.
11. The Interim Distribution Application hearing be listed for a full day hearing on **Wednesday 12 November 2025 at 9am AWST / 11.30am ACDT.**
12. The Receivers and each interested party have liberty to apply on 48 hours' written notice.

### ***Joining the ATO***

13. The Receivers would be acting properly and are justified in bringing an interlocutory application under r 2.13 of the *Federal Court (Corporations) Rules 2000* (Cth) for the Commissioner of Taxation for the Commonwealth of Australia to be joined as an interested party to be heard on the Interim Distribution Application and any further interlocutory application brought by the Receivers in relation to the distribution or retention of Trust Assets in this proceeding.
14. The following interested parties be granted access to the Court file (excluding any material which the Court has marked as confidential) in this matter:
  - (a) the Administrators of Relay Administration Ltd;
  - (b) Alltrust Services Ltd;



- (c) Bourse Pension Administrators (Malta) Limited;
- (d) Commissioner of Taxation for the Commonwealth of Australia; and
- (e) Interactive Brokers Australia Pty Ltd.

***Surrender Rebate and Interest***

- 15. The Receivers would be acting properly and are justified in treating any balance of a Surrender Rebate as a deduction in the calculation of the respective Beneficiary's total entitlement in accordance with Order 9(b) of the orders made in this matter on 2 September 2024.
- 16. The Receivers would be acting properly and are justified in not adding any interest to any cash holding recorded in the 13 December 2023 Data.

Date orders authenticated: 16 September 2025

  
Registrar

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



## **Schedule**

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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)
Interested Person	INTERACTIVE BROKERS AUSTRALIA PTY LTD ACN 166 929 568