

## NOTICE OF FILING

### Details of Filing

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File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v BRITE ADVISORS PTY LTD ACN 135 024 412 (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 59  
Rule 29.02(1)

## Affidavit

No. WAD 13 of 2024

Federal Court of Australia  
District Registry: Western Australia  
Division: General

### Australian Securities and Investments Commission

Applicant

**Brite Advisors Pty Ltd** (receivers and managers appointed) (in liquidation) (ACN 135 024 412)

Respondent

Affidavit of: **Ted Alexander**

Address: BML Funds, Level 20, 56 Pitt St, Sydney NSW 2000

Occupation: Chief Investment Officer, BML Funds

Date: 2 October 2025

### SECOND AFFIDAVIT OF TED ALEXANDER

I Ted Alexander, of care of Level 20, 56 Pitt Street, Sydney, in the state of New South Wales, Chief Investment Officer, affirm:

1. I am the managing director and Chief Investment Officer of BML Funds Management Pty Ltd (**BML Funds**), the interim fund manager appointed by Linda Methven Smith and Robert Michael Kirman in their capacity as joint and several receivers and managers of all the 'Property' of Brite Advisors Pty Ltd ACN 135 024 412 (**Brite Advisors**), the defendants in these proceedings.
2. I am responsible for the day-to-day management of the portfolio of assets held on the online brokerage platform operated by Interactive Brokers Australia Pty Ltd (**Interactive Brokers**) on instruction from the Receivers. I have personally undertaken all trading activity on behalf of BML Funds since its appointment as interim fund manager.

Filed on behalf of (name & role of party) Court Appointed Receivers and Managers

Prepared by (name of person/lawyer) C A L Boothman

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(include state and postcode)

3. The facts deposed to in this affidavit are from my own knowledge, except where I have indicated otherwise, in which case the facts deposed to are from information provided to me from the sources I have identified, and which information I believe to be true.
4. I crave leave to refer to my affidavit affirmed on 1 March 2024 and filed in these proceedings.

### **Liquidation of the fund**

5. I am aware that the Receivers are currently seeking orders from the Court which would permit the vast majority of assets held on the Interactive Brokers platform to be liquidated and the proceeds distributed back to investors.

### **Overview of staffing and resources which will be deployed to facilitate liquidation**

6. If BML Funds is instructed by the Receivers to carry out the liquidation, I will personally manage all elements of that liquidation. I will be responsible for all aspects of the planning, trading, execution and reporting required to facilitate the liquidation. BML Funds is a Corporate Authorised Representative (No. 001230) of Havana Financial Services Pty Ltd (ABN 90 619 804 518, AFS Licence No. 500435), which authorises me as a representative of BML Funds to conduct all trading activities relevant to the liquidation of the fund.
7. In undertaking the liquidation, I will rely on Bloomberg for access to market data and the Interactive Brokers platform for provision of the necessary trading infrastructure. I will not be conducting any trades through independent brokers because the assets are currently in the custody of Interactive Brokers, who require that they act as broker as well. In my opinion, any potential benefit of trading through an independent broker is outweighed by the delay and complexity of attempting to move the assets to an independent custodian.
8. I currently have trading access to Brite Advisors' accounts on Interactive Brokers. That includes access to Account U3214940, which contains the assets comprising the fund (**Trust**).
9. I do not anticipate that I will require any additional functionality or access to the Interactive Brokers platform to carry out the liquidation. I note that the access I have to the Interactive Brokers platform does not permit me to withdraw any cash from, or move any assets off, that platform.

### **Overview of steps to implement liquidation**

10. In my view, the liquidation process can be broken down into five parts, being:
  - (a) ascertaining how much of the portfolio will need to be retained and how much liquidated to fund the distribution;

- (b) formulating the trading plan to give effect to the liquidation;
  - (c) trading and execution;
  - (d) currency conversion of the proceeds; and
  - (e) reporting on the liquidation.
11. I describe it this way to explain how the process will be approached but that does not mean these parts are to be carried out sequentially. Rather, the liquidation will need to be approached dynamically, for instance, revisiting the plan as the liquidation process is carried out to make adjustments where necessary.
12. The overarching goals of the trading plan will be to:
- (a) liquidate the assets in a manner that ensures that at the conclusion of the trading window I have achieved the best price possible for the assets sold;
  - (b) generate a cash balance in the correct target currencies, to fund the interim distribution; and
  - (c) the portion of the portfolio which is not liquidated remains invested in suitable assets.
13. I have formulated this proposed approach to the liquidation process drawing on my 18 years' experience in asset management (as detailed in my prior affidavit) as well as my experience acting for BML Funds in its role as interim fund manager for the Receivers and using the Interactive Brokers platform for that purpose.

*Ascertain amount required*

14. As a starting point, I will need instructions from the Receivers as to the level of assets to be retained in the Trust to cover future requirements. The remainder of the assets will be liquidated to fund the interim distribution and the target currency allocation for this cash (i.e. what proportion of the funds is to be held in which currencies).

*Formulate a trading plan*

15. I will need to develop a detailed trading plan beforehand. A clear and well-considered strategy is essential, and the preparation phase is critical to ensuring that the process runs smoothly.
16. As a starting point, I will identify the assets which will be liquidated. This identification is indicative only and may be revisited over the course of the liquidation. In identifying assets to sell, I will consider:
- (a) the amount of assets required in the Trust on an ongoing basis; and

- (b) the nature of the portfolio which would be appropriate to hold once the liquidation has completed.
17. Considering (b) above, I anticipate I will seek to liquidate all, or the vast majority of, bespoke assets and retain in the portfolio only broad-based ETFs which formed a part of the model portfolios.
  18. I have advised the Receivers that a four-week trading window would be appropriate given the nature of the assets in the portfolio and the size of the portfolio.
  19. My present view is that, at a high level, the trading plan would involve:
    - (a) the sale of less liquid assets as soon as possible from the beginning of the trading window (anticipating that some assets may take some time to sell); and
    - (b) the sale of more liquid assets towards the end of the trading window.

#### *Trading and execution*

20. Each asset trades in a slightly different manner, but within a well known framework. Stocks have a history of how much they trade on the stock market each day, which gives pretty good confidence in predicting how long it will take to sell out of our position. If a stock trades \$1M per day on average, and we try to sell \$2M quickly, the price will rapidly fall and the outcome will be worse. As a rule of thumb, we don't want to represent more than 25% of the total daily volume, and we would normally expect an 8 day process to liquidate in that example. Most of the assets in the Trust are exchange traded funds (**ETFs**). ETFs are an asset created to mimic a fund of assets, which could be the gold price or a large basket of assets like the Dow Jones Index. Stocks have a fixed total amount that trade, e.g. 20 million shares at \$5 each for \$100M total market capitalisation. But ETFs are different, and more can be created as demanded by clients. Trading in stocks happens between different buyers and sellers, but with ETFs a market maker is ready to create new units or cancel existing units as needed. This means that if the market maker is doing their job, ETFs are highly liquid and can be sold down quickly at the correct price. To recap, for stocks we need to analyse historic liquidity to calculate expected time to liquidate, but most of the Trust assets are ETFs, which should have very high liquidity, even within one trading day. There is also a small amount of bonds, which appear to have good liquidity too.
21. All trades will be 'limit trades' rather than 'market trades'. This means the trades will only be executed at a specified price or better. This assists in managing the price achieved and reducing market impact. The orders may not be filled immediately, requiring management of the trading over a period. With the Interactive Brokers platform, we will be putting parcels of securities to sale in the market and updating the amount and limit

prices as the market moves. This will require pretty constant manual attention through the trading period, which includes US and European hours.

22. The bulk of the fund (approximately 97% by value) is comprised of ETFs. ETFs are very liquid and although the positions held are considerable, I do not anticipate any issues with selling them down. In my experience it can sometimes be helpful to contact market makers in advance for larger trades, which I may do for some or all the ETFs.
23. In respect of the less liquid assets, the sell down will need to be managed over time. We would calculate the estimated time to liquidate securities, and start earlier on those with less liquidity. We would push smaller parcels of shares into the market at prices that won't impact overall price realisation until we sold out the required amount. However, if liquidity is poor because there are not sufficient buyers in the market, we may not be able to shift the required amount over the period. Despite this, we are likely to realise our overall liquidation objectives, given the illiquid securities represent less than 1% of the total Trust.
24. Most of the fund is comprised of liquid assets with some bespoke assets with lower liquidity and smaller dollar values. The breakdown of the Trust by value is approximately 99% more liquid securities, largely comprised of ETFs and 1% less liquid securities, comprised of single name stocks which were historically held as bespoke positions. While there are names with low liquidity, the dollar value of them is small relative to the size of the Trust.

#### *Currency Conversion*

25. Throughout the liquidation process, I will actively manage the currencies in which cash proceeds are held. These will be managed with the intention of holding the cash in the target currencies / proportions, as instructed by the Receivers, at the conclusion of the liquidation.
26. I will convert the funds by carrying out spot foreign exchange trades on the Interactive Brokers platform.
27. This will require daily analysis and adjustments, and, in my experience, this is not overly complex. It is still an important part of the process.

#### *Reporting*

28. Throughout the liquidation process I will prepare pre-trade and post-trade reports. The pre-trade report will include the expected liquidity of assets and trading plan. The post-trade report will include the details of trades that have been executed, including price, volume, and time, as well as the volume weighted average price for that day to serve as benchmark against which to measure the trade executed.

29. I will collate these reports and provide them to the Receivers.

#### **Costs associated with liquidation**

30. Trades will be executed through Interactive Brokers.
31. From my experience with conducting spot foreign exchange transactions through the Interactive Brokers platform, the spreads offered are reasonable.
32. In my view, the costs associated with transacting through the Interactive Brokers platform are acceptable. I estimate that the total of Interactive Brokers' costs will be below 10 basis points. In considering that estimate, I have consulted the current fee schedule which is available on the Interactive Brokers' website at <https://www.interactivebrokers.com.au/en/pricing/commissions-home.php>
33. BML Funds has proposed fees of 3 basis points. Every asset has a slightly different cost, depending on the country it trades in, and the volume traded, which makes an exact cost forecast difficult and unreliable. For most assets the total costs including Interactive Brokers' costs and other costs such as taxes and stamp duty will be below 5 basis points. I will report on total transaction costs realised as part of my post-liquidation reporting.

#### **Payment of the Interim Distribution**

34. As soon as possible after completion of the liquidation, I will notify the Receivers. I anticipate I will be able to provide the post-liquidation reporting, which I refer to in this affidavit, within a week of completing the liquidation.
35. The proceeds of the liquidation will be held on the Interactive Brokers platform. The Receivers will be responsible for the distribution of the liquidated cash to the Corporate Trustees and Beneficiaries. I will not be involved in the payment process.

#### **Risks involved with liquidation and high-level description of how those risks will be mitigated**

36. I have considered the risks associated with the liquidation process, as well as queries that the Receivers have put to me which I understand have been prompted by feedback the Receivers had from Beneficiaries and Corporate Trustees. The liquidation process will involve assets of significant value, and some parts will have a degree of complexity. However, the risks that are posed are nonetheless limited and manageable. The trading plan will be carefully designed to mitigate key risks, which I have considered and address further below.

### *Front running*

37. Front running is a risk that can arise where a prospective trade is known to other market participants prior to the trade occurring. It is where a third party trades ahead of your known order to profit from the market impact your trade will create.
38. I understand from the Receivers that the fact of the prospective liquidation will be widely known beforehand. However, in my view it is unlikely that market participants would attempt to front-run the transactions for several reasons. The main reason is that making public the four-week window would not provide enough certainty for any third party to reliably profit from that knowledge. The Trust assets are predominantly in ETFs. ETFs trade according to the price of another asset, e.g. the gold price or the Dow Jones. Front running could require manipulating this underlying price, which is not a credible strategy.
39. In any event, in carrying out the trading to give effect to the liquidation, I will assess the market and avoid executing trades where there is any unusual activity which indicates front running or any other conduct which would negatively impact the trade. Where appropriate, trades will be executed progressively to avoid signalling and manage volume impact. If I am concerned that a trade cannot be executed during the time allowed for the liquidation without being negatively impacted by the conduct of another market participant, I will not execute that trade and will notify the Receivers.

### *Market Impact and Execution Risk*

40. I understand from the Receivers that the prospect of trades impacting the market and the execution risk resulting has been raised. I understand this to be a concern that the trades which I execute will move the market unfavourably or that the trades cannot be completed at the intended price or speed.
41. This is not an issue for most of the fund, given it is largely comprised of very liquid ETFs. ETFs tend to be traded actively by one or more market makers who will meet the demand in the market.
42. Less liquid positions comprise approximately 1% of the fund by value. In my experience some illiquid assets may be difficult to trade due to low volume. In such cases, trades may need to be executed at lower prices or over a longer period, during the four-week trading window, to appropriately manage the risk of market impact.

### *Agency Execution Assurance*

43. The risk of a broker executing the trade as principal rather than agent has been raised with me by the Receivers. All trades will be executed as agency trades. Interactive Brokers does not take positions on its own books, and this risk is not applicable in this context.

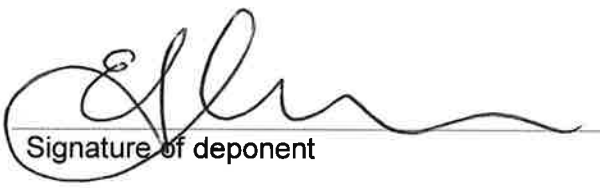




*Risk of being 'out of the market'*

44. I understand that the risk of being in cash and 'out of the market' has been raised. I understand this to be referring to the fact that once positions are liquidated they will sit in cash, not exposed to market risk. This would mean that the underlying investors would miss out on any market increases (but equally would avoid any market decreases).
45. To manage this risk, as part of the trading plan, I intend to:
- (a) sell the bulk of the assets (being the most liquid securities) towards the end of the trading window; and
  - (b) where assets are sold towards the start of the trading window (being the less liquid securities), these funds will be reinvested in liquid broad-based ETFs to maintain exposure to market risk.
46. This should minimise this risk during the trading window.
47. At the end of the trading window, I understand the Receivers will process the distributions of cash to Corporate Trustees and Beneficiaries. If a Corporate Trustee wished to hedge the risk of being out of the market between the end of the trading window and receipt of the cash distribution from the Receivers, in my view they could do so easily by engaging with an appropriate broker to, for instance, buy index futures or a leveraged ETF.

Affirmed by the deponent  
at Perth  
in Western Australia  
on 2 October 2025  
Before me:

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)  
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Signature of deponent



Signature of witness

Robert Malcolm

Australian Legal Practitioner who  
has held a practice certificate for at least 2 years  
and who holds a current practice certificate