

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 21/03/2023 10:04:18 AM AEDT
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File Number: NSD1007/2022
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v WEB3 VENTURES PTY LTD ACN 655 090 869
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



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 2 **Amended** Originating process

(rules 2.2 and 15A.3)

(Filed pursuant to the order of Jackman J dated 20 March 2023)

No. ~~NSD~~—NSD1007 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Australian Securities and Investments Commission

Plaintiff

Web3 Ventures Pty Ltd (ACN 655 090 869)

Defendant

A. DETAILS OF APPLICATION

This application is made under sections 601EE, 1101B(1), 1317E, 1317J(1) and 1324(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**), and sections 19 and 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**).

On the facts stated in the accompanying amended concise statement, the Plaintiff (**ASIC**) claims:

In relation to the Earner Product

Failure to hold an Australian financial services licence

1. A declaration pursuant to sections 1101B or 1317E of the Corporations Act or section 21 of the FCA Act that the defendant has contravened sections 911A(1) and 911A(5B) of the Corporations Act, because it has carried on a financial services business without holding an Australian financial services licence covering the provision of financial services with respect to the “Earner Product”.

Filed on behalf of (name & role of party)	The Plaintiff, Australian Securities and Investments Commission
Prepared by (name of person/lawyer)	Nick Kelton, Lawyer
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2. Orders pursuant to section 1317G(1)(a) of the Corporations Act that the defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of the defendant's contraventions of the Corporations Act which are the subject of the declaration at prayer 1 above, within 28 days.

Operating an unregistered managed investment scheme

3. A declaration pursuant to sections 1101B or 1317E of the Corporations Act or section 21 of the FCA Act that the Defendant has contravened section 601ED(5) of the Corporations Act because it operated an unregistered managed investment scheme in respect of the "Earner Product".
4. Orders pursuant to section 1317G(1)(a) of the Corporations Act that the Defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of the Defendant's contraventions of the Corporations Act which are the subject of the declaration at prayer 3 above, within 28 days.

~~5. Orders pursuant to section 601EE for the winding up of the "Earner Product" as an unregistered managed investment scheme, including appointment of an appropriate registered liquidator to wind up the scheme.~~

~~5. [not used]~~

Injunctive relief

6. A final injunction pursuant to sections 1101B or 1324 of the Corporations Act restraining the defendant from offering the "Earner Product" without an Australian financial services licence permitting it to provide financial services in relation to the "Earner Product".

~~7. [not used]~~

In relation to the Access Product

Failure to hold an Australian financial services licence

~~7A. A declaration pursuant to sections 1101B or 1317E of the Corporations Act or section 21 of the FCA Act that the defendant has contravened sections 911A(1) and 911A(5B) of the Corporations Act, because it is carrying on a financial services business without holding an Australian financial services licence covering the provision of financial services with respect to the "Access Product".~~



7B. Orders pursuant to section 1317G(1)(a) of the Corporations Act that the defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of the defendant's contraventions of the Corporations Act which are the subject of the declaration at prayer ~~5~~ 7A6 above, within 28 days.

Operating an unregistered managed investment scheme

7C. A declaration pursuant to sections 1101B or 1317E of the Corporations Act or section 21 of the FCA Act that the Defendant has contravened section 601ED(5) of the Corporations Act because it is operating an unregistered managed investment scheme in respect of the "Access Product".

7D. Orders pursuant to section 1317G(1)(a) of the Corporations Act that the Defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of the Defendant's contraventions of the Corporations Act which are the subject of the declaration at prayer 7C8 above, within 28 days.

7E. Orders pursuant to section 601EE for the winding up of the "Access Product" as an unregistered managed investment scheme, including appointment of an appropriate registered liquidator to wind up the scheme.

Injunctive relief

7F. A final injunction pursuant to sections 1101B or 1324 of the Corporations Act restraining the defendant from offering the "Access Product" without an Australian financial services licence permitting it to provide financial services in relation to the "Access Product".

7A-7G. Further, a final injunction pursuant to sections 1101B or 1324 of the Corporations Act requiring the defendant to ~~repay~~ pay to ~~consumers any amounts paid or lent by each consumer with an investment in the consumers~~ "Access Product", an amount equal to the ~~defendant in respect of amount invested by that consumer in the "Earner Access~~ Product", plus any returns owing, within 28 days.

Other

General

7.8. Costs.

8.9. Such further or other orders as the Court considers is appropriate.

Date: ~~23 November 2022~~ 21 March 2023



Nick Kelton

Nick Kelton, Lawyer

Australian Securities and Investments Commission

This application will be heard by at [address of Court] at *am/*pm on

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: [name and address of each defendant (if any)].

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

D. FILING

Date of filing: [date of filing to be entered by Registrar]

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Registrar

This originating process is filed by Nick Kelton, solicitor for the plaintiff.

E. SERVICE

The plaintiff's address for service is Level 7, 120 Collins Street, Melbourne, VIC 3000

It is intended to serve a copy of this originating process on the defendant.

The time by which a copy of this originating process is to be served has been abridged by order made by [name of Judge or other Court officer] on [date] to [time and date].