



Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID199/2025

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

FALCON CAPITAL LIMITED (ACN 119 204 554) and another named in the schedule
Defendants

ORDER

JUDGE: Justice Moshinsky

DATE OF ORDER: 9 April 2025

WHERE MADE: Melbourne

THE COURT NOTES THAT: for the purpose of this order:

“Digital Assets” means property, as defined under s 9 of the *Corporations Act 2001* (Cth) (**Corporations Act**) that is a digital currency, virtual currency, cryptocurrency or similar, or a digital asset, virtual asset or crypto-asset which is a digital representation of value or rights (including rights to property), the ownership of which is evidenced cryptographically and that is held or transferred electronically by a type of distributed ledger technology or another distributed cryptographically verifiable data structure.

“Property” means all real or personal property, assets or interests in property of any kind, within or outside Australia including, by virtue of s 1323(2A) of the *Corporations Act*, the First Guardian Master Fund (ARSN 635 429 113) and any property held otherwise than as sole beneficial owner, and for the avoidance of doubt includes Digital Assets.

THE COURT ORDERS THAT:

Winding up on just and equitable grounds

1. Pursuant to s 461(1)(k) of the *Corporations Act*, the First Defendant, Falcon Capital Limited, be wound up.
2. Ross Andrew Blakeley and Paul Stuart Harlond of FTI Consulting (**Joint and Several Liquidators**) be appointed as joint and several liquidators of the First Defendant.



3. The Plaintiff provide the Joint and Several Liquidators with copies of such books and records relating to the First Defendant which have been obtained by the Plaintiff under Pt 3, Div 3 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), that the Joint and Several Liquidators reasonably request in writing for the purpose of performing their duties.
4. Pursuant to s 601ND(1)(a) of the Corporations Act, the Joint and Several Liquidators of the First Defendant are directed to wind up the First Guardian Master Fund (ARSN 635 429 113).
5. Pursuant to s 601NF(2) of the Corporations Act, the Joint and Several Liquidators are directed to wind up the First Guardian Global Income Fund.
6. Pursuant to s 601NF(2) of the Corporations Act, the Joint and Several Liquidators are directed to wind up the First Guardian Australian Development Fund.
7. Pursuant to s 601NF(2) of the Corporations Act, the Joint and Several Liquidators are directed to wind up the First Guardian Absolute Equities Fund.
8. Pursuant to s 601NF(2) of the Corporations Act, the Joint and Several Liquidators are directed to wind up the First Guardian Trulet Innovation Fund.
9. Pursuant to s 601NF(2) of the Corporations Act, the Joint and Several Liquidators are directed to wind up the First Guardian Global Equity Fund.

Appointment of receivers and/or managers

10. Pursuant to s 1323(1)(h)(i) of the Corporations Act, Paul Anthony Allen of PKF Melbourne (**Receiver**) be appointed as receiver to the Property of the Second Defendant, Mr David Anderson.
11. The Receiver has, in respect of the Property of the Second Defendant, the following powers:
 - a. The power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the identification, preservation and securing of all the Property of the Second Defendant for the benefit of potential creditors.
 - b. Without limiting the generality of the power in the preceding sub-paragraph, the power to enter into possession and take control of the Property of the Second Defendant to the extent that the exercise of the power is reasonably necessary to achieve the purpose set out in paragraph 11(a) above.
12. The power referred to in paragraph 11 above shall not extend to the sale, letting or encumbering of the Property of the Second Defendant without prior leave of the Court or the consent of the Second Defendant.



13. The Receiver has the power to investigate and report on the following matters:
- a. the identification of the assets and liabilities of the Second Defendant;
 - b. an opinion as to the solvency of the Second Defendant;
 - c. any other information necessary to assess the financial position of the Second Defendant; and
 - d. any other matter that the Receiver considers relevant to the identification, preservation and securing of all the Property of the Second Defendant for the benefit of potential creditors,
- and must, within 60 days of the date of this order, provide the Court and parties with a report as to the receivership of the Second Defendant.
14. The Plaintiff provide the Receiver with copies of such books and records relating to the Second Defendant which have been obtained by the Plaintiff under Pt 3, Div 3 of the ASIC Act, that the Receiver reasonably requests in writing for the purpose of performing his duties.
15. The Receiver is entitled to such remuneration and expenses properly incurred in the performance of his duties and the exercise of his powers, as may be fixed by the Court on the application of the Receiver.
16. Remuneration and expenses of the Receiver shall be paid from the Property of the Second Defendant.

Freezing Orders

17. Paragraph 3 of the orders made on 17 March 2025, providing for matters which the Defendants are not prevented from doing, be further varied to add the following subparagraphs:
- “ f. *the Joint and Several Liquidators, or anyone authorised by them, from taking any action in relation to the Property of the First Defendant;*
 - g. *the Receiver, or anyone else authorised by them, from taking any action in relation to the Property of the Second Defendant; or*
 - h. *the Second Defendant from paying or otherwise incurring a liability for costs reasonably incurred: from the appointment of the Receiver according to these orders; or because of the Plaintiff's ongoing investigation as referred to in paragraphs 8 to 14 of the affidavit of Brody Wons dated 24 February 2025.*”



Costs

18. The First Defendant pay the Plaintiff's costs of the application to wind up the First Defendant filed on 17 March 2025 to be agreed, or failing agreement, to be taxed.
19. Pursuant to s 466(2) of the Corporations Act, the Plaintiff's costs referred to in paragraph 18 be taxed and paid out of the Property of the First Defendant.
20. As between the Plaintiff and Second Defendant, costs be reserved for determination after the report of the Receiver has been received.

Other matters

21. Pursuant to s 467(3)(b) of the Corporations Act, Rule 5.4 of the *Federal Court (Corporations) Rules 2000* (Cth), be dispensed with.
22. There be liberty to apply.

Date orders authenticated: 9 April 2025


Registrar

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



Schedule

No: VID199/2025

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Defendant

DAVID CHARLES KNOWLES ANDERSON