



Federal Court of Australia

District Registry: Queensland Registry

Division: General

No: QUD178/2024

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

**NGS CRYPTO PTY LTD ACN 624 825 065** and others named in the schedule  
Defendant

## **ORDER**

**JUDGE:** JUSTICE COLLIER

**DATE OF ORDER:** 6 August 2024

**WHERE MADE:** Brisbane

### **Definitions**

*"Concise Statement Application"* means any application filed by a Defendant in relation to any asserted deficiencies in the Plaintiff's Concise Statement filed on 13 June 2024.

*"Injunction Application"* means the relief sought in [23] of the Plaintiff's Originating Process filed 9 April 2024.

*"Non-Disclosure Order"* means order 14 of the Orders of Collier J dated 20 May 2024.

*"Non-Disclosure Order Application"* means the application for the lifting of the Non-Disclosure Order by the Plaintiff as served on the parties on 23 July 2024.

*"Undertaking"* means the undertaking by the first, second and third defendants as set out in Schedule 2 of these Orders.

*"Variation Application"* means paragraphs 8 to 20 of the interlocutory application filed by the Third and Fifth Defendants on 23 May 2024.



**UPON THE FIRST TO THIRD DEFENDANTS, BY THEIR COUNSEL,  
UNDERTAKING TO THE COURT IN THE TERMS SET OUT IN SCHEDULE 2,  
THE COURT ORDERS BY CONSENT THAT:**

**Variation Application**

1. The Variation Application be dismissed.
2. Costs of the Variation Application be reserved.

**Non-Disclosure Order and Non-Disclosure Order Application**

3. The Non-Disclosure Order be discharged.
4. Costs in relation to the Non-Disclosure Order Application be reserved.

**The Plaintiff's Injunction Application**

5. By 4:00pm on 16 August 2024 any of the First to Third Defendants who oppose the Plaintiff's Injunction Application file and serve any written submissions not exceeding 10 pages that identifies the basis for that opposition, along with any affidavit material on which it proposes to rely.
6. By 4:00pm on 23 August 2024 the Plaintiff file and serve any written submissions in response to any submissions filed in response to order 5 above not exceeding five pages, along with any affidavit material in reply.
7. The Plaintiff's Injunction Application be listed for a full day hearing at 10:15am on 10 September 2024.

**Applications regarding the Plaintiff's Concise Statement**

8. Any Defendant who wishes to make an application in relation to alleged deficiencies in the Plaintiff's concise statement are to file and serve any application, with submissions not exceeding 10 pages supporting that application by 4:00pm on 9 August 2024.
9. In the event no application is made by any Defendant pursuant to Order 8 above, each of the First, Second and Third Defendants file and serve a concise statement in response by 4pm on 16 August 2024.



10. In the event that any of the Defendants file an application pursuant to Order 8 above, the Plaintiff is to file and serve an outline of argument in response, not exceeding 10 pages by 4:00pm on 16 August 2024.
11. By 4.00pm on 23 August 2024, the plaintiff is to file and serve any reply to any response to the concise statement.
12. In the event that any of the Defendants file an application pursuant to Order 8 above, any such application is to be listed for hearing at 10:15am on 10 September 2024.

**Other matters**

13. The matter be listed for case management hearing at 10:15am on 10 September 2024 with parties to attend either in person or by Microsoft Teams.
14. Costs otherwise be reserved.
15. The parties have liberty to apply.

Date orders authenticated: 6 August 2024

  
Registrar

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



**Schedule 1**

No: QUD178/2024

Federal Court of Australia

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Interested Person	ANTHONY NORMAN CONNELLY, KATHERINE SOZOU AND WILLIAM JAMES HARRIS AS JOINT AND SEVERAL RECEIVERS
Second Defendant	NGS DIGITAL PTY LTD ACN 630 115 543
Third Defendant	NGS GROUP LTD (HK COMPANY NUMBER 1963940)
Fourth Defendant	BRETT ALLAN MENDHAM
Fifth Defendant	MARK JAMES TEN CATEN
Sixth Defendant	RYAN TODD BROWN



## Schedule 2

1. In this Schedule defined terms have the same meaning as given to those terms in the Originating Process filed on 9 April 2024 in this proceeding by the Plaintiff.
2. Each of the First and Second and Third Defendants undertake to the Court that, until excused by Order of the Court, that it will not, by itself, or by its officers, servants, agents, representatives or employees:
  - (a) promote, advertise, or market in Australia superannuation products and financial products involving investment in cryptocurrency or Blockchain Mining;
  - (b) promote or carry on the Business in Australia;
  - (c) promote or carry on any financial services business in Australia;
  - (d) receive, take, or accept new Investor Funds from any person in Australia;
  - (e) deal with Investor Funds, in any account with any bank, building society, cryptocurrency exchange, or hot or cold crypto-wallet, recorded in any blockchain or other financial institution (in Australia and elsewhere); and
  - (f) either directly or indirectly carry on a financial services business in Australia in contravention of section 911A of the Corporations Act.
3. Each of the First and Second and Third Defendants acknowledge that:
  - (a) each of them by this undertaking promise to the Court to comply with its terms; and
  - (b) this undertaking has the same effect as an order of the Court; and
  - (c) a breach of this undertaking may be a contempt of Court punishable by a fine or imprisonment.