



IN THE SUPREME COURT OF NEW SOUTH WALES No. 290408 of 2026
DIVISION: CORPORATIONS
REGISTRY: SYDNEY
IN THE MATTER OF CAPITAL GUARD AU PTY LTD ACN 168 216 742

Australian Securities and Investments Commission

Plaintiff

Capital Guard AU Pty Ltd (ACN 168 216 742)

Defendant

Originating process

A. DETAILS OF APPLICATION

This application is made under sections 461(1)(k), 462(2)(e), 464(1), 466 and 472(2) of the *Corporations Act 2001* (Cth) (**Act**); section 60-16 of Schedule 2 of the Act (**Insolvency Practice Schedule**); section 23 of the Supreme Court Act 1970 (NSW); and rule 1.8 of the *Supreme Court (Corporations) Rules 1999* (NSW):

- (a) as to final relief, for orders to wind up the defendant on the just and equitable ground; and
- (b) as to interim relief,
 - i. if necessary, for an order deeming service to have been effected by ASIC having taken the steps in paragraph 1 below; and
 - ii. for an order hearing of the application for relief be expedited, or in the alternative, for orders for the appointment of a provisional liquidator to the defendant.

On the facts stated in the supporting affidavit(s), the plaintiff claims the following relief:

Interim relief

1. An order that this Originating Process and the affidavit of Jenna Helen Molesworth sworn on 13 July 2026 (together, the **Documents**) be taken to have been served on Capital Guard AU Pty Ltd by ASIC having:
 - a. on 14 July 2026, left the Documents at Level 36, 1 Macquarie Place, Sydney NSW 2000;
 - b. on 14 July 2026, sent the Documents by email to Mr Angus Cameron, at the email address: angus@anguscameron.com.au;

- c. on 14 July 2026, sent the Documents by email to Mr Bill Doogue at the email address: bill@doogue.com.au; and
 - d. on 14 July 2026, sent to the Documents by email to Ms Victoria-Jane Otavski and Ms Olivia Gebron at victoria.jane@blackbaylawyers.com and olivia.gebron@blackbaylawyers.com.
- 2. An order that the hearing of the plaintiff's application for final relief in the form of orders for the winding up of the defendant, as sought in paragraphs 4 to 5 below, be expedited.
- 3. In the alternative to the relief sought in paragraph 2, orders that:
 - a. pursuant to s 472(2) of the Act, Robert Michael Kirman of McGrathNicol, Level 38, 2 The Esplanade, Perth WA 6000, and Jacinta Lee Nielsen of McGrathNicol, Level 6, 171 Collins Street, Melbourne VIC 3000, registered liquidators, be appointed as joint and several provisional liquidators of the defendant, until further order;
 - b. the plaintiff provide to the provisional liquidators:
 - i. all books and records in the plaintiff's possession that the plaintiff considers relevant to the provisional liquidators' role;
 - ii. all evidence filed by the plaintiff in these proceedings, including the affidavit of Jenna Helen Molesworth sworn on 13 July 2026 filed in this proceeding, and its exhibit JHM-1;
 - c. the provisional liquidators shall be entitled to such remuneration as is determined by the Court pursuant to section 60-16(1) of the Insolvency Practice Schedule.

Final relief

- 4. An order pursuant to section 461(1)(k) of the Act for the winding up of the defendant on the ground that the Court is of the opinion that it is just and equitable that it be wound up.
- 5. An order that Robert Michael Kirman of McGrathNicol, Level 38, 2 The Esplanade, Perth WA 6000, and Jacinta Lee Nielsen of McGrathNicol, Level 6, 171 Collins Street, Melbourne VIC 3000, registered liquidators, be appointed as joint and several liquidators of the defendant.

Other orders

- 6. An order that the parties and any provisional liquidators appointed to the defendant have liberty to apply on three days' notice by email to the Associate of the Corporations List Judge, specifying the relief sought.

7. An order that the plaintiff's costs of and incidental to this proceeding be costs in the winding up (as agreed or assessed) and reimbursed in accordance with section 466(2) of the Act.
8. Such further or other orders as the Court thinks fit.

Date: 13 July 2026



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Sam Gomersall
Solicitor for the 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:

Capital Guard AU Pty Ltd (ACN 168 216 742)

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.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable.

D. FILING

Date of filing: 13 July 2026

This originating process is filed by Sam Gomersall for the plaintiff.

E. SERVICE

The plaintiff's address for service is:

Attention: Sam Gomersall
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney NSW 2000

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