

Form 59
Rule 29.02(1)

Affidavit

No. WAD13 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: **Carmen Anne Leah Boothman**
Address: Level 20, 240 St Georges Terrace, Perth, Western Australia
Occupation: Lawyer
Date: 28 October 2024

THIRD AFFIDAVIT OF CARMEN ANNE LEAH BOOTHMAN

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Filed on behalf of (name & role of party) Court-appointed receivers and managers
Prepared by (name of person/lawyer) C A L Boothman
Tel (08) 6559 6526 Fax N/A
Email cboothman@hwle.com.au

Address for service Level 20, 240 St Georges Terrace, Perth WA 6000
(include state and postcode)

[Version 3 form approved 02/05/2019]

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CAB-31	Email from Ms Joanne Wild (Begbies) to the Receivers dated 21 October 2024	8	12-22
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CAB-37	Bundle of emails sent by the Receivers in response to each beneficiary response.	15	84-131

I Carmen Anne Leah Boothman, of care of Level 20, 240 St Georges Terrace, Perth in the State of Western Australia, lawyer, say on oath:

1. I am an Australian lawyer and partner of HWL Ebsworth Lawyers (**HWLE**), lawyers for the Receivers and Managers in these proceedings.
2. 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.
3. I crave leave to refer to the following:
 - (a) the Twelfth Affidavit of Linda Methven Smith filed with this Honourable Court on 19 October 2024 (**Twelfth Smith Affidavit**); and
 - (b) the Third Affidavit of Jemma Leigh Huntsman filed with this Honourable Court on 20 August 2024 (**Third Huntsman Affidavit**).
4. I adopt the defined terms contained in the affidavits described above at paragraph 3 unless otherwise stated.

Service of Application on ASIC

5. Attached hereto and marked "**CAB-28**" is a true copy of an email dated 21 October 2024 that I sent to Ms Iva Bacvic, Litigation Counsel at the Australian Securities and Investments Commission (**ASIC**), the applicant in these proceedings by which I served a copy of the following documents on ASIC:



- (a) the minute of proposed orders filed with this Honourable Court on 21 October 2024 (**Minute**); and
 - (b) the Twelfth Smith Affidavit.
- (the **Application**).

Notice of Application to Corporate Trustees

- 6. Attached and marked "**CAB-29**" is a true copy of an email, to which I was copied, dated 21 October 2024 from Ms Simone Basso of HWLE to the CT Email Addresses as well as King & Wood Mallesons, lawyers for the Relay Group Trustees, providing a copy of the Minute and Twelfth Smith Affidavit.
- 7. Attached and marked "**CAB-30**" is a true copy of an email, to which I was copied, dated 21 October 2024 from Ms Basso to Mr Hyde of Begbies Traynor providing a copy of the Minute and the Twelfth Smith Affidavit.
- 8. Attached and marked "**CAB-31**" is a true copy of an email dated 21 October 2024 which I am informed and verily believe was sent by Ms Wild of Begbies Traynor in her capacity as joint and several administrator of the Relay Group to the Receivers.

Notice of Application to IBAU

- 9. Attached and marked "**CAB-32**" is a true copy of an email, to which I was copied, dated 21 October 2024 from Ms Basso to Mr Jesse Dwyer of Ashurst, the solicitors for Interactive Brokers Australia Pty Ltd, providing a copy of the Minute and Twelfth Smith Affidavit.
- 10. Attached and marked "**CAB-33**" is a true copy of an email, to which I was copied, dated 21 October 2024 from Mr Jesse Dwyer of Ashurst in response. I am informed by Ms Basso and verily believe that at the time of swearing this affidavit no further response has been received from Ashurst to her email.

Notice of Application to Directors

- 11. Attached and marked "**CAB-34**" is a true copy of an email, to which I was copied, dated 21 October 2024 from Ms Basso to the directors of Brite Advisors Pty Ltd providing a copy of the Minute and the Twelfth Smith Affidavit. I am informed by Ms Basso and verily believe that at the time of swearing this affidavit no responses were received from the directors to her email.




Update to Beneficiaries and Corporate Trustees


- 12. Following the filing of the Application on 21 October 2024, the Receivers published an Update to Trustees and Beneficiaries dated 23 October 2024 (**23 October Update**). A copy of the October Update is annexed and marked "**CAB-35**".
- 13. I am informed by the Receivers and verily believe that the Twelfth Smith Affidavit was published on the creditors' website maintained by the Receivers on 23 October 2024, being the same date as the 23 October Update which contained, amongst other things, confirmation of the publication and a hyperlink to the published materials.


Correspondence with Beneficiaries

- 14. Attached and marked "**CAB-36**" is a bundle of responses to the 23 October Update which I am informed by the Receivers and verily believe were received by the Receivers.
- 15. Attached and marked "**CAB-37**" is a bundle of emails that I am informed by the Receivers and verily believe were sent from the Receivers in reply to the Beneficiaries' responses referred to at paragraph 14 above.

Sworn by the deponent
 at Perth
 in Western Australia
 on 28 October 2024
 Before me:

)
)
)
)
)


 Signature of deponent


 Signature of witness
MELISSA MARYOACE FERREIRA
 Australian Legal Practitioner who
 has held a practice certificate for at least 2 years
 and who holds a current practice certificate.

Annexure Certificate

No. WAD13 of 2024

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

Australian Securities and Investments Commission

Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-28**

This is the annexure marked "CAB-28" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



 MELISSA MARYDALE FERREIRA

Name of witness

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant		
Prepared by (name of person/lawyer)	C A L Boothman		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	(08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au		
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000		

[Version 3 form approved 02/05/2019]

Oliver Basura

From: Carmen Boothman
Sent: Monday, 21 October 2024 12:58 PM
To: iva.bacvic@asic.gov.au; Garth Fitzmaurice
Cc: Jemma Huntsman; Simone Basso
Subject: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]
Attachments: 2024.10.21 - Minute of Proposed Orders (Publication) (eLodged).pdf; 2024.10.19 - Twelfth Affidavit of Linda Methven Smith (eLodged).pdf; 2024.10.21 - Minute of Proposed Orders (13 December Data) (eLodged).pdf

Dear Iva and Garth

Please find **attached** by way of service the following documents:

1. Minute of proposed orders regarding the 13 December Data;
2. Supporting affidavit of Linda Smith affirmed 19 October 2024 (**Twelfth Smith Affidavit**); and
3. Minute of proposed orders for publication of the Twelfth Smith Affidavit (which we have asked his Honour Justice O'Sullivan to make administratively).

No need to review ahead of the weekly investigations call at 1pm, but we are able to answer any preliminary queries you may have on that call (and can facilitate a further call alter this week once you have had an opportunity to consider the material).

Kind regards
Carmen

Carmen Boothman
Partner

HWL
EBSWORTH
LAWYERS

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Phone +61 8 6559 6526
cboothman@hwle.com.au | www.hwlebsworth.com.au

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If you receive this communication by mistake we prohibit you from using it in any way and do not waive client legal privilege. Please notify us, delete the communication (and any attachments) and destroy all copies. We do not represent or warrant that this communication is free from computer viruses or other defects. You are responsible for all loss or damage caused directly or indirectly by the use of this communication. If you do not receive all of the email or attachments please notify us immediately by reply email. Please do not click on any links or open attachments unless you recognise the sender and have verified that the communication is genuine. This notice should not be deleted or altered.

Annexure Certificate

No. WAD13 of 2024

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

Australian Securities and Investments Commission

Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-29**

This is the annexure marked "**CAB-29**" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



MELISSA MARYDALE FERREIRA

Name of witness

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant		
Prepared by (name of person/lawyer)	C A L Boothman		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	(08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au		
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000		

Oliver Basura

From: Simone Basso
Sent: Monday, 21 October 2024 2:17 PM
Cc: 'Alison Robertson'; Carmen Boothman; Jemma Huntsman
Subject: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]
Attachments: 2024.10.19 - Twelfth Affidavit of Linda Methven Smith (eLodged).pdf; 2024.10.21 - Minute of Proposed Orders (eLodged).pdf

Dear Sir/Madam

Please find **attached** the following documents filed in the above proceedings today:

- Twelfth affidavit of Linda Smith affirmed 19 October 2024; and
- Minute of proposed orders dated 21 October 2024.

Kind regards

Simone Basso
Associate



Level 20, 240 St Georges Terrace | Perth WA 6000
Phone +61 8 6559 6630
sbasso@hwle.com.au | www.hwlebsworth.com.au

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If you receive this communication by mistake we prohibit you from using it in any way and do not waive client legal privilege. Please notify us, delete the communication (and any attachments) and destroy all copies. We do not represent or warrant that this communication is free from computer viruses or other defects. You are responsible for all loss or damage caused directly or indirectly by the use of this communication. If you do not receive all of the email or attachments please notify us immediately by reply email. Please do not click on any links or open attachments unless you recognise the sender and have verified that the communication is genuine. This notice should not be deleted or altered.

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Australian Securities and Investments Commission
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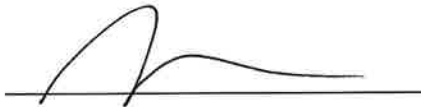
And

Brite Advisors Pty Ltd (ACN 135 024 412)

ANNEXURE CAB-30

This is the annexure marked "CAB-30" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



Name of witness

MELISSA MATILDE FERREIRA

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant		
Prepared by (name of person/lawyer)	C A L Boothman		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	(08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au		
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000		

Oliver Basura

From: Simone Basso
Sent: Monday, 21 October 2024 2:53 PM
To: 'Adrian Hyde'
Cc: 'Alison Robertson'; Carmen Boothman; Jemma Huntsman; 'Joanne.Wild@btguk.com'
Subject: FW: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]
Attachments: 2024.10.19 - Twelfth Affidavit of Linda Methven Smith (eLodged).pdf; 2024.10.21 - Minute of Proposed Orders (eLodged).pdf

Dear Adrian

We received the below out of office from Joanne.

Please see **attached** the following documents (which we provided to Joanne in our email sent earlier today):

- Twelfth affidavit of Linda Smith affirmed 19 October 2024; and
- Minute of proposed orders dated 21 October 2024.

Regards

Simone Basso
Associate



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 Phone +61 8 6559 6630
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If you receive this communication by mistake we prohibit you from using it in any way and do not waive client legal privilege. Please notify us, delete the communication (and any attachments) and destroy all copies. We do not represent or warrant that this communication is free from computer viruses or other defects. You are responsible for all loss or damage caused directly or indirectly by the use of this communication. If you do not receive all of the email or attachments please notify us immediately by reply email. Please do not click on any links or open attachments unless you recognise the sender and have verified that the communication is genuine. This notice should not be deleted or altered.

From: Joanne Wild <joanne.wild@btguk.com>
Sent: Monday, October 21, 2024 2:21 PM
To: Simone Basso <sbasso@hwle.com.au>
Subject: Automatic reply: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]

I am out of the office with ill health. I am checking emails intermittently, and shall deal with routine matters upon my return to business. Kind regards

SECURITY & CONFIDENTIALITY: This email and its attachments are confidential to the intended recipient. If this email is received in error, please contact our IT Department on +44 (0)333 009 6898 and provide details of the message. We have taken steps to ensure that this email and any attachments are free from any virus, however it is your responsibility to check that they are actually virus free. We do not accept any responsibility for viruses.

Annexure Certificate

No. WAD13 of 2024

Federal Court of Australia
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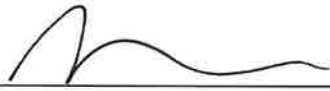
Australian Securities and Investments Commission
Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)

ANNEXURE CAB-31

This is the annexure marked "CAB-31" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness	
Name of witness	MELISSA MARJORIE FERREIRA
Address of witness	C/- HWL Ebsworth Lawyers Level 20 240 St George's Terrace Perth WA 6017
Capacity of witness	Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant		
Prepared by (name of person/lawyer)	C A L Boothman		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	(08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au		
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000		

Oliver Basura

From: Joanne Wild <Joanne.Wild@btguk.com>
Sent: Monday, 21 October 2024 5:24 PM
To: Linda Smith; Rob Kirman; FM-McN Brite Advisors
Cc: Adrian Hyde
Subject: RE: URGENT - Re: Allan Rankin

Dear Linda,

Thank you for your email.

Allan Rankin remains confident in the strength of his tracing claim but is content, **at this stage**, to put his detailed case before the court during the consultation process. His priority is to preserve the value of his investment insofar as possible and so he agrees to the disposal of the shares and the escrow account proposed.

Regarding share disposal he suggests the following. He understands that there is still strong institutional demand at these levels so believes the shares hopefully can all be sold relatively quickly. Assuming the selling broker has the facility to get an electronic quote, at around 9.30 am UK time, he advises securing an electronic quote to sell an initial 500,000 shares. He expects there to be bids for that amount within 0.2 p of the prevailing mid-price and on that basis the shares should be sold immediately at the price offered. The exercise should be repeated an hour later and a further sale made should the bidder return as expected. If the price is materially lower than the first purchase then the brokers should wait until the following day to re-start the process. The brokers should repeat the exercise, over a few days if necessary, although they will probably be contacted by a market making enquiring if there is more to sell by the second day. They can then reach agreement to dispose of the balance. Mr Rankin has experience of this, having disposed of over 20 million shares held personally in the same company.

If he is wrong and the brokers do not make any meaningful progress, then he will put them in direct contact with a market maker who he is confident will buy the shares.

Kind regards

Joanne Wild | Partner

DD: +350 200 66993 | M: +350 5741 9000

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Begbies Traynor (Gibraltar) Limited

Begbies Traynor (Gibraltar) Limited is a limited company registered in Gibraltar No. 120235, registered office Suite 3, Second Floor, ICOM House, 1/5 Irish Town, Gibraltar GX11 1AA.

From: Linda Smith <lsmith@mcgrathnicol.com>
Sent: Friday, October 18, 2024 9:41 AM
To: Joanne Wild <Joanne.Wild@btguk.com>; Rob Kirman <rkirman@mcgrathnicol.com>; FM-McN Brite Advisors <McNBriteAdvisors@mcgrathnicol.com>

Cc: Adrian Hyde <Adrian.Hyde@btguk.com>
Subject: RE: URGENT - Re: Allan Rankin

Dear Joanne

I refer to your email below dated 17 October 2024 and to Adrian's further email from 17 October 2024 (attached). In relation to the points you have raised, I advise the following:

- The Receivers are not disputing the fact that Mr Rankin instructed Brite Advisors to purchase shares in hVIVO to hold on his behalf or that there is evidence to establish a *prima facie* basis for Mr Rankin relying on a right to equitable tracing to those assets. However, there are also potential claims by other Beneficiaries against those shares which prevent the Receivers from properly assessing the merits of that claim and dealing with the shares as you have requested.
- It is important to note that our understanding is that Mr Rankin has not made a direct investment with Brite Advisors Pty Ltd. As we have been advised in the letter dated 13 June 2024 from Mr Allan Henderson (attached), we understand that Mr Rankin is the holder of an Apollo 480+ QROPS pension (**Pension Scheme**) provided by Corinthian Pension Trustees Limited (**Corinthian**) (being one of the entities to which you are appointed). The Platform Agreement entered into between Brite Advisors Pty Ltd and Corinthian (attached) must therefore also be considered from a contractual perspective in considering Mr Rankin's request. As a starting point, we do not consider that Mr Rankin's has any differing rights or exposure to other beneficiaries in the Pension Scheme, in particular in relation to Brite Advisor's Discretionary Fund Manager role, the omnibus structure of the Interactive Broker Account and margin loan position. The terms of the Platform Agreement, in particular the terms in Part D at clause 7 (entitled *Your Money*) and 8 (entitled *Custody of Your Investments*) point to these matters. As Trustee of the Pension Scheme, it is a difficult position to point to comingling and exposure to the margin loan as being *rendered impossible* for one individual member of the Pension Scheme.
- As we have set out in our previous correspondence is, the situation is that the hVIVO shares in question are held in an Interactive Brokers' omnibus account in the name of Brite Advisors Pty Ltd, not in the name of Mr Rankin. The shares are comingled with other investors' funds, which were also provided by Brite Advisors as security for the margin loan facility, and as such may be subject to claims by other Beneficiaries. We do not agree that the evidence you have provided renders this impossible. To be clear, the Receivers' concern is that Mr Rankin's investment may be subject to a pooling order on the basis that it forms part of a mixed fund. The case law establishes that pooling has been sanctioned by courts where there has been (i) a mixing of funds or assets across accounts (i.e. the comingling of assets within the omnibus account); or (ii) where funds in one trust has been applied to meet the obligations of another. In respect of this second type of mixing, Mr Rankin (along with other Beneficiaries with assets on the IB platform whose assets were not misappropriated to pay down the margin loan) benefited from misappropriation of other Beneficiaries' assets due to the reduction in the margin loan, and the resulting reduction in the risk of enforcement of that security against his assets.

- The reasons why the Receivers are currently unable to attend to the *in specie* transfer requested by Mr Rankin are set out in my email below dated 9 October 2024, the key reason being that the Receivers have not yet obtained distribution orders from the Federal Court and the process of allowing all other beneficiaries to verify their Valuation Notices.
- At this juncture, in particularly noting that the Receivers have not yet filed their Distribution Application, the Receivers do not comment on the merits of any equitable tracing claim that Mr Rankin may seek to assert and note that will be a matter for Mr Rankin to assert during the consultation period.
- Annexure F of the Receivers' 4 March 2024 Report notes that Brite Advisors does hold 5,068,359 of hVIVO shares on the Interactive Brokers Platform. As I noted below, Mr Rankin is not the only individual who instructed Brite Advisors to invest in hVIVO shares, being the reason why the total hVIVO holding is slightly higher than what was allocated to Mr Rankin's reported holding.

With a view to proposing a commercial resolution to address Mr Rankin's concern regarding the risk of the value of the hVIVO shares falling in value, we set out the proposal below (subject to Court Approval if acceptable to Mr Rankin) for consideration, which we do not consider would prejudice any other beneficiary:

- The snapshot below is sets out the historic movement in the share price of the hVIVO stock, from which you will note that that the stock has returned circa 32.24% since 13 December 2023.
- The Receivers would be willing to seek orders form the Court, requesting permission for the Receivers to instruct BML Funds to sell the portion of hVIVO stock (5,039,459 shares) held in Brite Advisors' name, allocated to Mr Rankin's pension.
- As you will be aware, hVIVO is domiciled in the UK and listed on the London Stock Exchange. The Receivers have raised the matter with BML Funds who have advised that (i) the average volume of over the last 3 months is 3.87m shares per day, meaning the shareholding of 5.04m shares would take some time to execute in the market, recommending to trade daily for two weeks.
- Upon receipt of the sale proceeds, these funds would be retained in a separate bank account held in the name of Brite Advisors under the Receivers' control pending the outcome of the Distribution Application and Mr Rankin's equitable tracing claim which will be required to be determined by the Court.
- If the sell down of hVIVO shares is approved by the Court, Mr Rankin will be required to consider any tax implications for himself/his pension fund.



Please let us know as soon as possible if Mr Rankin would like the Receivers to seek orders to sell the hVIVO shares in accordance with the proposal set out above.

Finally, please provide the attachments to the 13 June 2024 letter. This letter was provided to us by Allan Henderson (email attached), but no attachments were received.

Please let me know if you have any questions.

Regards

Linda

Linda Smith

Partner



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7633

McGrathNicol lsmith@mcgrathnicol.com



Celebrating 20 Years

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From: Joanne Wild <Joanne.Wild@btguk.com>

Sent: Thursday, 17 October 2024 8:28 PM

To: Linda Smith <lsmith@mcgrathnicol.com>; Rob Kirman <rkirman@mcgrathnicol.com>; FM-McN Brite Advisors <McNBriteAdvisors@mcgrathnicol.com>

Cc: Adrian Hyde <Adrian.Hyde@btguk.com>

Subject: RE: URGENT - Re: Allan Rankin

Dear Linda

Thank you for your email. Mr Rankin is considering its contents with his advisers but he makes the following initial points:

1. We do not understand why you have neither addressed nor disputed the evidence produced by Mr Rankin which shows very clearly that the shares were purchased by Interactive Brokers on his behalf (through Brite). This evidence includes - calls and texts messages to Mr Rankin from Wadia of Brite, completed share purchase orders on each relevant day, and confirmations of purchase, the purchase monies taken from Mr Rankin's account, Mr Rankin's statements, confirmation of company name change (to HVIVO plc) and finally that he received in June 2023 a dividend reflecting the precise number of shares to which he makes claim. If you disagree that this evidence demonstrates beyond doubt Mr Rankin's share ownership, please tell us why.
2. Mr Rankin provided this information on 13 June and we consider such clear evidence to be precisely the circumstances where an equitable tracing claim will succeed even where there has been purported or attempted comingling of the shares or that they "were purportedly leveraged to secure a margin loan facility." The evidence provided renders that impossible.
3. Likewise, you do not comment on the HVIVO (Poolbegpharma) email dated 3 May 2024 which confirms the number of shares held by Interactive Brokers Australia Pty, on behalf of Brite, as being 5,068,359, a number slightly above the amount held on behalf of Mr Rankin.


On any basis, these facts establish beyond doubt his claim and your continued refusal to address the evidence is causing Mr Rankin further damage as the shares decrease in value, as has been drawn to your attention in previous correspondence. In the absence of any meaningful response to establish any dispute to the claim, the only proper approach is for you to now make an application to court for leave to transfer the shares to Mr Rankin as requested. But in any event, this correspondence and your failure to address the evidence must be drawn to the attention of the court in your forthcoming report. Please confirm.

Kind regards

Joanne Wild | Partner

DD: +350 200 66993 | M: +350 5741 9000

Begbies Traynor | Suite 914 Europort, Europort Road, Gibraltar, GX11 1AA | T: +350 200 66993 | W: www.begbies-traynor.com

 Begbies Traynor (Gibraltar) Limited

Begbies Traynor (Gibraltar) Limited is a limited company registered in Gibraltar No. 120235, registered office Suite 3, Second Floor, ICOM House, 1/5 Irish Town, Gibraltar GX11 1AA.

From: Linda Smith <lsmith@mcgrathnicol.com>
Sent: Wednesday, October 9, 2024 7:57 AM
To: Adrian Hyde <Adrian.Hyde@btguk.com>
Cc: Joanne Wild <Joanne.Wild@btguk.com>; Rob Kirman <rkirman@mcgrathnicol.com>; FM-McN Brite Advisors <McNBriteAdvisors@mcgrathnicol.com>
Subject: RE: URGENT - Re: Allan Rankin

Dear Joanne and Adrian,

Thank you for your email below.

From your email to us dated 27 September 2024, we understand that Mr Rankin has proposed the following:

- The Receivers effect the transfer of HVIVO shares *in specie* to Mr Rankin; and
- Mr Rankin will make an "*immediate cash contribution to Receivers, in the same pro rata percentage as the proposed reduction to be incurred by the other beneficiaries*".

We assume the proposed cash contribution is referring to the variance/shortfall the Receivers have identified within their reports to the Court (which have been published via McGrathNicol's website), but please let us know if we have misunderstood what is being proposed.

The Receivers consider there are a number of difficulties with giving effect to Mr Rankin's proposal as set out below.

- i. The HVIVO shares in question are held in an Interactive Brokers' omnibus account in the name of Brite Advisors Pty Ltd, not in the name of Mr Rankin, and therefore are comingled with other investors' funds and, even if the Receivers could satisfy themselves that there was no variance between the quantity of HVIVO shares held and the quantities beneficiaries were led to believe were held, the shares are part of the assets that were purportedly leveraged to secure a margin loan facility.
- ii. The Interactive Brokers accounts in which the HVIVO shares are held are subject to Asset Preservation Orders obtained by ASIC in late 2023 (which have subsequently been varied by orders sought by the Receivers and made by his Honour on 6 March 2024). The Receivers do not have authority to effect the proposed *in specie* transfer, in absence of an order from the Federal Court varying the Asset Preservation Orders to permit the Receivers to do so.

- iii. The Receivers must treat all beneficiaries' claims equally and cannot prioritise the claims of certain beneficiaries over the claims of others.
- iv. On 5 June 2024, the Court made orders (attached) requiring the Receivers to value all beneficiaries' investments as at 13 December 2023. This is the date that will be used to assess the amounts owing to each of the beneficiaries, meaning movement of value post this date may be somewhat academic, unless an individual beneficiary is successful in demonstrating to the Court that they have an equitable tracing claim to a specific shareholding etc. Given the mixing of the assets by both comingling them in the IBAU accounts and by leveraging the assets as security for the margin loan facility, it is difficult to see how any equitable tracing claims could succeed. The proposed consultation period will be the appropriate time for any such arguments to be presented to the Court, which has been outlined within the indicative timetable at paragraph 2.1.8 of the Receivers' Fourth Report dated 9 August 2024.
- v. In accordance with the orders made by the Court on 2 September 2024, the Receivers are in the process of verifying beneficiaries' entitlements, which includes the preparation and issuing of the Valuation Notices to beneficiaries. On that basis, and in addition to point (iii) above, the Receivers will not be in a position to consider any proposal along the lines of Mr Rankin's until all beneficiaries have had an opportunity to consider and respond to their Valuation Notices, and the entitlement verification process has been completed. We further note that Mr Rankin is not the only beneficiary recorded as holding HVIVO shares on the Brite Platform.

Notwithstanding the above, the Receivers are cognisant of the position of bespoke investors such as Mr Rankin and are in the process of preparing an update to the Court following the hearing on 2 September 2024, which will include the Receivers' views on what steps, if any, should be taken with respect to the bespoke assets to protect and preserve beneficiaries' interests in them.

Please let me know if you have any questions or would like to discuss.

Regards

Linda

Linda Smith

Partner



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7633

McGrathNicol lsmith@mcgrathnicol.com



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From: Adrian Hyde <Adrian.Hyde@btguk.com>
Sent: Tuesday, October 8, 2024 7:14 PM
To: Linda Smith <lsmith@mcgrathnicol.com>
Cc: Joanne Wild <Joanne.Wild@btguk.com>; Rob Kirman <rkirman@mcgrathnicol.com>; FM-McN Brite Advisors <McNBriteAdvisors@mcgrathnicol.com>
Subject: URGENT - Re: Allan Rankin

EXTERNAL SENDER

Dear Linda,

I am just chasing up my email of last week. Mr Rankin is very concerned as, predicted by him, the shares have already lost almost 10% of value over the last week, and he predicts further falls.

I look forward to hearing from you.

Kind regards,

Adrian

Adrian Hyde | Partner

Begbies Traynor | 31st Floor, 40 Bank Street, London, E14 5NR | T: 020 7516 1500



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<http://www.begbies-traynorgroup.com/about-us/recognised-professional-bodies>

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From: Adrian Hyde
Sent: Friday, October 4, 2024 2:17:53 PM
To: Linda Smith <lsmith@mcgrathnicol.com>

Cc: Joanne Wild <Joanne.Wild@btguk.com>

Subject: Allan Rankin

Dear Linda,

Thank you for your email to Joane regarding Mr Rankin. I am responding in her absence. I can confirm that we/ Mr Rankin are content for you to proceed in the manner you suggest and to disclose Mr Rankin's proposal. Mr Rankin contends that the documents alone are sufficient in any event to demonstrate his entitlement, without reference to the correspondence.

To be clear, Mr Rankin's proposal to make a cash contribution from his own funds in return for the transfer of the shares to him personally arises purely because of his concern that market movements could cause him losses well in excess of such contribution.

Kind regards,

Adrian

Adrian Hyde | Partner

Begbies Traynor | 31st Floor, 40 Bank Street, London, E14 5NR | T: 020 7516 1500



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Any reference to a partner is to a member of the limited liability partnership. A list of members is available for inspection at the registered office.

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Annexure Certificate

No. WAD13 of 2024

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

Australian Securities and Investments Commission

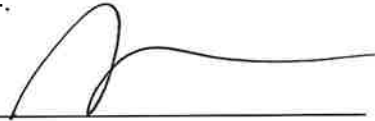
Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-32**

This is the annexure marked "CAB-32" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



Name of witness

MELISSA MARYVALE FERREIRA

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant		
Prepared by (name of person/lawyer)	C A L Boothman		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	(08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au		
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000		

Oliver Basura

From: Simone Basso
Sent: Monday, 21 October 2024 4:21 PM
To: 'Jesse.Dwyer@ashurst.com'; 'Catherine.Pedler@ashurst.com'
Cc: Alison Robertson; Carmen Boothman; Jemma Huntsman
Subject: FW: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]
Attachments: 2024.10.19 - Twelfth Affidavit of Linda Methven Smith (eLodged).pdf; 2024.10.21 - Minute of Proposed Orders (eLodged).pdf

Dear Jesse and Catherine

We have just sent the below correspondence, however we received a bounce back in respect of your emails.

We are therefore re-sending the below and **attached**.

Kind regards

Simone Basso
 Associate



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 Phone +61 8 6559 6630
sbasso@hwle.com.au | www.hwlebsworth.com.au

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From: Simone Basso
Sent: Monday, October 21, 2024 4:17 PM
To: 'Jesse.Dwyer@ashurst.com, Catherine.Pedler@ashurst.com' <Jesse.Dwyer@ashurst.com, Catherine.Pedler@ashurst.com>; 'Camilla.Clemente@ashurst.com' <Camilla.Clemente@ashurst.com>; 'Corey.McHattan@ashurst.com' <Corey.McHattan@ashurst.com>; 'Sam.Mengler@ashurst.com' <Sam.Mengler@ashurst.com>
Cc: 'Alison Robertson' <ajrobertson@hwle.com.au>; Carmen Boothman <cboothman@hwle.com.au>; Jemma Huntsman <jhuntsman@hwle.com.au>
Subject: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]

Dear Jesse

By way of service, please find **attached** the following documents filed via e-lodgment today:

- Twelfth affidavit of Linda Smith affirmed 19 October 2024; and
- Minute of proposed orders dated 19 October 2024.

Although your client is only a party to the proceedings for the purpose of the 5 June 2024 orders, we bring the application to your attention as it proposes extension of the milestone dates for filing of the explanatory memorandum, etc.

Kind regards

Simone Basso
Associate



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sbasso@hwle.com.au | www.hwlebsworth.com.au

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Annexure Certificate

No. WAD13 of 2024

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

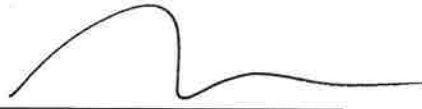
Australian Securities and Investments Commission
 Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-33**

This is the annexure marked "**CAB-33**" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



Name of witness

MELISSA MARYDALE FENEINA

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant	
Prepared by (name of person/lawyer)	C A L Boothman	
Law firm (if applicable)	HWL Ebsworth Lawyers	
Tel (08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au	
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000	

Oliver Basura

From: Jesse.Dwyer@ashurst.com
Sent: Monday, 21 October 2024 5:45 PM
To: Simone Basso; Catherine.Pedler@ashurst.com
Cc: Alison Robertson; Carmen Boothman; Jemma Huntsman
Subject: RE: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928] [ASH-AUS.FID31188058]

Thanks Simone

Confirming we have received now.

We will consider and revert with anything arising.

Kind regards

Jesse Dwyer

Senior Associate

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From: Simone Basso <sbasso@hwle.com.au>
Sent: Monday, October 21, 2024 7:22 PM
To: Dwyer, Jesse 66210 <Jesse.Dwyer@ashurst.com>; Pedler, Catherine 68064 <Catherine.Pedler@ashurst.com>
Cc: Alison Robertson <ajrobertson@hwle.com.au>; Carmen Boothman <cboothman@hwle.com.au>; Jemma Huntsman <jhuntsman@hwle.com.au>
Subject: FW: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]

Caution: External email.

Dear Jesse and Catherine

We have just sent the below correspondence, however we received a bounce back in respect of your emails.

We are therefore re-sending the below and **attached**.

Kind regards

Simone Basso
Associate



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From: Simone Basso

Sent: Monday, October 21, 2024 4:17 PM

To: 'Jesse.Dwyer@ashurst.com, Catherine.Pedler@ashurst.com' <Jesse.Dwyer@ashurst.com, Catherine.Pedler@ashurst.com>; 'Camilla.Clemente@ashurst.com' <Camilla.Clemente@ashurst.com>; 'Corey.McHattan@ashurst.com' <Corey.McHattan@ashurst.com>; 'Sam.Mengler@ashurst.com' <Sam.Mengler@ashurst.com>

Cc: 'Alison Robertson' <ajrobertson@hwle.com.au>; Carmen Boothman <cboothman@hwle.com.au>; Jemma Huntsman <jhuntsman@hwle.com.au>

Subject: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]

Dear Jesse

By way of service, please find **attached** the following documents filed via e-lodgment today:

- Twelfth affidavit of Linda Smith affirmed 19 October 2024; and
- Minute of proposed orders dated 19 October 2024.

Although your client is only a party to the proceedings for the purpose of the 5 June 2024 orders, we bring the application to your attention as it proposes extension of the milestone dates for filing of the explanatory memorandum, etc.

Kind regards

Simone Basso
Associate



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No. WAD13 of 2024

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 District Registry: Western Australia
 Division: General

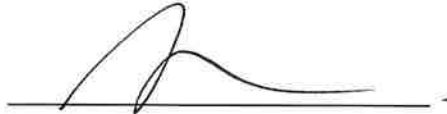
Australian Securities and Investments Commission
 Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-34**

This is the annexure marked "**CAB-34**" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



Name of witness

MELISSA MARYDALE FERREIRA

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant	
Prepared by (name of person/lawyer)	C A L Boothman	
Law firm (if applicable)	HWL Ebsworth Lawyers	
Tel	(08) 6559 6526	Tel (08) 6559 6526
Email	cboothman@hwle.com.au	
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000	

Oliver Basura

From: Simone Basso
Sent: Monday, 21 October 2024 4:04 PM
To: 'deanlionel@gmail.com'; 'ksedergreen@gmail.com'; 'j.c.lymer@hotmail.com'
Cc: 'Alison Robertson'; Carmen Boothman; Jemma Huntsman
Subject: WAD13/2024: ASIC v Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) [HWLE-MATTER.C0220392.1202928]
Attachments: 2024.10.19 - Twelfth Affidavit of Linda Methven Smith (eLodged).pdf; 2024.10.21 - Minute of Proposed Orders (eLodged).pdf

Dear Sirs

Please find **attached** the following documents filed in the above proceedings today:

- Twelfth affidavit of Linda Smith affirmed 19 October 2024; and
- Minute of proposed orders dated 21 October 2024.

Kind regards

Simone Basso
Associate



Level 20, 240 St Georges Terrace | Perth WA 6000
Phone +61 8 6559 6630
sbasso@hwle.com.au | www.hwlebsworth.com.au

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Annexure Certificate

No. WAD13 of 2024

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

Australian Securities and Investments Commission

Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-35**

This is the annexure marked "**CAB-35**" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



Name of witness

MELISSA MARYDALE FERREIRA

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant	
Prepared by (name of person/lawyer)	C A L Boothman	
Law firm (if applicable)	HWL Ebsworth Lawyers	
Tel (08) 6559 6526	Tel	(08) 6559 6526
Email	cboothman@hwle.com.au	
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000	



McGrathNicol

23 October 2024

ABN 41 945 982 761
 Level 19, 2 The Esplanade
 Perth WA 6000,
 GPO Box 9986
 Perth WA 6848,
 T +61 8 6363 7600
 F +61 8 6363 7699
 mcgrathnicol.com

Brite Advisors Pty Ltd (In Liquidation) (Receivers and Managers Appointed)
ACN 135 024 412
(Brite Advisors)

Update – October Application

I refer to our update of 16 October 2024 and confirm the Receivers have filed an application with the Court which comprises the following:

- Minute of Proposed Orders; and
- Twelfth Affidavit of Linda Smith affirmed 19 October 2024 (**Twelfth Smith Affidavit**),
 (together, **the Application**).

The Court has listed the Application for a hearing at 9am (Australian Western Standard Time) / 11.30am (Australian Central Daylight Time) on Tuesday, 29 October 2024.

We expect that the hearing will be livestreamed via the Court's YouTube channel which can be accessed at <https://www.youtube.com/@FederalCourtAus>.

The Receivers have asked the Court to make orders in the Application as follows:

- That the Receivers can adjust the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023 to:
 - correct the data for errors identified relating to dividends and coupons paid; and
 - remove withholding tax (meaning withholding tax will be applied by an adjustment at a later date).
- That the Receivers can engage an expert to value structured notes at fair value.
- That the Receivers can value the Minerva notes at cost price.
- That the date by which the Receivers are to file the Explanatory Memorandum be extended to 4 December 2024.
- That the Receivers can move certain cash held in the accounts of Brite Advisors existing prior to the Receivers' appointment to an alternate Australian ADI to allow those funds to earn an increased return.
- Providing directions to the Receivers on the appropriate approach where an error is identified in a Beneficiary's Valuation Notice after the Notice has already been confirmed by the Beneficiary.



- That the Receivers may sell the Bespoke holding of one specific Beneficiary where instructions are given, and hold the proceeds as cash pending the Court's final determination of the appropriate distribution of the Client AuM.

The Receivers have obtained orders from the Court to publish the Twelfth Smith Affidavit so that the Beneficiaries, Corporate Trustees and other interested parties have the benefit of the detailed information contained in the Twelfth Smith Affidavit which provides the basis for the orders sought by the Receivers.

The Twelfth Smith Affidavit sets out the Receivers' position on the proposed orders sought in relation to the various issues identified by the Receivers in Brite Advisors' recording of historical data, including in relation to:

- the steps taken by the Receivers to verify the 13 December Data to ensure its accuracy before issuing Valuation Notices to Beneficiaries;
- the Receivers' proposed amendments to the 13 December Data;
- the Receivers proposed treatment of withholding tax;
- the Receivers proposed steps to value structured notes and Minerva notes; and
- the Receivers proposed future and immediate steps with respect to bespoke assets.

The Twelfth Smith Affidavit is available on our website, which can be accessed here:

<http://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd>.

The Receivers will provide a further update to Beneficiaries and Corporate Trustees following the hearing of the Application.

Yours faithfully

Brite Advisors Pty Ltd (In Liquidation) (Receivers and Managers Appointed)

A handwritten signature in cursive script that reads "Linda Smith".

Linda Smith
Receiver and Liquidator

Annexure Certificate

No. WAD13 of 2024

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

Australian Securities and Investments Commission

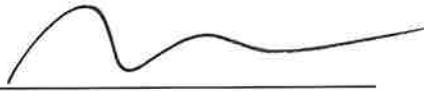
Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-36**

This is the annexure marked "CAB-36" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness



Name of witness

MELISSA MARYOALE FERREIRA

Address of witness

C/- HWL Ebsworth Lawyers
 Level 20
 240 St George's Terrace
 Perth WA 6017

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant		
Prepared by (name of person/lawyer)	C A L Boothman		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel (08) 6559 6526	Tel	(08) 6559 6526	
Email	cboothman@hwle.com.au		
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000		

Oliver Basura

From: Henk Binsbergen - Pretoria Machinery Works <henk@pmw-hinges.com>
Sent: Thursday, 24 October 2024 4:04 PM
Cc: FM-Brite Advisors Investor Queries
Subject: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Follow Up Flag: Follow up
Flag Status: Flagged



EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely fe, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio:-

UBS Note, XS1863909385, with 43000 units;
Goldman Sachs Note XS1755315642, with 50000 units;
Goldman Sachs Note XS1852251278, with 44000 units.

Thank you and kind regards.

--

Kind regards

Henk Binsbergen

082 570 4001

henk@pmw-
hinges.com

Oliver Basura

From: Gaz Barlow <gaz@hwglassworks.com>
Sent: Thursday, 24 October 2024 1:38 PM
To: FM-Brite Advisors Investor Queries
Subject: Enquiry

Follow Up Flag: Follow up
Flag Status: Flagged

**EXTERNAL SENDER**

Dear Ms Smith and Mr Kirman,

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
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There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio a Goldman Sachs Note, XS1829821734, with 38285 units.

Kindly note that the Brite Butler valuation, as at November 2023, misquotes the number of units by 90%, with only 10% reflecting .

Regards,

Gaz Barlow

Oliver Basura

From: David Anderson <david.fordyce.anderson@gmail.com>
Sent: Wednesday, 23 October 2024 11:59 PM
To: FM-Brite Advisors Investor Queries
Subject: FW: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024
Attachments: Update to Trustees and Beneficiaries - 23 October 2024.pdf; BRITE 20220721 15.pdf; BRITE 20221104 REVIEW.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

You don't often get email from david.fordyce.anderson@gmail.com. [Learn why this is important](#)

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me (attached) mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

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- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

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(**) Coupon to either Early Maturity or Full Maturity

less

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There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided (or see attached). However, it should appear to me that you have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio a UBS Note, XS1807491953, with 27000 units which would have matured on 20 May 2024. The 11% coupon for 6 years would have earned GBP 17 820-00 on maturity. As Brite failed to simultaneously repurchase the Structured Note as recommended (item 2 on page 12 of the attached Advice Record of 21 July 2022), I have claimed the loss of GBP 14 215-50 as per my email of 4 September 2024. As there is no longer the Structured Note (so nothing to value), it is now a matter of identifying the proceeds and dealing with the claim for the shortfall.

Please amend your records to note my preferred email address as below (or send to both emails addressed as you were doing in the past).

Yours faithfully

Due to a technical problem, my outward emails are being sent through my gmail address.

When sending emails to me please use the telkomsa address below.

David Anderson
8 Meyer Road
Bordeaux
Randburg
2194
South Africa
Telephone: +27 11 789-3040
Cellphone: +27 83 307-4924
Email: David.Anderson@telkomsa.net

From: David Anderson

Sent: Wednesday, 23 October 2024 15:33

To: David Anderson <David.Anderson@telkomsa.net>

Subject: Fwd: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Sent from my iPhone

Begin forwarded message:

From: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Date: 23 October 2024 at 08:13:49 SAST

To: Undisclosed recipients;

Subject: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

Oliver Basura

From: Linda Smith <lsmith@mcgrathnicol.com>
Sent: Thursday, 24 October 2024 8:45 PM
To: Carmen Boothman; Jeremy Birch
Cc: Simone Basso; Jemma Huntsman; James Clark; Lauren Burton; Rob Kirman; Amber Kirkbright; Clare Hayman; FM-McN Brite Advisors
Subject: FW: Dividend and withholding inaccuracies - Brite Pty
Attachments: brite_funds_reconciliation.xlsx



Carmen/Jeremy

Please see below the email received from Doug Ellison.

We will consider and draft some points tomorrow for your consideration. He has completely missed the fact that there is only one account holder with IBAU.

Regards

Linda

Linda Smith

Partner



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7633

McGrathNicol lsmith@mcgrathnicol.com



Celebrating 20 Years

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From: Douglas Ellison <douglas.ellison@gmail.com>
Sent: Thursday, 24 October 2024 8:27 PM
To: Linda Smith <lsmith@mcgrathnicol.com>; Rob Kirman <rkirman@mcgrathnicol.com>
Cc: Brite.Investigation@asic.gov.au; FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>; Hill, Travis <hilltr@sec.gov>; Marilu Agius <marilu.agius@stmalta.com>; STM MALTA INTERMEDIARY RELATIONS <intermediaryrelations@stmalta.com>; edmund.truell@psf.capital; AppsA@sec.gov; executive.casework@fca.org.uk;

grantj@sec.gov; Neale Prior <neale.prior@wanews.com.au>; Hussain, Ali <ali.hussain@sunday-times.co.uk>; Sam Bojarski <sbojarski@citywireusa.com>; Martin Byrne <martin.byrne@briteadvisors-usa.com>
Subject: Dividend and withholding inaccuracies - Brite Pty

EXTERNAL SENDER

Dear Linda

It is with some disappointment that I read your email dated today, 23rd October 2024, confirming that you are to reveal further discrepancies in the AuM arising from your investigations.

Disappointed in the first because a number of people I believe have raised the issue of potential dividend skimming over the time that McN has been in its role(s).

Second because McN has not provided yet an accurate reconciliation between the various reports of the discrepancies across the various reports filed with the Court.

I had decided not to comment further given the last rather curt and rude reply from McN and as it appeared that we were finally making satisfactory progress to a resolution.

However the fact that, as I suspected in August, McN had been rather economical with the full picture of the discrepancies, I feel compelled to comment.

Accordingly I have attached a spreadsheet I compiled in August detailing the various common metrics McN has reported on over the past year. The only consistent thing about the reporting of these numbers has been. The inconsistency and the lack of reconciliation/explanation as the numbers have changed. Across the reports.

I would have expected that McN would have provided a reconciliation between the numbers to explain why the numbers have changed across the reports.

I would therefore request that a full reconciliation between the various reports McN has made, is provided as soon as possible given the further variations you are about to reveal.

EXAMPLES OF INCONSISTENT REPORTING (OTHERS PROVIDED IN THE ATTACHED SPREADSHEET)

GROSS AUM

Reported 4th March 2024 as of 15th February 2024 - \$777.2m

Reported 9th August 2024 as of 13th December 2024 - \$749.6m

OTHER LIABILITIES

Reported 4TH March 2024 as of 15th February 2024 - \$36.9m

No longer appears on any report or reconciliation from Gross AuM to net available to beneficiaries

OVERALL DISCREPANCY FOR THE ACCOUNT OF BENEFICIARIES

Reported 4th March 2024 as of 15th February 2024 - \$68m

Reported 9th August 2024 as of 5TH August 2024 - \$96.3m

UNAUTHORISED WITHDRAWALS

Reported 24th January 2024 as of 13th December 2023 - \$63.961m

Reported 9th August 2024 as of 13th December 2024 - \$32.5m

WITHHOLDING AND DIVIDEND INACCURACIES

In MCN's most recent communications, there have been allegations of further inconsistencies regarding withholding taxes and dividends.

As has been pointed out to you several times previously, The IBA systems should contain a plethora of static data to ensure the correct deductions are made on funds received from securities for withholding tax.

Indeed, as has also been pointed out to you, the segregation of funds in the omnibus accounts enabled the division of groups of beneficiaries according to their residential jurisdictions to facilitate both the regulatory requirements of their jurisdiction and the withholding obligations.

IBA should have had sufficient information to ensure the correct deductions were made as funds were allocated to the various omnibus accounts at the beneficiary level. Again, I provided you with details of how the IBA systems can be specified to ensure all aspects of beneficiary account management should have been executed professionally and accurately.

Are you saying that the failure to deduct was made by IBA? In which case this is another failure of their duties as fiduciary custodians. In which case what action do you or ASIC intend to pursue against IBA for their negligence?

Or are you saying the Brite PTY manipulated the amounts credited by IBA after IBA had correctly deducted the appropriate withholdings and diverted these funds?

Regards

Douglas Ellison

This email is confidential and may be legally privileged; it is intended solely for the addressee. Access by anyone else is unauthorised. If you have received this email in error please notify us immediately by return email or telephone +612 9338 2600 then delete and destroy any copies of it. Any unauthorised disclosure, copying, distribution or any action taken or not taken in reliance on it is prohibited and may be unlawful. Any opinions or advice contained in this email are subject to the terms and conditions of the governing McGrathNicol engagement letter. Opinions, conclusions and other information in this email and any attachments that do not relate to McGrathNicol business are not given or endorsed by it. McGrathNicol cannot guarantee that emails are secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late/incomplete or contain viruses. Liability limited by a scheme approved under *Professional Standards Legislation*.

Oliver Basura

From: Vincent Wilson <Vincent.Wilson@archwayprivatewealth.us>
Sent: Friday, 25 October 2024 6:06 AM
To: FM-Brite Advisors Investor Queries
Subject: Questions re: Update 16 October 2024

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sirs

In my position as the appointed financial advisor to Mr Robert Grundy as well as others who are Brite clients, I have some questions relating to the recent update of 16 Oct 2024. If you could reply with answers to the following it would be most appreciated;

Q1: Why delay the Valuation Notices due to the issue of missing dividends but not due to the missing Withholding Tax? This is inconsistent especially since the dividend issue amounts to an insignificant \$477 per affected client.

Q2: Where are the structured notes currently held? IBAU are not able to hold notes so they must be on another platform somewhere else.

Q3: What are the Minerva Notes? Are these a type of structured note, loan note or something else?

Best,

Vincent

From: FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com>
Date: Friday, 4 October 2024 at 6:50 PM
To: Rob Grundy <rg7cavn@gmail.com>
Cc: Vincent Wilson <Vincent.Wilson@archwayprivatewealth.us>
Subject: RE: Verification

You don't often get email from briteadvisorsidentification@mcgrathnicol.com. [Learn why this is important](#)

Hi Rob,

We can confirm that your submission has been received and verified.

The Receivers will provide further correspondence in relation to the Valuation Notice and Salesforce access in due course.

Thank you for completing the ID proofing process.

Regards,

Marco

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com



Visit our new website
mcgrathnicol.com



From: Rob Grundy <rg7cavn@gmail.com>
Sent: Friday, October 4, 2024 2:01 AM
To: FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com>
Cc: Vincent Wilson <vincent.wilson@archwayprivatewealth.us>
Subject: Re: Verification

EXTERNAL SENDER

Thank you, I did manage to file it eventually after extensive efforts and time. It worked on my iPhone, but not iPad! I'm sorry I was a little curt...borne of frustration with the process. Hopefully now received, it said successfully submitted, but if there are any follow up issues, please let me know.

Kind Regards,

Charles R Grundy

Sent from my iPad

On Oct 3, 2024, at 8:54 AM, FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com> wrote:

Hi Rob,

In relation to the ID verification process, refer attached for my earlier response.

I have Cc'd the Investor Queries team who will be able to assist with your withdrawal request.

Regards,

Michael

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com



Visit our new website
mcgrathnicol.com



-----Original Message-----

From: Rob Grundy <rg7cavn@gmail.com>

Sent: Wednesday, October 2, 2024 11:25 PM

To: FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com>

Cc: Vincent Wilson <vincent.wilson@archwayprivatewealth.us>

Subject: Verification

[You don't often get email from rg7cavn@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

EXTERNAL SENDER

Does not work, won't allow date of birth entry, month and year required not available.

Please advise ASAP or offer an alternative method as the deadline is in two days, or I will need an extension to be granted.

Also, you have been ignoring my FA's request to you for what evidence you need regarding filing a hardship funds request. PSG say they cannot file the request as 'evidence' is required, but no one knows, and you won't say what it is.

Please respond immediately in these matters, and copy my FA

Charles R Grundy

1-714-697-2012

Financial Advisor: Vincent Wilson

vincent.wilson@archwayprivatewealth.us

Sent from my iPad

This email is confidential and may be legally privileged; it is intended solely for the addressee. Access by anyone else is unauthorised. If you have received this email in error please notify us immediately by return email or telephone +612 9338 2600 then delete and destroy any copies of it. Any unauthorised disclosure, copying, distribution or any action taken or not taken in reliance on it is prohibited and may be unlawful. Any opinions or advice contained in this email are subject to the terms and conditions of the governing McGrathNicol engagement letter. Opinions, conclusions and other information in this email and any attachments that do not relate to McGrathNicol business are not given or endorsed by it. McGrathNicol cannot guarantee that emails are secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late/incomplete or contain viruses. Liability limited by a scheme approved under *Professional Standards Legislation*.

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Oliver Basura

From: Will Stredwick <williamstredwick@gmail.com>
Sent: Monday, 21 October 2024 2:22 AM
To: FM-Brite Advisors Investor Queries
Cc: Zachary Zanghi
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries

Follow Up Flag: Follow up
Flag Status: Completed

**EXTERNAL SENDER**

Dear Linda,

Further to the below and following you note to on the 26th October I would like to clarify that comments on withholding tax do not apply to me or my Pension Fund

All the positions in my pension fund portfolio consist of GBP-denominated ETFs, where any applicable taxes are deducted at the source by the funds. As a result, the "Withholding Tax" section in your recent update is not relevant to my pension. For clarity, I have listed below each position I hold, along with the quantity of each below.

As clarified and stated in all communications McGrath Nicol repeatedly make generic comments that are simply not true about my pension fund. This is another example. At this point there are simply no grounds for McGrath Nicol to continue to hold my Pension Fund. It should be returned to me immediately.

Please make sure this communication along with the below is shared with the courts.

Yours sincerely

Will

William Stredwick

Symbol	Fund Name	Quantity
CUKX	iShares Core FTSE 100 UCITS ETF GBP	247
EMIM	iShares Core MSCI EM IMI UCITS ETF	6120
ERNS	iShares Ultrashort Bond UCITS ETF GBP	178
EUXS	iShares MSCI Europe ex-UK GBP Hgd UCITS ETF	24301
GILS	Amundi UK Government Bond UCITS ETF	176
GSPX	iShares Core S&P 500 UCITS ETF GBP Hedged	73390
IJPH	iShares MSCI Japan GBP Hedged UCITS ETF	1084
IS15	iShares Corp Bond 0-5yr UCITS ETF GBP	186
VAPX	Vanguard FTSEDevlpAsiaPacexJpn UCITSETF	4545

GSPX	iShares Core S&P 500 UCITS ETF GBP Hedged	73390
IJPH	iShares MSCI Japan GBP Hedged UCITS ETF	1084
IS15	iShares Corp Bond 0-5yr UCITS ETF GBP	186
VAPX	Vanguard FTSEDevlpAsiaPacexJpn UCITSETF	4545

On Oct 6, 2024, at 11:15 PM, Will Stredwick <williamstredwick@gmail.com> wrote:

Dear Linda,

Thank you for your reply.

That said, I must once again, and in the strongest possible terms, raise the issue of inaccuracies in your response and **formally request and insist that McGrath Nicol pass all of our correspondence to the courts so they have the full picture.**

Overall, I am really not sure why McGrath Nicol keeps concluding that, despite clear, black-and-white facts indicating the opposite, it should take/steal my pension from me. Having read your correspondence below, I am reluctantly concluding that McGrath Nicol is predisposed to targeting pensions because it is the quickest and easiest way for McGrath Nicol to close the case, collect fees, and move on. As you outline in your note below, it is far easier for McGrath Nicol to take pension funds than to actually track down the bad actors and recover the funds from them. While I have no doubt this is true, it is a terrible rationale for taking my pension. It is difficult to see any circumstances where this is legal or in line with any reputable regulator or consumer protection agency.

I am totally exhausted and tired of repeating this, but I feel I must every time I write to McGrath Nicol:

- My pension was set up solely to provide me with income in retirement.
- I adopted a moderate, traditional pension investment strategy to achieve this.
- I never gave permission for my pension to be used for anything other than that.
- The SEC demanded the transfer of Client AuM into a new Interactive Brokers account for U.S. clients in April 2021.
- The SEC is one of the most powerful regulators globally.
- The SEC's direction could not be ignored, and it was not ignored.
- The SEC's direction was followed, and segregation was actioned in June 2021.
- My funds were transferred after that date.
- The evidence for this was clear at the start of this process and is even clearer now.

My case is so black and white that it couldn't be clearer. You have this information, but McGrath Nicol seem to consistently attempt to create linkages that allow you to rationalize taking/stealing my pension. It seems that the courts are becoming aware of this despite attempts by McGrath Nicol to convince them otherwise. Please stop searching for linkages to rationalize taking my pension. I invested my funds in a pension and never gave permission for anything other than that. Separation was requested and established.

Start focusing on the people and companies who failed to do their jobs. Go after the bad actors, however difficult that may be, and return my pension to me. They no doubt have the funds to cover this.

Please pass this information and all our correspondence to the courts. Refusing to do so could inadvertently reinforce any impression that McGrath Nicol has a predisposed position against pension fund holders, simply wanting to finish this quickly rather than pursue the right outcome. I have again added more detail on each point below.

Regards,

Will

Segregation

- My pension was set up solely to provide me with a pension in retirement.
- I adopted a moderate, traditional pension investment strategy to achieve this.
- I never gave permission for anything other than that.
- The SEC demanded the transfer of Client AuM into a new Interactive Brokers account for U.S. clients in April 2021.
- The SEC is one of the most powerful regulators globally.
- The SEC's direction could not be ignored, and it was not ignored.
- The segregation was actioned on June 2021.
- My funds were transferred after that date.
- The evidence for this was clear at the start of this process and is even clearer now.

McGrath Nicol insists on spending all its time and effort attempting to prove that this is not the case and therefore take my pension. McGrath Nicol is spending huge amounts of time pursuing legal, honest pension holders like me instead of the bad actors. Your note below literally says that chasing bad actors takes a lot of work, time, and may not be successful, so instead, you're spending time, money, and energy pursuing me.

Bad Actors

Your note outlines that chasing bad actors is hard work and may not be commercially viable. This cannot be in anyway an acceptable rational or in anyone's interest. I realize it helps McGrath Nicol close the case quicker and I note that McGrath Nicol has held this position on segregation since at least February 2024, prior to having full access to the necessary systems and resources to form such a position. It seems McGrath Nicol sees its role as identifying the easiest place to get money from and then pursuing it.

To be clear I have absolutely no interest in defending Bright Advisors. However, I do work in financial services and fully understand the obligations of financial organizations to have full oversight. In this case, it doesn't appear to be happening. Someone, like Interactive Brokers, who facilitated this process, should by now have the full weight of Australian legal and regulatory institutions upon them. I don't know the exact steps but somewhere along the line they should of raised a fed glag when they saw "lets use Pension funds which are not authorized to be used for anything other than Pensions as colateral". But they apprarently said "this looks fine let's facilitate and collect our fees". Something is very very wrong here. They are well-capitalized and played a key role here, likely not following their obligations and profiting from enabling this. Yet you are not pursuing them because it is "commercially" challenging, and you say your role is "limited." This is your logic to therefore go after someone like me—the easy person - taking a soft target like a pension fund.

This must stop now. This is my pension, I never gave approval for my assets to be used for anything other than my future retirement. The Pension was placed after segregation was requested and established. There is no linkage. None.

Anyone can see that. The repeated attempts by your firm to find ways to create linkages and take/steal my funds, instead of going after the people who caused the issue must stop.

Myself

In a previous note, you mentioned that I shouldn't worry too much because 80% of my pension was okay. In other words, "don't worry, you'll only have to work for 30% longer than you would normally." Telling someone they'll have to work until 75 instead of 60 is shocking in its lack of understanding of the negative impact on my health and well-being. While you go home and sleep well every night, knowing you'll be paid regardless of the outcome, I am faced with a company that has decided to go after my pension, refuses to share information with the courts and authorities that contradicts its position, and is not pursuing the actual bad actors because it isn't commercially viable. I have lost sleep, aged, and become less effective in my job and at home with my family. The impact is massive—and totally unnecessary.

Sharing the Communications with the Court

I am unsure why you refuse to do this, and your previous statement that you are not legally obliged to do so is extremely odd and questionable. Whether deliberate or not, this is withholding evidence. I insist that you share all communications now. Please do this immediately. Share this communication with the courts.

On Aug 29, 2024, at 11:42 AM, FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear William,

Thank you for your email. The Receivers appreciate the circumstances are stressful for impacted parties and acknowledge your frustration.

Our response to your correspondence is set out below, which should be read in conjunction with the attached update dated 28 August 2024 which contains responses to FAQ from Beneficiaries.

The response below makes references to the Receivers' Fourth Report, which can be accessed via the following link <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd>.

Your email, together with the Receivers' response will form part of a further affidavit submission to the Court prior to the hearing on Monday, 2 September 2024.

1 Segregation of funds

Your comments below have been noted regarding the segregation of client funds.

Per our previous correspondence, the Receivers do not agree that there has been any effective segregation of the Client AuM regardless of the date of investment. However, the Receivers are aware that Brite USA has informed its clients that it believes their assets are segregated from Client AuM held for other Beneficiaries.

The assets held in the Interactive Brokers Australia Pty Ltd (IBA) omnibus account were separated into two sub-accounts in June 2021. One was designated as purporting to hold the assets of US-based Beneficiaries. The Receivers have considered the circumstances of this separation, and the information provided by Brite USA.

Whilst the Receivers' investigations are still ongoing, the Receivers do not consider that the separation of assets into different IBA accounts in this way protected those assets from Brite Advisors conduct which has resulted in the shortfall in Client AuM. This is explained in further detail in the Fourth Report at [2.1.24] – [2.1.26], [4.6.9] – [4.6.12], [6.3.16] – [6.3.22], and [6.4].

The Receivers are progressing their investigations into how and why Brite Advisors separated the IBA omnibus account and will provide a further report upon completion of this investigation.

Further, Beneficiaries may have understood that certain investments were held for them by Brite Advisors, received account statements that identified specific asset holdings with Brite

Advisors at various times, or otherwise received reassurance from Brite Advisors (or other parties) relating to the assets held for them. However, this does not necessarily mean that those investments were actually held by Brite Advisors. This applies regardless of: (i) whether the investments were in the form of a model portfolio or bespoke investment; or (ii) whether Beneficiaries understood that their assets were purported to be held on a “segregated” basis. See the Receivers’ Fourth Report at [2.1.14], [2.1.17] – [2.1.18], [2.1.23] – [2.1.26], [5.6.1] – [5.6.2], [5.6.27] – [5.6.48], [6.8], [6.9].

2 Proposed Timeline to Distribution Orders

The Receivers are progressing towards a distribution of Client AuM as expeditiously as is responsibly possible. However, for the Court to order a distribution, the Receivers will need to confirm that they have identified who should receive the distribution and how much they should receive.

Unfortunately, the existence of a deficiency in the Client AuM combined with the barriers in the Receivers gaining access to the critical systems leaves a large volume of work to be done before these questions can be answered conclusively and a distribution made.

Apart from rebuilding the critical systems required to identify and verify beneficiary entitlements, there may be competing claims on the Client AuM and accordingly, it is important that: (i) beneficiaries are provided an opportunity to verify their entitlements; (ii) interested parties are given an opportunity to be heard on the proposed method of distribution, and (iii) the Receivers are following a fair and equitable process.

The timing contained in the Framework Orders takes into account these factors.

The process to verify Beneficiaries’ entitlements will occur concurrently with the preparation of the Explanatory Memorandum and is addressed in the Fourth Report at [3.4.27] – [3.4.34].

However, before verifying Beneficiaries’ entitlements, the Receivers need to:

- complete the rebuild of Salesforce (which remains on track to complete by early September 2024); and
- verify the data, documentation and Salesforce environment to be made available to all beneficiaries to ensure this is accurate and functional.

The process and timetable to obtain orders from the Court relating to distribution of the Client AuM is detailed in the Fourth Report at [3.5.1] – [3.5.4].

In addition, before proposing an approach to distribution and seeking orders from the Court, the Receivers have the following further work to complete (addressed in the Fourth Receivers’ Report at [2.1.25] and [5.6.21] – [5.6.25]).

- Further engagement with Corporate Trustees to confirm details of, (i) how the distribution will be dealt with once received by the Corporate Trustees, and (ii) the fee structure Corporate Trustees intend to impose on Beneficiaries in relation to that distribution. These are matters which the Receivers anticipate that the Court will want to be informed of prior to making any orders relating to the distribution of the Client AuM.

- Consideration of the regulatory and taxation issues arising in various jurisdictions, many of which have been raised through feedback from the Corporate Trustees and Beneficiaries, which may impact the approach to distribution.
- Investigation into the significant volume of trading activity which occurred in respective IB accounts prior to events of purported segregation.

These matters are addressed in the Fourth Report at [3.4.7] – [3.4.26].

3 Interactive Brokers Margin Loan

The Fourth Report addresses the Receivers' investigations into the omnibus account and margin loan facility at [2.1.14] – [2.1.16] and [4.6]. The role of the margin loan in the misuse of client assets is detailed in sections [6.3] - [6.8] of the Fourth Report.

The analysis contained in the report is detailed and so we do not repeat it here. We trust this addresses your questions. Further updates will be provided as the Receivers' investigations progress.

4 Pursuing 'bad actors'

The Receivers' investigations have identified suspected misuse of Client AuM and related suspected breaches of the law over a prolonged period of time.

The Receivers continue to investigate, with legal input, whether any recovery actions are available and able to be pursued against various third parties, having regard to factors including prospects, costs and commerciality considerations.

If recovery actions are pursued, any recoveries from those actions may be available to respond to Beneficiaries' entitlements (after deduction of costs, and any other relevant deductions, including any deductions required to be paid under a litigation funding agreement, if applicable).

At this stage, it is expected that it will take some time before the Receivers will be able to conclude their investigations. As such, recovery actions are currently unquantified, could be protracted and any return available to satisfy Beneficiaries' entitlements is uncertain. Accordingly, the Receivers have not factored in any potential recoveries into the estimated shortfall.

Outside recoveries for the benefit of Beneficiaries, the Receivers' role in relation to holding third parties accountable is limited to reporting on suspected breaches of law in its report to the Court dated 24 January 2024, which was done in compliance with Court orders.

Once again, the Receivers thank you for your ongoing patience as the matter progresses and should you have further questions, please view our FAQ page here:

<https://www.mcgrathnicol.com/brite-advisors-pty-ltd-frequently-asked-questions/> or alternatively advise directly.

Regards,

On behalf of Linda Smith, Receiver and Manager

<image001.jpg>

Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com

From: Will Stredwick <williamstredwick@gmail.com>
Sent: Sunday, August 18, 2024 9:27 PM
To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Cc: Zachary Zanghi <zachary.zanghi@rosefinchinvestments.com>
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation)
 "Brite Advisors" - Update to Trustees and Beneficiaries

Dear Linda,

Thank for your note.

Overall it appears to continue to be the case that Receivers priority is to return their client funds by appropriating/taking funds from pensioners or pension fund holders. People who never gave permission for anyone to use their pensions as collateral. Whose accounts are clearly separated. And whose funds are only approved to be invested in standard basic shares, funds and bonds for the benefit of their pensions. Nothing else.

In short, it is a total mystery to everyone I talk to here in the US how a receiver in any way, shape or form sees this as justified. I cannot imagine this happening in the US or the UK **where the regulator ensures the individual is protected by unscrupulous bad actors.** The regulator goes after the bad actors and protects the individual. A significant portion of my pension is at risk because, **as the receiver, you are recommending that exact opposite and going after the innocent individuals and not going after all of companies, institutions and organizations involved who are have failed in their duties or broken the law.**

Further, am also amazed that you have not shared any of my correspondence with the courts who are therefore not hearing about the pensioners and individuals being impacted by your actions. Only that McGrathNichol are solving the issues of one set of customers by taking the funds from another group of innocent individuals pensions. Somehow you are positioning that as a legally responsible approach. It is not. It is simply not, however, it is dressed up. I must insist you carry out your moral duty and share all the evidence you have including my e mails to the courts.

I have added specific comments below. The intransigency and determination to find legal ways of justifying taking pensioners money from the get go leads me to believe that McGrathNicol is predisposed in its position, is 100% willing to contemplate taking the funds of pensioners and not chasing all the bad actors, be institutions (ex. Interactive Brokers) or individuals (examples not known to me but given to me as

individuals you should investigate are Mark Donnelly, John Lymer and Erica Nicholson). You need to go after those who enabled the crime not the victims of it.

I do not have the funds to employ a law firm so my very simple two asks are:

1. First - you once and for all re-consider your position, take a step back and question yourselves : why are we still going after pensioners whose funds were invested for the sole purpose of pensions in safer and dependable assets, who never gave permission for their funds to be used as collateral and who invested them after segregation was clearly established. Why ? And why are you not instead 100% focused on going after the bad actors, individuals and institutions and who have perpetuated, allowed and enabled the situation you are investigating. Change your course immediately now.
2. Second - to pass my correspondence directly to the courts, so they can clearly see the counter position to the one you are presenting. Your legal interpretation that you are not obliged to share seems very odd. You should share it as it is the right thing to do. So just share them now. It's the right thing to do. Why would you keep something back like this ? No reason to unless you are trying to hide something which you say you are not. Please share it immediately.

I have added some additional comments below in red.

Regards

Will

On Aug 1, 2024, at 10:42 AM, FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear William,

Thank you for your email.

The Receivers acknowledge the uncertainty of the present situation is a stressful time for yourself and your family. We also appreciate that the level of information provided is extensive and legalistic in nature, this is due to the complexities and size of Brite Advisors' business. The Receivers are Officers of the Federal Court of Australia and the appointment is also complex in its nature and the Receivers are reporting in a transparent and fulsome way to beneficiaries.

For the avoidance of doubt, we do note that the Receivers:

- Have located and secured approximately 90% of Brite Advisors' Client Assets under Management (Client AuM) as historically reported as being held by Brite Advisors; and
- Assure you that the priority is the facilitation of the return of the client funds as efficiently and effectively as possible

Disagree strongly. Your priority as the reciever seems at every step to take innocent pensioners pension funds. This facts keeps getting buried. I should be getting 100% of my pension and you should be going after the bad actors. Leave the pensions alone, Leave the consumers alone.

Note: McGrathNicol seem to think it is re-assuring that I may only lose 10% of my pension. You must be extremely badly informed if you think that. Pensions literally and figuratively take a lifetime of work to earn and build up. You are stealing 10% of my life's earninging that I have saved for and invested over decades. You will be condemning me and others to years and years of extra work. Go and do your job and find the other 10% from the bad actors. Many of whom clearly have the assets to pay this. Stop chasing innocent pension funds.

Segregation of funds

For the reasons previously stated, and due to the conduct of Brite Advisors Pty Ltd both before and after segregation, we reiterate that neither Brite USA or any other party have provided the Receivers with any legal basis to support the contention that there was an effective segregation of cash and assets belonging to its investors. However, those investigations are continuing, and the Receivers note that:

- to the extent that the assets of any individual beneficiary have been properly segregated, that will be taken into account when the Receivers make their final application to Court for orders as to distribution; and
- the Receivers will correspond with beneficiaries to verify their entitlement before making any such application for final orders as to distribution and will invite them to provide any further supporting information to assist in verifying their entitlement.

Segrations was established prior to my funds being invested. I gave approval, signed terms and conditions which allowed my pension to be invested into standard assets. I did not sign anything that said "oh yes please use my funds as collateral". The facts are black and white here. Stop trying to find ways of portraying this in any other way.

Investigations

Whilst the Receivers assure you that the priority is the facilitation of the return of the client funds as efficiently and effectively as possible, the Liquidators similarly assure you that the actions of the Company (and former Brite personnel) is the subject of ongoing and further investigations. In this respect we note:

- Our initial investigations have identified several instances whereby the Company (and former key Brite personnel) engaged in behaviour in contradiction with agreements entered into with Beneficiaries.
- The Liquidators have broad powers of investigation and a **statutory duty** to report any suspected contraventions of the Corporations Act 2001 by Brite Advisors and its directors and officers to the Australian Securities and Investments Commission (ASIC). ASIC also has powers to investigate Brite Advisors and its directors and officers in respect of suspected contraventions and offences for which it has jurisdiction to prosecute in the public interest. The successful pursuit of such claims by ASIC can result in financial infringement, banning orders and in some cases imprisonment. The Receivers and Liquidators are working closely with ASIC and will continue to keep ASIC updated as to the status of their investigations.
- The Receivers and Liquidators also have powers to commence civil proceedings against directors and officers on behalf of Brite Advisors in respect of any breaches of directors' and officers' duties, with a view to recovering compensation to increase the funds available to Beneficiaries and creditors of Brite Advisors.

I do not understand why you are keeping your investigations of narrow and not looking at all the parties involved who enabled and supported the events that took place such as Interactive Brokers. I work in financial services, Companies have an obligation to check they are not supporting fraudulent acts. This clearly did not occur.

I am not across the details regarding Interactive Brokers but it appears they have done very well out of this, taking fees, enabling transactions that should not of been etc. The American's have a good phrase "follow the money", all these groups like Interactive Brokers have a huge amount of money and some of them must of been negligent. I know it's easier to chase a pensioner and pension fund but leave them alone. Start acting like a regulator would and go after those who did not carry out their responsibilities. Your logic over ending ups chasing pensioners literally is only making sense to you, no one else.

•

Information passed to the Court/Regulators

At this stage, the Receivers have not brought your correspondence to the attention of the Court on the basis that the Receivers are yet to file their application with the Court seeking orders in relation to the distribution of the Client AuM (to which your correspondence relates). The Receivers are not obliged to immediately bring your correspondence to the attention of the Court (however, they reserve their right to do so) and assure you that the content of your correspondence will be brought to the attention of the Court in the material that the Receivers file when making their application to Court for orders as to distribution of the Client AuM.

The Receivers confirm:

- as noted in our previous correspondence, (i) they have been appointed by the Federal Court of Australia, following an application made by ASIC and determination by the Court, and (ii) are officers of the Court and must obtain appropriate Court orders before taking any actions in relation to the Client AuM.
- Any party with a sufficient interest in the subject matter (which includes beneficiaries) may apply to the Court to be heard by the Court on the Receivers' proposed actions in relation to the Client AuM and notice will be given to beneficiaries when the Receivers file their application to the Court for approval of their proposal to distribute the Client AuM.

Again whatever you think your obligations I am asking you to send to the courts my correspondence with you including this. Why wouldn't you. ? Not sending it imply's you have something to hide. They need to see this as the same time as your position. The courts need to have all the information not just a one sided view that you have formed and insist of not questioning,

•

Withdrawals and "genuine hardship"

As noted in previous correspondences, in the event there is genuine financial hardship circumstances relevant to your situation, the Court

Orders allow for some (albeit limited) scope for the Receivers to consider irregular withdrawal requests. For the Receivers to consider this however, specific circumstances and documentary evidence would need to be disclosed regarding those circumstances.

Should you wish to submit a withdrawal request on the basis of financial hardship, please complete the attached request form and set out the specific circumstances and documentary evidence regarding such, which may include bank statements to show your financial position, invoices that require payment or other documents that evidence your requirement for the funds.

All I want is my pension returned. The one that was placed after segregation. The one I did not give permission to use as collateral. The one that was only given permission to be invested in trackers, stocks and basic funds and bonds. That one. 100% of it back not 90%. You have already created massive of stress and mental illness through your actions to pursue individual pensioners and not immediately release their funds and go after the bad actors who took the funds you are missing. I have not got them. Ensuring that I have to work for far longer than I planned and save more to close the gap, ensure my retirement is shortened, presumably reducing my life expectancy this is the impact of the current situation you are pursuing. It's the wrong one. Time for you to change.

If you have any queries, please advise.

Dear William,

Thank you for your email.

The Receivers acknowledge the uncertainty of the present situation is a stressful time for yourself and your family. We also appreciate that the level of information provided is extensive and legalistic in nature, this is due to the complexities and size of Brite Advisors' business. The Receivers are Officers of the Federal Court of Australia and the appointment is also complex in its nature and the Receivers are reporting in a transparent and fulsome way to beneficiaries.

For the avoidance of doubt, we do note that the Receivers:

- Have located and secured approximately 90% of Brite Advisors' Client Assets under Management (Client AuM) as historically reported as being held by Brite Advisors; and
- Assure you that the priority is the facilitation of the return of the client funds as efficiently and effectively as possible.

-

Segregation of funds

For the reasons previously stated, and due to the conduct of Brite Advisors Pty Ltd both before and after segregation, we reiterate that neither Brite USA or any other party have provided the Receivers with any legal basis to support the contention that there was an effective segregation of cash and assets belonging to its investors. However, those investigations are continuing, and the Receivers note that:

- to the extent that the assets of any individual beneficiary have been properly segregated, that will be taken into account when the Receivers make their final application to Court for orders as to distribution; and
- the Receivers will correspond with beneficiaries to verify their entitlement before making any such application for final orders as to distribution and will invite them to provide any further supporting information to assist in verifying their entitlement.

Investigations

Whilst the Receivers assure you that the priority is the facilitation of the return of the client funds as efficiently and effectively as possible, the Liquidators similarly assure you that the actions of the Company (and former Brite personnel) is the subject of ongoing and further investigations. In this respect we note:

- Our initial investigations have identified several instances whereby the Company (and former key Brite personnel) engaged in behaviour in contradiction with agreements entered into with Beneficiaries.

- The Liquidators have broad powers of investigation and a **statutory duty** to report any suspected contraventions of the Corporations Act 2001 by Brite Advisors and its directors and officers to the Australian Securities and Investments Commission (ASIC). ASIC also has powers to investigate Brite Advisors and its directors and officers in respect of suspected contraventions and offences for which it has jurisdiction to prosecute in the public interest. The successful pursuit of such claims by ASIC can result in financial infringement, banning orders and in some cases imprisonment. The Receivers and Liquidators are working closely with ASIC and will continue to keep ASIC updated as to the status of their investigations.
- The Receivers and Liquidators also have powers to commence civil proceedings against directors and officers on behalf of Brite Advisors in respect of any breaches of directors' and officers' duties, with a view to recovering compensation to increase the funds available to Beneficiaries and creditors of Brite Advisors.

Information passed to the Court/Regulators

At this stage, the Receivers have not brought your correspondence to the attention of the Court on the basis that the Receivers are yet to file their application with the Court seeking orders in relation to the distribution of the Client AuM (to which your correspondence relates). The Receivers are not obliged to immediately bring your correspondence to the attention of the Court (however, they reserve their right to do so) and assure you that the content of your correspondence will be brought to the attention of the Court in the material that the Receivers file when making their application to Court for orders as to distribution of the Client AuM.

The Receivers confirm:

- as noted in our previous correspondence, (i) they have been appointed by the Federal Court of Australia, following an application made by ASIC and determination by the Court, and (ii) are officers of the Court and must obtain appropriate Court orders before taking any actions in relation to the Client AuM.
- Any party with a sufficient interest in the subject matter (which includes beneficiaries) may apply to the Court to be heard by the

Court on the Receivers' proposed actions in relation to the Client AuM and notice will be given to beneficiaries when the Receivers file their application to the Court for approval of their proposal to distribute the Client AuM.

Withdrawals and "genuine hardship"

As noted in previous correspondences, in the event there is genuine financial hardship circumstances relevant to your situation, the Court Orders allow for some (albeit limited) scope for the Receivers to consider irregular withdrawal requests. For the Receivers to consider this however, specific circumstances and documentary evidence would need to be disclosed regarding those circumstances.

Should you wish to submit a withdrawal request on the basis of financial hardship, please complete the attached request form and set out the specific circumstances and documentary evidence regarding such, which may include bank statements to show your financial position, invoices that require payment or other documents that evidence your requirement for the funds.

If you have any queries, please advise.

Regards,

On behalf of Linda Smith, Receiver and Liquidator

<image001.jpg>

Level 19, 2 The Esplanade, Perth WA 6000 Australia

<image002.jpg>

T +61 8 6363 7600

McGrathNicol BriteAdvisors@mcgrathnicol.com

<image003.png>

<image004.jpg>

limited by a scheme approved under *Professional Standards Legislation*.

<Surrender request form.pdf>

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Oliver Basura

From: Drwandia@kenyaorthodontics.com
Sent: Friday, 25 October 2024 10:52 PM
To: FM-Brite Advisors Investor Queries
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

(1) Initial capital invested into the relevant Structured Note;

(2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;

(3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;

(4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio:-

Commerz Bank Note, XS1728643252, with 33000 units;

UBS Note XS1914572851, with 33000 units.

Thank you and kind regards.

Yours faithfully

Dr Caroline Wandia Mwangi
Email address: drwandia@kenyaorthodontics.com
Mobile number: +254 710 508 856

Sent from my iPhone

On 23 Oct 2024, at 09:15, FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

<image001.jpg>

Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com

<image003.png>

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<Update to Trustees and Beneficiaries - 23 October 2024.pdf>

Oliver Basura

From: Hugh Gibbon <hugh_gibbon@hotmail.com>
Sent: Thursday, 24 October 2024 12:16 AM
To: FM-Brite Advisors Investor Queries
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Follow Up Flag: Follow up
Flag Status: Flagged

You don't often get email from hugh_gibbon@hotmail.com. [Learn why this is important](#)

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon "Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;

(3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;

(4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my two portfolios, 1 x QROPS and 1 x QNUPS, which Brite appeared to merge into one Butler report on the Sales Force portal:-

From Friends Provident International (which could conduct in specie transfers) (FPI) for my QROPS:-

UBS Note, XS1884797231, with 58000 units;
Goldman Sachs Note XS1755315642, with 58999 units; and

From RL360, (which could not conduct in specie transfers) for my QNUPS:-

Goldman Sachs Note XS1852251278, which I recall had been given a value of USD\$176 523.00.

Thank you and kind regards.

Yours faithfully

Dr H K J Gibbon

Email address: hugh_gibbon@hotmail.com
Mobile number: +254 715 786 226

From: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Sent: Wednesday, October 23, 2024 09:11
Subject: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

 Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
[McGrathNicol briteadvisors@mcgrathnicol.com](http://McGrathNicol.briteadvisors@mcgrathnicol.com) 

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Oliver Basura

From: Jeff Badman <badmanj25@gmail.com>
Sent: Wednesday, 23 October 2024 9:23 PM
To: FM-Brite Advisors Investor Queries
Cc: Karan Dewan
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024
Attachments: image001.jpg; image002.jpg; image003.png; image004.jpg

EXTERNAL SENDER

Dear Linda,

Thank you for the update, these are very much appreciated.
Please can you advise where I can expect to receive my valuation as of 13 December 2023.

Acc ref. 357319-Badman

Kind regards
Jeffrey Badman

On Wed, 23 Oct 2024, 07:12 FM-Brite Advisors Investor Queries, <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

	Level 19, 2 The Esplanade, Perth WA 6000 Australia T +61 8 6363 7600 McGrathNicol briteadvisors@mcgrathnicol.com	

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Oliver Basura

From: Adam Hillier <adam.c.hillier@gmail.com>
Sent: Wednesday, 23 October 2024 2:35 PM
To: FM-Brite Advisors Investor Queries
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

EXTERNAL SENDER

Hi.

Can you please translate this into what it means for me ?

Thanks

Adam

On Wed, 23 Oct 2024 at 07:12, FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
[McGrathNicol briteadvisors@mcgrathnicol.com](mailto:briteadvisors@mcgrathnicol.com)



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Oliver Basura

From: Tara Mooney <mooneytm1@googlemail.com>
Sent: Wednesday, 16 October 2024 5:50 PM
To: FM-Brite Advisors Investor Queries
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries – 16 October 2024

EXTERNAL SENDER

Thanks for the update

Does this mean that my balance will be materially different?

I pray this isn't the case. This is very stressful!

Many thanks
Tara Mooney

On Wed, 16 Oct 2024 at 6:08 PM, FM-Brite Advisors Investor Queries
<BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
McGrathNicol.briteadvisors@mcgrathnicol.com



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lost, destroyed, arrive late/incomplete or contain viruses. Liability limited by a scheme approved under *Professional Standards Legislation*.

Oliver Basura

From: Darren Hassey <darrenhassey@gmail.com>
Sent: Wednesday, 16 October 2024 11:53 PM
To: FM-Brite Advisors Investor Queries
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries – 16 October 2024

Follow Up Flag: Follow up
Flag Status: Completed

You don't often get email from darrenhassey@gmail.com. [Learn why this is important](#)

EXTERNAL SENDER

Dear Receivers,

I am deeply concerned by the continued delays stated; this matter has been going on for too long! There is no reason why an estimated valuation cannot be provided. This communication speaks of complexity on several occasions, which makes me fear the matter may be beyond the comprehension and competence of the receivers.

Please provide assurance and *evidence* of the receivers credentials to oversee the matter and explain specificity why an estimated valuation cannot be made; as for me the basis of this calculation is very simple. I am also concerned that the additional 'work' is increasing receiver fees and diminishing beneficiary accounts. Please explain how I log this concern with the Judge overseeing the case.

Thanks,
Darren.

On Wed, Oct 16, 2024 at 12:07 AM FM-Brite Advisors Investor Queries
<BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
[McGrathNicol briteadvisors@mcgrathnicol.com](mailto:BriteAdvisors@mcgrathnicol.com)



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Oliver Basura

From: Peter Hinton-Green <pjhg@mweb.co.za>
Sent: Friday, 25 October 2024 5:35 PM
To: FM-Brite Advisors Investor Queries
Cc: paul.ockleford@pensionertrustee.com
Subject: Re: Recent Notification re Structured Notes' Valuations

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

In your latest email, you mention a proposed delay in presenting valuations to those Clients who held Structured Notes in order to employ an appropriately qualified person to establish the values of the various Structured Notes held by relatively few clients.

It is arguable that such an experienced appointment may be unnecessary:

(i) Clients invest in Structured Notes for the duration of the Note, as it is upon “Early Maturity” or “Full Maturity” that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably only be borne of dire necessity.

(ii) To the best of my knowledge, any remaining Structured Notes would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Brite Advisors (Pty) Ltd. Thus, Structured Notes of any 6-Year duration will reach Final Maturity during October 2024 or at least before the year end. Some Structured Notes may have reached “Early Maturity” say in 2023.

(iii) Thus the valuations will be according to the Pay-Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested x the relevant annual coupon, and any prevailing terms and conditions applicable to such pay-out descriptions.

(iv) Thus the important values will be a) the **Initial Capital** invested into the relevant Structured Note, b) the **Value of the sale** by the relevant Portfolio Bond provider at a profit (as economic conditions would not appear to have seen any losses, and Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same **Capital sum**, with **Profit** to client's cash account, and c) **Value at Early Maturity or upon Full Maturity**.

Since Client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which Clients have been prejudiced. Thus the calculation would be :-

Initial Capital add Coupon to either Early Maturity or Full Maturity **less Profit** incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that they can be provided. However, you are already most likely to have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note-holding Clients.

In my case, I had in my portfolio:-

UBS Note, XS1863909385, with 128000 units;
UBS Note, XS1974908375, with 103000 units;
Goldman Sachs Note XS1852251278, with 141000 units.

With thanks and kind regards.

Yours sincerely

Mr P J Hinton-Green
Email address: pjhg@mweb.co.za
Mobile number: +27 82 567 8023

Oliver Basura

From: John Reilly <johnomalleyreilly@gmail.com>
Sent: Friday, 25 October 2024 4:29 PM
To: FM-Brite Advisors Investor Queries
Subject: Structured Note

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date. In my case the income was paid over the life of the Note, as I recall.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio a Commerzbank (Society General) Note, XS1641257180, with 143000 units.

Thank you and kind regards.

Yours faithfully

Mr J O'M Reilly

Email address: johnomalleyreilly@gmail.com. and jolojoro@swazi.net

Mobile number: +268 7614 3640

Annexure Certificate

No. WAD13 of 2024


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

Australian Securities and Investments Commission
 Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE CAB-37**

This is the annexure marked "**CAB-37**" referred to in the affidavit of Carmen Anne Boothman sworn before me on 28 October 2024.

Signature of witness	
Name of witness	MELISSA MARJODACE FERREIRA
Address of witness	C/- HWL Ebsworth Lawyers Level 20 240 St George's Terrace Perth WA 6017
Capacity of witness	Solicitor

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers of the property of the defendant
Prepared by (name of person/lawyer)	C A L Boothman
Law firm (if applicable)	HWL Ebsworth Lawyers
Tel (08) 6559 6526	Tel (08) 6559 6526
Email cboothman@hwle.com.au	
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:44 AM
To: Drwandia@kenyaorthodontics.com
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Dr Wandia

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
- According to Order 9 of the orders dated 2 September 2024, the Receivers are required to value Beneficiary entitlements on a mark-to-market basis as at 13 December 2023.
- As you are aware, there is no mark-to market data available for the valuation of the Structured Notes as at a 13 December 2023.
- The Receivers anticipate that the valuation of the Structured Notes may become the subject of contention in the distribution methodology and consider it is important to obtain independent advice now that is suitable to be submitted in evidence in the Court Proceedings if necessary to (i) minimise the risk of protracted debate on the topic, and (ii) to ensure that the impacted Beneficiaries are treated as fairly as possible.
- Noting the Receivers' role in the Court Proceedings, the Receivers are unable to provide an independent valuation and would not be qualified to do so.

The Receivers make the following comments on your email:

- We understand the structured notes were previously valued by Brite Advisors using cost price only.
- As mentioned above, the structured notes are required to be valued as at 13 December 2023 and several of the Structured Notes had (i) not yet matured as at this date, and/or (ii) had been sold down prematurely and not repurchased.
- The Receivers have already obtained the fact sheets for certain of the Structured Notes.
- We agree that the Receivers could value a structured note that existed, had reached maturity date and the Receivers had access to the relevant data and confirmation of payout figures etc. However, this is not the case.
- In most cases, Brite Advisors never held the structured notes in question, therefore, the issuers have not been in a position release information such as valuation and coupon data to the Receivers.
- As you will be aware, the conditions attached to many of the structured notes are complex and linked to the performance of multiple indices globally which underscores the complexity of the valuation exercise.
- While the Receivers can obtain information from the Fact Sheets such as length of term, conditions, coupon rates etc. the Receivers are not able to confirm what actual transactions have occurred over time or if conditions and coupon payments etc. have been met/paid.

The Receivers intend to value the structured notes as at 13 December 2023, regardless of whether they were sold and repurchased, or sold and not repurchased (that is, the Receivers are valuing what Beneficiaries ought to have held).

Once a valuation has been received from the expert and included in your Valuation Notice, you will have the opportunity to review that valuation and raise a dispute during the entitlement verification process if you wish.

A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:

<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol BriteAdvisors@mcgrathnicol.com



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From: Drwandia@kenyaorthodontics.com <Drwandia@kenyaorthodontics.com>

Sent: Friday, 25 October 2024 10:52 PM

To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The

reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(* Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio:-

Commerz Bank Note, XS1728643252, with 33000 units;
UBS Note XS1914572851, with 33000 units.

Thank you and kind regards.

Yours faithfully

Dr Caroline Wandia Mwangi

Email address: drwandia@kenyaorthodontics.com

Mobile number: +254 710 508 856

Sent from my iPhone

On 23 Oct 2024, at 09:15, FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

<image001.jpg>

Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com

<image003.png>

This email is confidential and may be legally privileged; it is intended solely for the addressee. Access by anyone else is unauthorised. If you have received this email in error please notify us immediately by return email or telephone +612 9338 2600 then delete and destroy any copies of it. Any unauthorised disclosure, copying, distribution or any action taken or not taken in reliance on it is prohibited and may be unlawful. Any opinions or advice contained in this email are subject to the terms and conditions of the governing McGrathNicol engagement letter. Opinions, conclusions and other information in this email and any attachments that do not relate to McGrathNicol business are not given or endorsed by it. McGrathNicol cannot guarantee that emails are secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late/incomplete or contain viruses. Liability limited by a scheme approved under *Professional Standards Legislation*.

<Update to Trustees and Beneficiaries - 23 October 2024.pdf>

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:33 AM
To: david.anderson@telkomsa.net
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear David

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
- According to Order 9 of the orders dated 2 September 2024, the Receivers are required to value Beneficiary entitlements on a mark-to-market basis as at 13 December 2023.
- As you are aware, there is no mark-to market data available for the valuation of the Structured Notes as at a 13 December 2023.
- The Receivers anticipate that the valuation of the Structured Notes may become the subject of contention in the distribution methodology and consider it is important to obtain independent advice now that is suitable to be submitted in evidence in the Court Proceedings if necessary to (i) minimise the risk of protracted debate on the topic, and (ii) to ensure that the impacted Beneficiaries are treated as fairly as possible.
- Noting the Receivers' role in the Court Proceedings, the Receivers are unable to provide an independent valuation and would not be qualified to do so.

The Receivers make the following comments on your email:

- We understand the structured notes were previously valued by Brite Advisors using cost price only.
- As mentioned above, the structured notes are required to be valued as at 13 December 2023 and several of the Structured Notes had (i) not yet matured as at this date, and/or (ii) had been sold down prematurely and not repurchased.
- The Receivers have already obtained the fact sheets for certain of the Structured Notes.
- We agree that the Receivers could value a structured note that existed, had reached maturity date and the Receivers had access to the relevant data and confirmation of payout figures etc. However, this is not the case.
- In most cases, Brite Advisors never held the structured notes in question, therefore, the issuers have not been in a position release information such as valuation and coupon data to the Receivers.
- As you will be aware, the conditions attached to many of the structured notes are complex and linked to the performance of multiple indices globally which underscores the complexity of the valuation exercise.
- While the Receivers can obtain information from the Fact Sheets such as length of term, conditions, coupon rates etc. the Receivers are not able to confirm what actual transactions have occurred over time or if conditions and coupon payments etc. have been met/paid.

The Receivers intend to value the structured notes as at 13 December 2023, regardless of whether they were sold and repurchased, or sold and not repurchased (that is, the Receivers are valuing what Beneficiaries ought to have held).

Once a valuation has been received from the expert and included in your Valuation Notice, you will have the opportunity to review that valuation and raise a dispute during the entitlement verification process if you wish.

A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:

<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol BriteAdvisors@mcgrathnicol.com



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From: David Anderson <david.fordyce.anderson@gmail.com>

Sent: Wednesday, 23 October 2024 11:59 PM

To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Subject: FW: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

You don't often get email from david.fordyce.anderson@gmail.com. [Learn why this is important](#)

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me (attached) mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided (or see attached). However, it should appear to me that you have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio a UBS Note, XS1807491953, with 27000 units which would have matured on 20 May 2024. The 11% coupon for 6 years would have earned GBP 17 820-00 on maturity. As Brite failed to simultaneously repurchase the Structured Note as recommended (item 2 on page 12 of the attached Advice Record of 21 July 2022), I have claimed the loss of GBP 14 215-50 as per my email of 4 September 2024. As there is no longer the Structured Note (so nothing to value), it is now a matter of identifying the proceeds and dealing with the claim for the shortfall.

Please amend your records to note my preferred email address as below (or send to both emails addressed as you were doing in the past).

Yours faithfully

Due to a technical problem, my outward emails are being sent through my gmail address.

When sending emails to me please use the telkomsa address below.

David Anderson
8 Meyer Road
Bordeaux

Randburg
2194
South Africa
Telephone: +27 11 789-3040
Cellphone: +27 83 307-4924
Email: David.Anderson@telkomsa.net

From: David Anderson
Sent: Wednesday, 23 October 2024 15:33
To: David Anderson <David.Anderson@telkomsa.net>
Subject: Fwd: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Sent from my iPhone

Begin forwarded message:

From: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Date: 23 October 2024 at 08:13:49 SAST
To: Undisclosed recipients;
Subject: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 9:38 AM
To: Adam Hillier
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Adam

The Receivers appreciate that the level of communication to Beneficiaries can be onerous, given the complex nature of Brite Advisors' business.

In short:

- During their verification of certain data in the Brite Advisors' systems, the Receivers have identified some errors in the data which have come about due to Brite Advisors' historic conduct;
- Accordingly, the Receivers are seeking short extension from the Court to file their Explanatory Memorandum, which is the document that will explain to Beneficiaries the Receivers' proposal for distribution to enable Beneficiaries to provide feedback.
- No further action is required by you at this stage. Should you be required to undertake any specific action we will contact you.
- Further updates will also be issued to Beneficiaries and Trustees in the coming week.

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol BriteAdvisors@mcgrathnicol.com



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From: Adam Hillier <adam.c.hillier@gmail.com>

Sent: Wednesday, 23 October 2024 2:35 PM

To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

EXTERNAL SENDER

Hi.

Can you please translate this into what it means for me ?

Thanks

Adam

On Wed, 23 Oct 2024 at 07:12, FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
McGrathNicol briteadvisors@mcgrathnicol.com



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Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 9:43 AM
To: Jeff Badman
Cc: Karan Dewan
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024
Attachments: Update to Trustees and Beneficiaries - 23 October 2024.pdf; Update to Trustees and Beneficiaries - 16 October 2024.pdf

Dear Jeff

Thank you for your email.

The Receivers are presently attending to several outstanding data integrity issues and seeking orders in relation to the matters set explained in our circular dated 16 October 2024 (attached).

As set out in our correspondence of 23 October 2024 (attached) the Court hearing to determine these matters has now been set for 28 October 2024. Our ability to issue the Valuation Notices is dependent on the outcome of the Court hearing.

The Receivers will issue a further update next week shortly after the hearing.

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

BriteAdvisors@mcgrathnicol.com



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From: Jeff Badman <badmanj25@gmail.com>
Sent: Wednesday, 23 October 2024 9:23 PM
To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Cc: Karan Dewan <karan@xspotwealth.com>
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

EXTERNAL SENDER

Dear Linda,

Thank you for the update, these are very much appreciated.
Please can you advise where I can expect to receive my valuation as of 13 December 2023.

Acc ref. 357319-Badman

Kind regards
Jeffrey Badman

On Wed, 23 Oct 2024, 07:12 FM-Brite Advisors Investor Queries, <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager

Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
McGrathNicol briteadvisors@mcgrathnicol.com

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Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:30 AM
To: Hugh Gibbon
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Hugh

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
- According to Order 9 of the orders dated 2 September 2024, the Receivers are required to value Beneficiary entitlements on a mark-to-market basis as at 13 December 2023.
- As you are aware, there is no mark-to market data available for the valuation of the Structured Notes as at a 13 December 2023.
- The Receivers anticipate that the valuation of the Structured Notes may become the subject of contention in the distribution methodology and consider it is important to obtain independent advice now that is suitable to be submitted in evidence in the Court Proceedings if necessary to (i) minimise the risk of protracted debate on the topic, and (ii) to ensure that the impacted Beneficiaries are treated as fairly as possible.
- Noting the Receivers' role in the Court Proceedings, the Receivers are unable to provide an independent valuation and would not be qualified to do so.

The Receivers make the following comments on your email:

- We understand the structured notes were previously valued by Brite Advisors using cost price only.
- As mentioned above, the structured notes are required to be valued as at 13 December 2023 and several of the Structured Notes had (i) not yet matured as at this date, and/or (ii) had been sold down prematurely and not repurchased.
- The Receivers have already obtained the fact sheets for certain of the Structured Notes.
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- In most cases, Brite Advisors never held the structured notes in question, therefore, the issuers have not been in a position release information such as valuation and coupon data to the Receivers.
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Once a valuation has been received from the expert and included in your Valuation Notice, you will have the opportunity to review that valuation and raise a dispute during the entitlement verification process if you wish.

A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:

<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
McGrathNicol BriteAdvisors@mcgrathnicol.com



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From: Hugh Gibbon <hugh_gibbon@hotmail.com>

Sent: Thursday, 24 October 2024 12:16 AM

To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

You don't often get email from hugh_gibbon@hotmail.com. [Learn why this is important](#)

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity” or “Full Maturity” that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer’s Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached “Early Maturity” say in 2023.

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- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
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Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding

clients.

In my case, I had in my two portfolios, 1 x QROPS and 1 x QNUPS, which Brite appeared to merge into one Butler report on the Sales Force portal:-

From Friends Provident International (which could conduct in specie transfers) (FPI) for my QROPS:-

UBS Note, XS1884797231, with 58000 units;
Goldman Sachs Note XS1755315642, with 58999 units; and

From RL360, (which could not conduct in specie transfers) for my QNUPS:-

Goldman Sachs Note XS1852251278, which I recall had been given a value of USD\$176 523.00.

Thank you and kind regards.

Yours faithfully

Dr H K J Gibbon
Email address: hugh_gibbon@hotmail.com
Mobile number: +254 715 786 226

From: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Sent: Wednesday, October 23, 2024 09:11
Subject: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com



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Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:34 AM
To: Henk Binsbergen - Pretoria Machinery Works
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024

Dear Henk

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
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A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:
<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

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From: Henk Binsbergen - Pretoria Machinery Works <henk@pmw-hinges.com>

Sent: Thursday, 24 October 2024 4:04 PM

Cc: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Subject: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries - 23 October 2024



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EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio:-

UBS Note, XS1863909385, with 43000 units;
Goldman Sachs Note XS1755315642, with 50000 units;
Goldman Sachs Note XS1852251278, with 44000 units.

Thank you and kind regards.

--

Kind regards

Henk Binsbergen

082 570 4001

henk@pmw-
hinges.com

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 10:54 AM
To: 'Darren Hassey'
Subject: RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries – 16 October 2024
Attachments: Update to Trustees and Beneficiaries - 16 October 2024.pdf; Update to Trustees and Beneficiaries - 23 October 2024.pdf
Categories: Urgent Drafts

Dear Darren

Thank you for your email.

We appreciate the circumstances are frustrating and acknowledge your frustration.

For the Court to order a distribution, the Receivers will need to confirm that they have identified who should receive the distribution and how much they should receive. Unfortunately, the existence of a deficiency in the Client AuM combined with barriers to the Receivers gaining access to the critical systems leaves a large volume of work to be done before these questions can be answered conclusively and a Court ordered fair and equitable distribution made. Apart from rebuilding the critical systems required to identify and verify beneficiary entitlements, there may be competing claims to the Client AuM and accordingly, it is important that (i) beneficiaries are provided an opportunity to verify their entitlements, (ii) interested parties are given an opportunity to be heard on the proposed method of distribution and (iii) the Receivers are following a fair and equitable process. The timing contained in the Court's Orders dated 2 September 2024 (**September Orders**) considers these factors. The process to verify Beneficiaries' entitlements will occur concurrently with the preparation of the Explanatory Memorandum and is addressed in the Fourth Report at [3.4.27] – [3.4.34].

In addition, before proposing an approach to distribution and seeking orders from the Court, the Receivers have the following further work to complete (as addressed in the Fourth Receivers' Report at [2.1.25] and [5.6.21] – [5.6.25]).

Further engagement with Corporate Trustees to confirm details of: (i) how the distribution will be dealt with once received by the Corporate Trustees; and (ii) the fee structure Corporate Trustees intend to impose on Beneficiaries in relation to that distribution. These are matters which the Receivers anticipate that the Court will want to be informed of prior to making any orders relating to the distribution of the Client AuM.

Consideration of the regulatory and taxation issues arising in various jurisdictions, many of which have been raised through feedback from the Corporate Trustees and Beneficiaries, which may impact the approach to distribution.

Investigation into the significant volume of trading activity which occurred in respective IB accounts prior to events of purported segregation.

The Receivers are presently attending to several outstanding data integrity issues and seeking orders in relation to the matters set explained in our circular dated 16 October 2024 (attached).

As set out in our correspondence of 23 October 2024 (attached) the Court hearing to determine these matters has now been set for 28 October 2024. Our ability to issue the Valuation Notices is dependent on the outcome of the Court hearing. The Receivers will issue a further update next week shortly after the hearing.

The Receivers thank you for your ongoing patience as the matter progresses and should you have further questions, we encourage you to refer to the 'Frequently Asked Questions' page on our website, which can be accessed here: <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/> and makes available answers and guidance to several

common queries Beneficiaries have had to date regarding their pension and the receivership process. This page is continually updated as new information that is relevant to beneficiaries and trustees becomes available.

The Receivers' qualifications and experience is detailed in Appendix A2 of the Fourth Report, issued 9 August 2024 and can be accessed here: <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator

 Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
[McGrathNicol](https://www.mcgrathnicol.com) BriteAdvisors@mcgrathnicol.com 

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From: Darren Hassey <darrenhassey@gmail.com>
Sent: Wednesday, 16 October 2024 11:53 PM
To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Subject: Re: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) "Brite Advisors" - Update to Trustees and Beneficiaries – 16 October 2024

You don't often get email from darrenhassey@gmail.com. [Learn why this is important](#)

EXTERNAL SENDER

Dear Receivers,

I am deeply concerned by the continued delays stated; this matter has been going on for too long! There is no reason why an estimated valuation cannot be provided. This communication speaks of complexity on several occasions, which makes me fear the matter may be beyond the comprehension and competence of the receivers.

Please provide assurance and *evidence* of the receivers credentials to oversee the matter and explain specificity why an estimated valuation cannot be made; as for me the basis of this calculation is very simple. I am also concerned that the additional 'work' is increasing receiver fees and diminishing beneficiary accounts. Please explain how I log this concern with the Judge overseeing the case.

Thanks,
Darren.

On Wed, Oct 16, 2024 at 12:07 AM FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com> wrote:

Dear Sir/Madam,

Please see the attached correspondence from the Liquidators and Receivers of Brite Advisors.

Should you have any queries, please do not hesitate to contact us.

Regards,

On behalf of Linda Smith, Receiver and Manager



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600
McGrathNicol briteadvisors@mcgrathnicol.com



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Oliver Basura

From: Linda Smith
Sent: Monday, 28 October 2024 11:28 AM
To: Douglas Ellison
Cc: FM-Brite Advisors Investor Queries
Subject: RE: Dividend and withholding inaccuracies - Brite Pty
Attachments: BML Brite Advisors Weekly Portfolio Report 21 October 2024.pdf

Dear Mr Ellison

Thank you for your email, we appreciate you taking the time to provide feedback. Set out below are responses to your queries relating to (i) the differences between figures provided in our reporting, and (ii) your concerns regarding the inaccuracies in withholding tax and dividends.

Differences in figures provided in our reporting

At a high level, the primary reasons why the figures presented in our reporting will differ are set out below:

- The Receivers' reports issued on various dates (24 January 2024, 4 March 2024, 9 August 2024 etc.) provide a snapshot of data at a particular point in time when the report is issued. The quantum of Client AuM, margin loan facility, estimated variance fluctuates every day.
- Client AuM is held in a variety of securities and currencies which will be subject to market fluctuations over time, this movement is reported on a weekly basis by the Interim Fund Manager and published on our Brite Advisors webpage, the latest report from this week is attached.
- The Receivers' have continued to obtain additional information from the available books and records and access to critical systems of Brite Advisors throughout their appointment.
- The Receivers' investigations are ongoing into both (i) the Client AuM, and (ii) Brite Advisors' operations and conduct.

The Receivers have been mindful of the complexities and have taken steps in each of the reports issued to provide detailed disclosure of methodologies, assumptions and limitations of the analysis presented along with outlining the key matters of ongoing investigation which will impact the figures.

Set out below are specific responses to the figures you have queried below:

- a) **Beneficiary Entitlements (referred to as Client AuM in your email):** The difference between the Beneficiary entitlements presented in the Third and Fourth Reports is primarily attributable to the exclusion of Upfront Transfer Fees in the Fourth Report (addressed in the Fourth Report at [5.6.10(e)]). In addition, the figures presented in the Fourth Report were as at 13 December 2023 whereas the Third Report was as at 15 February 2024 and, accordingly, included deductions for the Beneficiaries' regular pension withdrawals and funds withdrawn to meet the Receivers' fees and operational costs (addressed in the Third Report at [6.2.4(g)]). Finally, both reports include commentary regarding the likelihood of changes to Beneficiary entitlements as a result of ongoing investigations including, but not limited to, (i) verification of individual

Beneficiary positions (addressed in the Third Report at [6.2.2(e)] and [6.2.4(d)] and in the Fourth Report at [5.2.5(d)] and [5.6.8]), and (ii) verification of the quantum of Upfront Transfer Fees and Surrender Rebates (addressed in the Third Report at [6.2.2(f)] and [6.2.4(e)] and in the Fourth Report at [5.2.5(e)]).

- b) **Other Liabilities / Other Beneficiary Claims:** As set out at (a) above, the primary reason for the difference between the two reports is the inclusion / exclusion of Upfront Transfer Fees.
- c) **Shortfall (referred to as Overall Discrepancy in your email):** The estimated shortfall between the two reports will not be directly comparable as the shortfall presented in the Third Report was as at 15 February 2024 whereas the Fourth Report was as at 13 December 2023. Notwithstanding, the difference will be primarily attributable to (i) changes in Beneficiary entitlements (set out at (a) above), and (ii) market movement in the Client AuM from December 2023 to February 2024. The Receivers set out a variety of reasons that the quantum of the estimated shortfall may materially change over time at [6.2] of the Third Report and [5.2] of the Fourth Report.
- d) **Unauthorised Withdrawals:** We are unable to determine the source of your figure of \$63.961m in the Second Report however, fundamentally, the figures between these reports will not be comparable as the (i) amounts presented in the Second Report relate to total cash transactions paid to various parties pursuant to the scope of investigations directed by ASIC, and (ii) estimated total Unauthorised Withdrawals presented in the Fourth Report relates only to the period from January 2021 to December 2023 (refer 6.2.2) and assumes an favourable interpretation of Brite Advisors' contractual entitlements to deduct fees from Client AuM (addressed in the Fourth Report at [4.3.20 – 4.3.22]).

Withholding Tax

Brite Advisors' IBA Accounts are all held in an omnibus structure in the name of Brite Advisors only, meaning that IBA is unable to provide a breakdown of the assets held (including on a beneficiary level) beyond what is held at company level for Brite Advisors (addressed at [2.3] of the Third Report and [4.6] of the Fourth Report).

As set out at paragraph 25 of my Twelfth Affidavit, the Receivers investigations relating to withholding tax have identified:

- inconsistency between the withholding tax deductions in Beneficiaries' entitlements and those within the Interactive Brokers statements;
- Brite Advisors' non-compliance with Qualified Intermediary reporting obligations for US Foreign Account Tax Compliance Act purposes prior the appointment of the Receivers; and
- Brite Advisors' engagement of BDO US prior to the appointment of the Receivers to prepare outstanding returns to the with the Internal Revenue Service which included estimated outstanding withholding tax liabilities payable for the calendar years ending 2020, 2021 and 2022 totalling approximately USD\$1.0m.

As reported, the Receivers have sought specialist tax advice from Crowe Horwath in relation to the tax affairs of Brite Advisors including the withholding tax discrepancies.

As noted above, the Receivers' investigations into these matters are still ongoing and will be subject to further updates to Beneficiaries in due course, however we trust we have sufficiently addressed your individual queries and concerns in the interim.

Regards

Linda

Linda Smith

Partner



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7633

McGrathNicol lsmith@mcgrathnicol.com



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From: Douglas Ellison <douglas.ellison@gmail.com>

Sent: Thursday, 24 October 2024 8:27 PM

To: Linda Smith <lsmith@mcgrathnicol.com>; Rob Kirman <rkirman@mcgrathnicol.com>

Cc: Brite.Investigation@asic.gov.au; FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>; Hill, Travis <hilltr@sec.gov>; Marilu Agius <marilu.agius@stmmalta.com>; STM MALTA INTERMEDIARY RELATIONS <intermediaryrelations@stmmalta.com>; edmund.truell@psf.capital; AppsA@sec.gov; executive.casework@fca.org.uk; grantj@sec.gov; Neale Prior <neale.prior@wanews.com.au>; Hussain, Ali <ali.hussain@sunday-times.co.uk>; Sam Bojarski <sbojarski@citywireusa.com>; Martin Byrne <martin.byrne@briteadvisors-usa.com>

Subject: Dividend and withholding inaccuracies - Brite Pty

EXTERNAL SENDER

Dear Linda

It is with some disappointment that I read your email dated today, 23rd October 2024, confirming that you are to reveal further discrepancies in the AuM arising from your investigations.

Disappointed in the first because a number of people I believe have raised the issue of potential dividend skimming over the time that McN has been in its role(s).

Second because McN has not provided yet an accurate reconciliation between the various reports of the discrepancies across the various reports filed with the Court.

I had decided not to comment further given the last rather curt and rude reply from McN and as it appeared that we were finally making satisfactory progress to a resolution.

However the fact that, as I suspected in August, McN had been rather economical with the full picture of the discrepancies, I feel compelled to comment.

Accordingly I have attached a spreadsheet I compiled in August detailing the various common metrics McN has reported on over the past year. The only consistent thing about the reporting of these numbers has been. The inconsistency and the lack of reconciliation/explanation as the numbers have changed. Across the reports.

I would have expected that McN would have provided a reconciliation between the numbers to explain why the numbers have changed across the reports.

I would therefore request that a full reconciliation between the various reports McN has made, is provided as soon as possible given the further variations you are about to reveal.

EXAMPLES OF INCONSISTENT REPORTING (OTHERS PROVIDED IN THE ATTACHED SPREADSHEET)

GROSS AUM

Reported 4th March 2024 as of 15th February 2024 - \$777.2m
Reported 9th August 2024 as of 13th December 2024 - \$749.6m

OTHER LIABILITIES

Reported 4TH March 2024 as of 15th February 2024 - \$36.9m
No longer appears on any report or reconciliation from Gross AuM to net available to beneficiaries

OVERALL DISCREPANCY FOR THE ACCOUNT OF BENEFICIARIES

Reported 4th March 2024 as of 15th February 2024 - \$68m
Reported 9th August 2024 as of 5TH August 2024 - \$96.3m

UNAUTHORISED WITHDRAWALS

Reported 24th January 2024 as of 13th December 2023 - \$63.961m
Reported 9th August 2024 as of 13th December 2024 - \$32.5m

WITHHOLDING AND DIVIDEND INACCURACIES

In MCN's most recent communications, there have been allegations of further inconsistencies regarding withholding taxes and dividends.

As has been pointed out to you several times previously, The IBA systems should contain a plethora of static data to ensure the correct deductions are made on funds received from securities for withholding tax.

Indeed, as has also been pointed out to you, the segregation of funds in the omnibus accounts enabled the division of groups of beneficiaries according to their residential jurisdictions to facilitate both the regulatory requirements of their jurisdiction and the withholding obligations.

IBA should have had sufficient information to ensure the correct deductions were made as funds were allocated to the various omnibus accounts at the beneficiary level. Again, I provided you with details of how the IBA systems can be specified to ensure all aspects of beneficiary account management should have been executed professionally and accurately.

Are you saying that the failure to deduct was made by IBA? In which case this is another failure of their duties as fiduciary custodians. In which case what action do you or ASIC intend to pursue against IBA for their negligence?

Or are you saying the Brite PTY manipulated the amounts credited by IBA after IBA had correctly deducted the appropriate withholdings and diverted these funds?

Regards

Douglas Ellison

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:36 AM
To: gaz@hwglassworks.com
Subject: RE: Enquiry

Dear Gaz

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
- According to Order 9 of the orders dated 2 September 2024, the Receivers are required to value Beneficiary entitlements on a mark-to-market basis as at 13 December 2023.
- As you are aware, there is no mark-to market data available for the valuation of the Structured Notes as at a 13 December 2023.
- The Receivers anticipate that the valuation of the Structured Notes may become the subject of contention in the distribution methodology and consider it is important to obtain independent advice now that is suitable to be submitted in evidence in the Court Proceedings if necessary to (i) minimise the risk of protracted debate on the topic, and (ii) to ensure that the impacted Beneficiaries are treated as fairly as possible.
- Noting the Receivers' role in the Court Proceedings, the Receivers are unable to provide an independent valuation and would not be qualified to do so.

The Receivers make the following comments on your email:

- We understand the structured notes were previously valued by Brite Advisors using cost price only.
- As mentioned above, the structured notes are required to be valued as at 13 December 2023 and several of the Structured Notes had (i) not yet matured as at this date, and/or (ii) had been sold down prematurely and not repurchased.
- The Receivers have already obtained the fact sheets for certain of the Structured Notes.
- We agree that the Receivers could value a structured note that existed, had reached maturity date and the Receivers had access to the relevant data and confirmation of payout figures etc. However, this is not the case.
- In most cases, Brite Advisors never held the structured notes in question, therefore, the issuers have not been in a position release information such as valuation and coupon data to the Receivers.
- As you will be aware, the conditions attached to many of the structured notes are complex and linked to the performance of multiple indices globally which underscores the complexity of the valuation exercise.
- While the Receivers can obtain information from the Fact Sheets such as length of term, conditions, coupon rates etc. the Receivers are not able to confirm what actual transactions have occurred over time or if conditions and coupon payments etc. have been met/paid.

The Receivers intend to value the structured notes as at 13 December 2023, regardless of whether they were sold and repurchased, or sold and not repurchased (that is, the Receivers are valuing what Beneficiaries ought to have held).

Once a valuation has been received from the expert and included in your Valuation Notice, you will have the opportunity to review that valuation and raise a dispute during the entitlement verification process if you wish.

A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:
<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

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From: Gaz Barlow <gaz@hwglassworks.com>
Sent: Thursday, 24 October 2024 1:38 PM
To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Subject: Enquiry



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EXTERNAL SENDER

Dear Ms Smith and Mr Kirman,

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration will reach Final Maturity during October 2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio a Goldman Sachs Note, XS1829821734, with 38285 units.

Kindly note that the Brite Butler valuation, as at November 2023, misquotes the number of units by 90%, with only 10% reflecting .

Regards,

Gaz Barlow

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 9:55 AM
To: 'Vincent Wilson'
Subject: RE: Questions re: Update 16 October 2024

Dear Vincent

Thank you for your email. Our responses to your queries are set out below (numbered per your email).

1. As set out in the Receivers Update dated 16 October 2024, the errors with the historical dividends impacts approximately 1,855 Beneficiaries (i.e. nearly all Beneficiaries). The Receivers have undertaken significant work to rectify the issues where they have material impact and have sought appropriate orders from the Court. Subject to those orders being made by the Court, the Receivers do not expect the dividend issue to cause further delay to issuance of the valuation notices.

In respect of withholding tax, the Receivers have sought specialist tax advice in relation to the tax affairs of Brite Advisors, including in relation to the withholding tax discrepancies identified. Resolution of this issue is likely to take several months.

To avoid delaying the entitlement verification process, the Receivers propose to remove from the 13 December 2023 Data any entries relating to withholding tax. Once appropriate tax advice has been received, all verified entitlements can then be subject to an appropriate adjustment by the Court on application by the Receivers.

2. It is correct that Structured Notes cannot be held in IB. The Structured Notes (i) are held on the Moventum platform, or (ii) as set out at section A5 of the Fourth Report, were sold by Brite Advisors (but were still reflected as being held by Beneficiaries), with the proceeds from the sale being paid onto IB. The Receivers are investigating the sale of the Structured Notes.
3. The Minerva Notes are loan notes issued by Minerva Lending PLC.

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

[McGrathNicol](#) BriteAdvisors@mcgrathnicol.com



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From: Vincent Wilson <Vincent.Wilson@archwayprivatewealth.us>
Sent: Friday, 25 October 2024 6:06 AM
To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Subject: Questions re: Update 16 October 2024

Dear Sirs

In my position as the appointed financial advisor to Mr Robert Grundy as well as others who are Brite clients, I have some questions relating to the recent update of 16 Oct 2024. If you could reply with answers to the following it would be most appreciated;

Q1: Why delay the Valuation Notices due to the issue of missing dividends but not due to the missing Withholding Tax? This is inconsistent especially since the dividend issue amounts to an insignificant \$477 per affected client.

Q2: Where are the structured notes currently held? IBAU are not able to hold notes so they must be on another platform somewhere else.

Q3: What are the Minerva Notes? Are these a type of structured note, loan note or something else?

Best,

Vincent

From: FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com>
Date: Friday, 4 October 2024 at 6:50 PM
To: Rob Grundy <rg7cavn@gmail.com>
Cc: Vincent Wilson <Vincent.Wilson@archwayprivatewealth.us>
Subject: RE: Verification

You don't often get email from briteadvisorsidentification@mcgrathnicol.com. [Learn why this is important](#)

Hi Rob,

We can confirm that your submission has been received and verified.

The Receivers will provide further correspondence in relation to the Valuation Notice and Salesforce access in due course.

Thank you for completing the ID proofing process.

Regards,

Marco

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com



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From: Rob Grundy <rg7cavn@gmail.com>

Sent: Friday, October 4, 2024 2:01 AM

To: FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com>

Cc: Vincent Wilson <vincent.wilson@archwayprivatewealth.us>

Subject: Re: Verification

EXTERNAL SENDER

Thank you, I did manage to file it eventually after extensive efforts and time. It worked on my iPhone, but not iPad! I'm sorry I was a little curt...borne of frustration with the process. Hopefully now received, it said successfully submitted, but if there are any follow up issues, please let me know.

Kind Regards,

Charles R Grundy

Sent from my iPad

On Oct 3, 2024, at 8:54 AM, FM-Brite Advisors Identification
<BriteAdvisorsIdentification@mcgrathnicol.com> wrote:

Hi Rob,

In relation to the ID verification process, refer attached for my earlier response.

I have Cc'd the Investor Queries team who will be able to assist with your withdrawal request.

Regards,

Michael

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol briteadvisors@mcgrathnicol.com



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-----Original Message-----

From: Rob Grundy <rg7cavn@gmail.com>

Sent: Wednesday, October 2, 2024 11:25 PM

To: FM-Brite Advisors Identification <BriteAdvisorsIdentification@mcgrathnicol.com>

Cc: Vincent Wilson <vincent.wilson@archwayprivatewealth.us>

Subject: Verification

[You don't often get email from rg7cavn@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

EXTERNAL SENDER

Does not work, won't allow date of birth entry, month and year required not available.

Please advise ASAP or offer an alternative method as the deadline is in two days, or I will need an extension to be granted.

Also, you have been ignoring my FA's request to you for what evidence you need regarding filing a hardship funds request. PSG say they cannot file the request as 'evidence' is required, but no one knows, and you won't say what it is.

Please respond immediately in these matters, and copy my FA

Charles R Grundy

1-714-697-2012

Financial Advisor: Vincent Wilson

vincent.wilson@archwayprivatewealth.us

Sent from my iPad

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Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:41 AM
To: 'Peter Hinton-Green'
Cc: paul.ockleford@pensioneertrustee.com
Subject: RE: Recent Notification re Structured Notes' Valuations

Dear Peter

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
- According to Order 9 of the orders dated 2 September 2024, the Receivers are required to value Beneficiary entitlements on a mark-to-market basis as at 13 December 2023.
- As you are aware, there is no mark-to market data available for the valuation of the Structured Notes as at a 13 December 2023.
- The Receivers anticipate that the valuation of the Structured Notes may become the subject of contention in the distribution methodology and consider it is important to obtain independent advice now that is suitable to be submitted in evidence in the Court Proceedings if necessary to (i) minimise the risk of protracted debate on the topic, and (ii) to ensure that the impacted Beneficiaries are treated as fairly as possible.
- Noting the Receivers' role in the Court Proceedings, the Receivers are unable to provide an independent valuation and would not be qualified to do so.

The Receivers make the following comments on your email:

- We understand the structured notes were previously valued by Brite Advisors using cost price only.
- As mentioned above, the structured notes are required to be valued as at 13 December 2023 and several of the Structured Notes had (i) not yet matured as at this date, and/or (ii) had been sold down prematurely and not repurchased.
- The Receivers have already obtained the fact sheets for certain of the Structured Notes.
- We agree that the Receivers could value a structured note that existed, had reached maturity date and the Receivers had access to the relevant data and confirmation of payout figures etc. However, this is not the case.
- In most cases, Brite Advisors never held the structured notes in question, therefore, the issuers have not been in a position release information such as valuation and coupon data to the Receivers.
- As you will be aware, the conditions attached to many of the structured notes are complex and linked to the performance of multiple indices globally which underscores the complexity of the valuation exercise.
- While the Receivers can obtain information from the Fact Sheets such as length of term, conditions, coupon rates etc. the Receivers are not able to confirm what actual transactions have occurred over time or if conditions and coupon payments etc. have been met/paid.

The Receivers intend to value the structured notes as at 13 December 2023, regardless of whether they were sold and repurchased, or sold and not repurchased (that is, the Receivers are valuing what Beneficiaries ought to have held).

Once a valuation has been received from the expert and included in your Valuation Notice, you will have the opportunity to review that valuation and raise a dispute during the entitlement verification process if you wish.

A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:
<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia

T +61 8 6363 7600

McGrathNicol BriteAdvisors@mcgrathnicol.com



Celebrating 20 Years

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From: Peter Hinton-Green <pjhg@mweb.co.za>
Sent: Friday, 25 October 2024 5:35 PM
To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>
Cc: paul.ockleford@pensioneertrustee.com
Subject: Re: Recent Notification re Structured Notes' Valuations

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

In your latest email, you mention a proposed delay in presenting valuations to those Clients who held Structured Notes in order to employ an appropriately qualified person to establish the values of the various Structured Notes held by relatively few clients.

It is arguable that such an experienced appointment may be unnecessary:

(i) Clients invest in Structured Notes for the duration of the Note, as it is upon "Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably only be borne of dire necessity.

(ii) To the best of my knowledge, any remaining Structured Notes would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Brite Advisors (Pty) Ltd. Thus, Structured Notes of any 6-Year duration will reach Final Maturity during October 2024 or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

(iii) Thus the valuations will be according to the Pay-Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested x the relevant annual coupon, and any prevailing terms and conditions applicable to such pay-out descriptions.

(iv) Thus the important values will be a) the **Initial Capital** invested into the relevant Structured Note, b) the **Value of the sale** by the relevant Portfolio Bond provider at a profit (as economic conditions would not appear to have seen any losses, and Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same **Capital sum**, with **Profit** to client's cash account, and c) **Value at Early Maturity or upon Full Maturity**.

Since Client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which Clients have been prejudiced. Thus the calculation would be :-

Initial Capital add Coupon to either Early Maturity or Full Maturity **less Profit** incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that they can be provided. However, you are already most likely to have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note-holding Clients.

In my case, I had in my portfolio:-

UBS Note, XS1863909385, with 128000 units;
 UBS Note, XS1974908375, with 103000 units;
 Goldman Sachs Note XS1852251278, with 141000 units.

With thanks and kind regards.

Yours sincerely

Mr P J Hinton-Green
 Email address: pjhg@mweb.co.za
 Mobile number: +27 82 567 8023

Oliver Basura

From: FM-Brite Advisors Investor Queries
Sent: Monday, 28 October 2024 11:40 AM
To: John Reilly
Subject: RE: Structured Note

Dear John

Thank you for your email, we appreciate you taking the time to provide feedback.

By way of background, as you will be aware from section A5 of our 9 August 2024 report:

- Holders of the structured notes have been impacted by the sell down of structured notes between March and October 2022. The structured note holders were not aware that the structured notes had not been repurchased by Brite Advisors.
- According to Order 9 of the orders dated 2 September 2024, the Receivers are required to value Beneficiary entitlements on a mark-to-market basis as at 13 December 2023.
- As you are aware, there is no mark-to market data available for the valuation of the Structured Notes as at a 13 December 2023.
- The Receivers anticipate that the valuation of the Structured Notes may become the subject of contention in the distribution methodology and consider it is important to obtain independent advice now that is suitable to be submitted in evidence in the Court Proceedings if necessary to (i) minimise the risk of protracted debate on the topic, and (ii) to ensure that the impacted Beneficiaries are treated as fairly as possible.
- Noting the Receivers' role in the Court Proceedings, the Receivers are unable to provide an independent valuation and would not be qualified to do so.

The Receivers make the following comments on your email:

- We understand the structured notes were previously valued by Brite Advisors using cost price only.
- As mentioned above, the structured notes are required to be valued as at 13 December 2023 and several of the Structured Notes had (i) not yet matured as at this date, and/or (ii) had been sold down prematurely and not repurchased.
- The Receivers have already obtained the fact sheets for certain of the Structured Notes.
- We agree that the Receivers could value a structured note that existed, had reached maturity date and the Receivers had access to the relevant data and confirmation of payout figures etc. However, this is not the case.
- In most cases, Brite Advisors never held the structured notes in question, therefore, the issuers have not been in a position release information such as valuation and coupon data to the Receivers.
- As you will be aware, the conditions attached to many of the structured notes are complex and linked to the performance of multiple indices globally which underscores the complexity of the valuation exercise.
- While the Receivers can obtain information from the Fact Sheets such as length of term, conditions, coupon rates etc. the Receivers are not able to confirm what actual transactions have occurred over time or if conditions and coupon payments etc. have been met/paid.

The Receivers intend to value the structured notes as at 13 December 2023, regardless of whether they were sold and repurchased, or sold and not repurchased (that is, the Receivers are valuing what Beneficiaries ought to have held).

Once a valuation has been received from the expert and included in your Valuation Notice, you will have the opportunity to review that valuation and raise a dispute during the entitlement verification process if you wish.

A copy of the Receivers' Fourth Report, dated 9 August 2024 can be accessed here:

<https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>

Regards,

On behalf of Linda Smith, Receiver and Liquidator



Level 19, 2 The Esplanade, Perth WA 6000 Australia
T +61 8 6363 7600

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From: John Reilly <johnomalleyreilly@gmail.com>

Sent: Friday, 25 October 2024 4:29 PM

To: FM-Brite Advisors Investor Queries <BriteAdvisors@mcgrathnicol.com>

Subject: Structured Note

EXTERNAL SENDER

Dear Ms Smith and Mr Kirman

Your latest email to me mentioning a proposed delay in presenting valuations to those clients who held Structured Notes owing to a proposed intention to identify, and employ the services of, an appropriately qualified and experienced person to establish the values of the various Structured Notes held by relatively few clients, refers.

May I suggest that appointing such a qualified and experienced person may be unnecessary? The reasoning may be expressed thus:-

(i) Clients invest in Structured Notes for the duration of the Structured Note, as it is upon Early Maturity" or "Full Maturity" that the maximum gain comes to fruition. There would be extremely few, if any, instances of a client selling a Structured Note prior. Any such instance would presumably be borne of necessity, such as in the case of dire financial straits only.

To the best of my knowledge any remaining Structured Notes, would have been invested in during the time prior to deVere Group (Pty) Ltd selling its operations to Messer's Brite Advisors (Pty) Ltd. Thus Structured Notes of any 6 Year duration duration will reach Final Maturity during October

2024, this month, or at least before the year end. Some Structured Notes may have reached "Early Maturity" say in 2023.

Thus the valuations will be according to the Pay Out descriptions upon each Fact Sheet for each Structured Note, in line with capital invested times (x) the relevant annual coupon and any prevailing terms and conditions applicable to such pay out descriptions.

Thus the important values will be:-

- (1) Initial capital invested into the relevant Structured Note;
- (2) The value of the sale by the relevant Portfolio Bond provider, at a profit. Economic conditions would not have seen any losses it would appear;
- (3) Brite Advisors was to re-purchase, simultaneously, the Structured Note, presumably at the same capital sum. Profit to client's cash account;
- (4) Value at Early Maturity or upon Full Maturity.

Since client Structured Notes appear not to have been re-purchased, the Receivers need to calculate the exact amount by which clients have been prejudiced by. Thus, the calculation would be:-

(*) Initial capital

plus

(**) Coupon to either Early Maturity or Full Maturity

less

(***) Profit incurred upon sale of Structure Note immediately prior to simultaneous re-purchase of the Structured Note concerned.

There can be no need to try and value a Structured Note once it has reached either Early Maturity (upon any of the anniversary dates mentioned in the Fact Sheet) or Full Maturity on the final observation date and reached the final maturity date. In my case the income was paid over the life of the Note, as I recall.

Should you need any Fact Sheets, which refer fully to how capital and coupons are to be paid out, then please revert soonest so that same can be provided. However, it would appear to me that you probably have had sight of such Fact Sheets in the course of your investigations and communication with Structured Note holding clients.

In my case, I had in my portfolio a Commerzbank (Society General) Note, XS1641257180, with 143000 units.

Thank you and kind regards.

Yours faithfully

Mr J O'M Reilly

Email address: johnomalleyreilly@gmail.com.

and jolojoro@swazi.net

Mobile number: +268 7614 3640