

Duplicate

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: BS11297/24

IN THE MATTER OF ACN 114 733 569 LIMITED

First Applicant **ACN 114 733 569 LIMITED**
ACN 114 733 569 FORMERLY KNOWN AS ISG
FINANCIAL SERVICES LIMITED
(ADMINISTRATOR APPOINTED)

Second Applicant **BENJAMIN ROBIN GODFREY**

ORDERS

Before: Justice Crowley

Date: 30 September 2024

Initiating document: Originating Application filed 27 August 2024
Interlocutory application by the Interested Persons filed
September 2024

THE ORDER OF THE COURT IS THAT:

Leave to proceed

1. Pursuant to s 440D of the *Corporations Act 2001* (Cth), the Interested Persons Charles Fichter, Elisabeth Fichter, Edward Martin and Debbie Martin have leave to make the interlocutory application referred to above.

Confidentiality

2. The following material is to be placed in a sealed envelope on the Court file, not to be opened without further order of this Court:
 - (a) Exhibit JEO-2 to the affidavit of Jonathan O'Loughlin sworn 20 September 2024 and filed 25 September 2024; and
 - (b) Exhibit MJB-2 to the affidavit of Michael Baltins sworn 27 September 2024.



ORDER

Filed on Behalf of the Interested Person
Form 59, Version 1
Uniform Civil Procedure Rules 1999
Rule 661

Name: O'Loughlin Westhoff
Address: Level 6, 31 Market Street,
Sydney NSW 2000
Phone No: +61 416 772 835
Fax No: n/a
Email: jonathan@olwlaw.com.au
Ref: JEO:240758

Appointment of receivers

3. Pursuant to section 601ND(1) of the *Corporations Act 2001* (Cth) (**Act**), the Court directs that the first applicant, as responsible entity of the ISG Private Access Fund ARSN 618 548 333 and the ISG Real Estate Equity Fund ARSN 618 548 780 (the **ISG Schemes**), wind up the ISG Schemes, subject to the orders below.
4. Until further order, pursuant to s 601NF(1) of the Act, Neil Robert Cussen, Anthony Phillip Wright and Katherine Elizabeth Barnet of Olvera Advisors Pty Ltd are appointed as persons to take responsibility for ensuring that the ISG Schemes are wound up in accordance with their constitutions and these orders.
5. Further to paragraph 4 and pursuant to s 601NF(2) of the Act, Neil Robert Cussen, Anthony Phillip Wright and Katherine Elizabeth Barnet of Olvera Advisors Pty Ltd are appointed as joint and several receivers (**Receivers**), without security, of the whole of the property of each of the ISG Schemes.
6. Pursuant to s 601NF(2) of the Act, the Receivers have all the powers in s 420 of the Act, *mutatis mutandis*, in relation to the property of each of the ISG Schemes.
7. Without limiting the scope of Order 6 above, the Receivers have all powers necessary to carry on the businesses of the ISG Schemes for the purpose of winding up the ISG Schemes, including but not limited to the powers:
 - (a) to access the books and records of the ISG Schemes;
 - (b) to enter into possession, take control of and dispose of the property of the ISG Schemes;
 - (c) to deal with any creditors and third parties with security over the property of the ISG Schemes;
 - (d) to investigate any claims on behalf of members of the ISG Schemes; and
 - (e) to execute any document, bring or defend any legal proceeding.
8. The Receivers shall within 6 weeks of the date of this order provide to the Court and the parties a report as to the winding up of the ISG Schemes, including:
 - (a) the work undertaken by the Receivers as at the date of the report;
 - (b) the property and assets of each of the ISG Schemes;
 - (c) the investors in the ISG Schemes and the quantum of their investments;
 - (d) the liabilities and creditors of the ISG Schemes;

- (e) whether investors or any other creditors may have a claim against either or both of the ISG Schemes, first applicant or its current or former officers or directors; and
 - (f) the solvency of the ISG Schemes;
 - (g) the likely return to creditors and investors, including investors in respect of specific classes of units issued in the each of the ISG Schemes;
 - (h) any other information reasonably necessary to assess the financial positions of the ISG Schemes; and
 - (i) the anticipated scope of any remaining work appropriate to complete the winding up of the ISG Schemes and the anticipated timeframe for completion of that work.
9. In addition to the powers conferred on them by paragraphs 6 and 7 above, and without limiting those powers, the Receivers have the power to investigate and report on the matters set out in paragraph 8 above.

The Receivers' remuneration, costs and expenses

10. Subject to paragraph 12 below, the Receivers shall be entitled to reasonable remuneration and reasonable costs and expenses properly incurred in the performance of their duties pursuant to these orders as may be fixed by the Court on the application of the Receivers, remuneration to be calculated on the basis of the time reasonably spent by the Receivers, at the rates specified in the Consent to Act at Annexure A to these orders, such fees to be paid out of the property of the ISG Schemes. Such remuneration, costs and expenses are not to be paid until further ordered.
11. Subject to paragraph 12 below, the Receivers shall be entitled to be indemnified out of the property of the ISG Schemes for any liability properly incurred in performing their duties and discharging their functions pursuant to these orders. Such liabilities are not to be paid until further ordered.
12. Unless otherwise ordered, the Receivers' entitlement to remuneration and costs and expenses pursuant to paragraphs 10 to 11 above shall be limited to and may only be paid from the assets or property of the ISG Scheme in connection with which the particular work was undertaken.

Books and records

13. The applicants shall immediately make available to the Receivers all books and records (including all files, computer records and data in its possession, custody or control) which relate to the property of the ISG Schemes or the application of investor funds.
14. Without limiting order 13, the Applicants shall immediately make available to the Receivers:

- (a) Any Product Disclosure Statement issued by the First Applicant as responsible entity of either of the ISG Schemes; and
- (b) Class Terms of Issue for all classes of units issued by the First Applicant as responsible entity of either of the ISG Schemes.

Costs

15. The following costs be paid, in the first instance (reserving the question of whether they should be apportioned in due course against specific assets of the ISG Schemes) *pari passu* and in equal shares from the assets of each of the ISG Schemes in priority to the claims of members and unsecured creditors of the ISG Schemes and the costs, remuneration and expenses of the Receivers referred to in Order 10:
- (a) The Interested Persons' costs of these proceedings as agreed with the Receivers or assessed; and
 - (b) The Applicants' costs of these proceedings, as agreed with the Receivers or assessed.

Other orders

16. Liberty be granted to the parties, ASIC, interested persons, Receivers and any person affected by these orders to apply, including to apply to vary these orders.

Signed: _____

Deputy Registrar



"ANNEXURE A"

CORPORATIONS ACT 2001

CONSENT OF RECEIVER TO ACT

ISG PRIVATE ACCESS FUND


ARSN 618 548 333

We, Neil Robert Cussen, Anthony Phillip Wright, and Katherine Elizabeth Barnet of Olvera Advisors Pty Ltd, Level 6, 9 Barrack Street, Sydney in the State of New South Wales, hereby consent to be appointed to act as Joint and Several Receivers of the ISG Private Access Fund ARSN 618 548 333.


We are not aware of any conflict of interest or duty that would make it improper for us to act as the Joint and Several Receivers of the Fund.

To the best of our knowledge, we are not disqualified from acting as Receivers of the Fund by reason of any provision of the Corporations Act 2001.

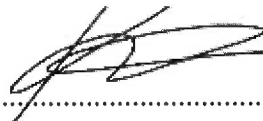
DATED this 11th day of September 2024.


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Neil Robert Cussen


.....

Anthony Phillip Wright


.....

Katherine Elizabeth Barnet

CORPORATIONS ACT 2001
CONSENT OF RECEIVER TO ACT

ISG REAL ESTATE EQUITY FUND
ARSN 618 548 780

We, Neil Robert Cussen, Anthony Phillip Wright, and Katherine Elizabeth Barnet of Olvera Advisors Pty Ltd, Level 6, 9 Barrack Street, Sydney in the State of New South Wales, hereby consent to be appointed to act as Joint and Several Receivers of the ISG Real Estate Equity Fund ARSN 618 548 780.

We are not aware of any conflict of interest or duty that would make it improper for us to act as the Joint and Several Receivers of the Fund.


To the best of our knowledge, we are not disqualified from acting as Receivers of the Fund by reason of any provision of the Corporations Act 2001.

DATED this 11th day of September 2024.



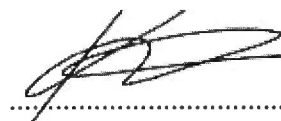
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Neil Robert Cussen



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Anthony Phillip Wright



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Katherine Elizabeth Barnet

Guide to Hourly Rates as of 1 July 2024

level	description	hourly rate (exc GST)
Appointee/ Principal	Official or Registered Liquidator/Trustee or Principal	\$850
Director	Typically, professional body qualified, more than 10 years' experience in insolvency matters at a senior level, including managing complex administrations and supervising teams. Capable of deputising for the Appointees where required and controlling all aspects of an insolvency appointment. Maybe qualified to accept appointments in his/her own right	\$780
Senior Manager	Typically, Professional body qualified. 7 + years' experience, likely more than 3 years as manager, tertiary qualified. Answerable to the appointee but otherwise responsible for all aspects of administration. Capable of controlling all aspects of an insolvency appointment.	\$700
Manager	Typically, Professional body qualified. 6 - 7 years + experience. Controls all allocated tasks. Well-developed technical and commercial skills.	\$650
Supervisor	Typically, Professional body qualified. 4 to 6 years' experience. Will have had experience on minor matters and experience in control of staff. Assists planning and controls medium to larger matters. Reports to manager.	\$600
Senior Analyst	Typically, 2 to 4 years' experience. Professional body program commenced or completed. Required to control and/or assist in the field on matters. Reports to manager.	\$570
Analyst	Typically, 1 to 2 years' experience. Likely tertiary course underway or near complete. Required to control and/or assist in the field on matters. Reports to manager.	\$465
Graduate	Typically, less than 1 year experience. Tertiary degree completed or nearing completion. Required to control and/or assist in the field on matters. Reports to more senior staff	\$435
Undergraduate	HSC qualified. Trainee likely undertaking a tertiary degree with an accountancy major or other industry major. Required to assist in the field on matters. Reports to more senior staff.	\$390
General Administrator	Appropriate administration skills.	\$365
Junior Administrator	Appropriate administration skills	\$260