

NOTICE OF FILING AND HEARING

Filing and Hearing Details

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File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
GREGORY RAYMOND COTTON & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 2 Amended Originating process

(rules 2.2 and 15A.3)

No. VID 1053 of 2025

Federal Court of Australia

District Registry: Victoria

Division: Commercial and Corporations

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

GREGORY RAYMOND COTTON and another named in the Schedule

Defendants

A. DETAILS OF APPLICATION

This application is made under:

- a) sections 461(1)(k), 472(1), 601EE, 1323(1) and 1323(3) of the *Corporations Act 2001* (Cth) (the **Act**);
- b) sections 23, 37AF, 37AG and 37AI of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**); and
- c) the inherent jurisdiction of the Court.

The nature of the proceeding is an application for orders:

- a) relating to the property of the Defendants, including for the appointment of a receiver and/or receiver manager to the property of the First and Second Defendants under section 1323(1)(h) of the Act (**Receiver Orders**), alternatively, asset preservation orders against the First and Second Defendants under section 1323(1)(h) of the Act and section 23 of the Federal Court Act (**Asset Preservation Orders**); and
- b) requiring the First and Second Defendants to provide information as to their financial affairs (Disclosure Orders); and

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission, Plaintiff		
Prepared by (name of person/lawyer)	Cynthia Di Blasio John Fogarty		
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Email	mark.pangbourne@asic.gov.au		
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(include state and postcode)	Level 14 7, 80 420 Collins Street Melbourne, Victoria, 3000		

- c) winding up the Scheme (defined below), and the Second Defendant.

For the purposes of this amended originating process, 'the **Scheme**' means the unregistered managed investment scheme, with at least the following features, operated by the Defendants between, at least, 1 January 2020 and 15 August 2025:

- a) the Defendants obtained monies from investors;
- b) the Defendants pooled the monies in bank accounts, including the following accounts:
- i) Australia and New Zealand Banking Group, BSB 012 055, account number 423982827, held in the name of the First Defendant 'trading as First Mutual Private Equity Pty Ltd';
 - ii) Australia and New Zealand Banking Group, BSB 013 440, account number 4239 41371, held in the name of the First Defendant;
 - iii) Bendigo Bank, BSB 633 000, account number 195766837, held in the name of the First Defendant;
 - iv) Commonwealth Bank of Australia, BSB 062 692, account number 71969544, held in the name of the First Defendant 'trading as First Mutual Private Equity Pty Ltd';
 - v) Commonwealth Bank of Australia, BSB 067 873, account number 15176686, held in the name of the Second Defendant;
 - vi) Commonwealth Bank of Australia, BSB 067 167, account number 36207462, held in the name of the Second Defendant;
 - vii) Commonwealth Bank of Australia, BSB 067 167, account number 17451435, held in the name of the First Defendant;
 - viii) National Australia Bank account, BSB 083 427, account number 322602821, held in the name of the First Defendant 'trading as First Mutual Private Equity Pty Ltd'; and
 - ix) Commonwealth Bank of Australia, BSB 063 539, account number 10736619, held jointly in the name of the First Defendant and another;
- c) the Defendants represented to and/or agreed with investors that the monies deposited with the Defendants were to be:
- i) pooled with monies deposited by other investors and/or one or both of the Defendants; and

- ii) used to fund investments and trading in ASX listed shares and/or to fund investments to be carried out through a unit trust;
- d) the First Defendant represented to and/or agreed with investors that in return for depositing monies, investors would receive a right to:
 - i) interest and/or credit payments;
 - ii) income as a beneficiary of a unit trust; and/or
 - iii) a share of the profits generated by the investment activities to be carried out by the Defendants, alternatively by the First Defendant;
- e) the Defendants, alternatively the First Defendant, were to use the monies to fund investments and trading in ASX listed shares and/or to fund investments to be carried out through a unit trust, with a view to generating a profit out of which payments were to be made to investors;
- f) the investors did not have day to day control over the use of the monies paid by them to the Defendants;
- g) a proportion of the monies the Defendants received from investors was used to make payments to other investors and was not used for conducting investment activities; and
- h) the Defendants transferred and expended monies obtained from investors for the First Defendant's private use.

On facts stated in the supporting affidavit of Mark John Pangbourne sworn on 15 August 2025 and its annexures (**Pangbourne Affidavit**) and the supporting affidavit of Katherine Joy Roxas sworn on 15 August 2025 and its exhibit (**Roxas Affidavit**), the Plaintiff seeks the following relief:

Ex parte / Short Service Orders

1. An order that upon the Plaintiff's undertaking to pay the usual filing fees, the Plaintiff have leave to file in Court this Originating Process, the Pangbourne Affidavit and the Roxas Affidavit.
2. An order that in the first instance, service of this Originating Process, the Pangbourne Affidavit and the Roxas Affidavit, be dispensed with.
3. An order that in the first instance, this Originating Process be returnable *instanter* before the Court on an *ex parte* basis.

4. An order that the time for service on the First and Second Defendants of this Originating Process, the Pangbourne Affidavit and the Roxas Affidavit, be abridged to a date to be fixed by the Court after the hearing of the interim application.
5. An order that as soon as reasonably practicable after the hearing and determination of the Plaintiff's *ex parte* application, the Plaintiff serve on the First and Second Defendants copies of:
 - a) any orders of the Court;
 - b) all materials relied upon by the Plaintiff at the hearing of the *ex parte* application;
 - c) the submissions of the Plaintiff on the *ex parte* application; and
 - d) a transcript of the *ex parte* hearing held in this proceeding.
6. An order that, in addition to personal service being effected in respect of the materials referenced in orders 4 and 5(a) above, the Plaintiff is to provide the documents referred to in orders 4 and 5 to the Defendants by way of electronic communication to the following email addresses, [REDACTED] and [REDACTED].

Receiver Orders

7. An order pursuant to sections 1323(1)(h) and 1323(3) of the Act for the appointment, until further order, of a suitable person as receiver or receiver and manager (**Receiver**), without security, of the property (as defined in sections 9 and 1323(2A) of the Act) (**Property**), of the First and Second Defendants.
8. An order that the Receiver has, in respect of the Property:
 - a) the power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the identification, preservation and securing of all of the Property for the benefit of potential creditors; and
 - b) without limiting the generality of the power in the preceding sub-paragraph, the power to enter into possession and take control of the Property to the extent that the exercise of the power is reasonably necessary to achieve the purposes set out in the preceding sub-paragraph.
9. An order that the Receiver's reasonable costs and expenses be payable from the Property of the First and Second Defendants.

Asset Preservation Orders

10. Further, or in the alternative to the orders sought in paragraphs 7 to 9, an order pursuant to sections 1323(1)(h) and 1323(3) of the Act and/or section 23 of the Federal Court Act, that until further order, and subject to order 11 below, the First and Second Defendants, by themselves or their servants, agents, employees or any other person on their behalf, must not:
 - a) remove, or cause or permit to be removed from Australia all or any of their Property, including, but not limited to, funds in accounts held by the Defendants including but not limited to the accounts listed in Schedule A to this Originating Process (**Defendants' Accounts**);
 - b) sell, charge, mortgage or otherwise deal with, dispose of and/or diminish the value of all or any of their Property, including, but not limited to, funds in the Defendants' Accounts;
 - c) cause or permit to be sold, charged, mortgaged or otherwise dealt with, disposed of, or diminished in value, all or any of their Property including funds listed in the Defendants' Accounts;
 - d) without limiting the terms of sub-paragraphs (a) to (c) above, incur new liabilities, including, without limitation, liabilities incurred either directly or indirectly, through the use of a loan agreement, an investment contract (including any contract styled as an 'Agreement to Subscribe'), a credit card, a credit facility, a drawdown facility or a re-draw facility; and
 - e) without limiting the terms of sub-paragraphs (a) to (d) above, withdraw, transfer or otherwise dispose of or deal with, any monies in any account with any bank, building society, cryptocurrency exchange or other financial institution in which the Defendants have any legal or equitable interest, including without limitation the Defendants' Accounts.

11. An order that the orders sought in paragraph 10 above do not prevent:
 - a) the First Defendant from paying or otherwise incurring a liability for ordinary, bone fide and properly incurred living and operating expenses up to an amount of eight hundred dollars (\$800) per week;
 - b) the First and Second Defendants from paying or otherwise incurring a liability for costs reasonably incurred in these proceedings and any criminal proceedings arising from the Plaintiff's investigation into the affairs of the First and Second Defendants; and

- c) any bank, building society or financial institution from exercising any right of set-off which it may have in respect of a facility afforded by it to the First and Second Defendants prior to the date of this Order.

Disclosure Orders

12. An order that, except to the extent that a claim of privilege against self-incrimination or civil penalty privilege is made, the First and Second Defendants deliver or cause to be delivered to the Plaintiff by _____ on _____, a full and detailed affidavit sworn or affirmed by the First Defendant setting out:
 - a) the name and address of any bank, building society, cryptocurrency exchange or other financial institution at which there is an account in the name of or under the control of the Defendants, together with the number of such account, the name of such account and the balance of that account;
 - b) the name and contact details (including address, telephone number and email address, if known) of any person or persons indebted to the Defendants and the amount of indebtedness;
 - c) the name and contact details (including address, telephone number and email address, if known) of any clients of the Defendants;
 - d) an itemised inventory of the First Defendant's assets and liabilities;
 - e) an itemised inventory of any and all Property whether real or personal owned or controlled by the Defendants or in which the Defendants have any legal or beneficial interest giving each item's value, location and the extent of the Defendants' interest in the property;
 - f) in respect of any Property of the Defendants which has been given as security for any debt, the details of that Property and the nature of the security and the nature and amount of the debt; and
 - g) the sources and amount of any income, earnings or other payment received by the Defendants in the last 12 months and expected to be received by the Defendants in the next 12 months.
13. An order that, in the event that the First Defendant wishes to object to compliance with paragraph 12 on the basis that it may tend to incriminate the First Defendant or make the First Defendant liable to a civil penalty, the First Defendant must, in accordance with section 128A of the *Evidence Act 1995* (Cth):

- a) prepare, file and serve on the Plaintiff an affidavit disclosing so much of the information required to be disclosed by paragraph 12 to which no objection is taken;
- b) prepare an affidavit containing so much of the information required to be disclosed by paragraph 12 to which objection is taken and deliver to the Court in a sealed envelope; and
- c) prepare, file and serve on the Plaintiff a separate affidavit setting out the basis of the objection.

Confidentiality Orders

14. An order pursuant to sections 37AF and/or 37AI of the Federal Court Act, that until further order and on the ground that it is necessary to prevent prejudice to the proper administration of justice under section 37AG(1)(a) of the Federal Court Act, all personal identifying information in tabs 1 to 64 of confidential annexure MP-2 to the Pangbourne Affidavit is confidential for the purpose of rules 2.32(1)(b) and 2.32(3)(a) of the *Federal Court Rules 2011* (Cth) and is prohibited from publication or disclosure other than to the Court, the Plaintiff and the Plaintiff's legal representatives.
15. An order pursuant to section 37AF and/or 37AI of the Federal Court Act, that until further order and on the ground that it is necessary to prevent prejudice to the proper administration of justice under section 37AG(1)(a), the publication or disclosure of any *ex parte* orders obtained by the Plaintiff, this Originating Process or its contents, the Pangbourne Affidavit and the Roxas Affidavit and any written submissions advanced by the Plaintiff in support of the *ex parte* orders, is prohibited, except to enable the Plaintiff to serve the First and Second Defendants, and to provide copies of the orders to the entities set out in paragraph 17 for the purpose of enforcing the orders.

Non-Party Access Orders

16. Any application made by a non-party pursuant to rule 2.32 of the Federal Court Rules to inspect the following documents:
 - a) any affidavits filed by ASIC, including the Pangbourne and Roxas Affidavit; and
 - b) any submissions filed by ASIC,and for which access is not otherwise permitted under rule 2.32(2) be considered only after notice of the application has been given to the parties and they have

been given a reasonable opportunity to apply for orders pursuant to sections 37AF(1) and 37AG(1) of the Federal Court Act.

17. Pursuant to section 23 of the Federal Court Act, the Plaintiff have leave, to the extent necessary, to give notice of any orders made to:
- a) any relevant authorities that record, control and regulate the ownership of real property, motor vehicles and maritime vessels;
 - b) any bank, building society, cryptocurrency exchange or other financial institution with which, to the best of the Plaintiff's belief, the Defendants may operate any account or hold Property;
 - c) any securities broking firm, foreign exchange broking or trading firm or futures broking firm with which, to the best of the Plaintiff's belief, the Defendants may operate any account; and
 - d) any other person or entity, holding or controlling Property, which, to the best of the Plaintiff's belief, may belong to the Defendants,
- by giving a copy of the minute of the orders to a person apparently in the employ of that entity or person.

Winding Up Orders

- 17A. An order pursuant to section 601EE(2) of the Act that the Scheme be wound up.
- 17B. An order pursuant to section 461(1)(k) of the Act that the Second Defendant be wound up.
- 17C. An order pursuant to section 472(1) and section 601EE(2) of the Act that Robert Woods and Salvatore Algeri of Deloitte SRT Pty Ltd be appointed as joint and several liquidators (**Liquidators**) of:
- a) the Scheme; and
 - b) the Second Defendant.
- 17D. An order pursuant to section 601EE(2) of the Act that, subject to any further order of the Court:
- a) the winding up of the Scheme be conducted as if the Scheme were a 'company' or 'corporation' for the purposes of the Act and the provisions of Parts 5.4B, 5.6, 5.7B and 5.9 of the Act and Schedule 2 to the Act (Insolvency Practice Schedule (Corporations)) applied to the winding up (with such modifications as are reasonably necessary in the circumstances);

- b) the Liquidators of the Scheme have power to do, in Australia and elsewhere, all things necessary or convenient to be done for or in connection with the winding up of the Scheme, or incidental to the attainment of the winding up of the Scheme, including the functions and powers set out in Chapter 5 of the Act (as applicable) as if each reference there to a 'company' or 'corporation' was a reference to the Scheme (with such modifications as are reasonably necessary in the circumstances); and
- c) without limiting the above, the Liquidators of the Scheme shall have the power to investigate or cause to be investigated any deficiency in the Scheme and to exercise the powers under Part 5.9 Division 1 of the Act as if the Scheme were a 'corporation' being wound up.
- 17E. An order that the Liquidators shall be entitled to reasonable remuneration properly incurred in the performance of their duties arising in connection with their appointment and in the exercise of their powers as may be approved by the Court on the application of the Liquidators, together with all costs, expenses and disbursements.
- 17F. An order that the Liquidators' remuneration is to be calculated on the basis of time reasonably spent by the Liquidators and any partner or employee of the firm to which the Liquidators are attached, at the standard rates of the Liquidators' firm from time to time for work of that nature.
- 17G. An order that the Liquidators' remuneration, costs, expenses and disbursements are to be paid out of the assets of the Scheme.
- 17H. An order that the Liquidators be indemnified from the assets of the Scheme against any claim, liability, proceedings, cost, charge or expense however arising and whether past, present or future, fixed or ascertained, actual or contingent, known (actually or contingently) or unknown which they may incur or be subject to as a result of or in connection with their appointment.
- 17I. An order that, for the avoidance of doubt, the entitlement of the Liquidators to be paid or indemnified from the assets of the Scheme under paragraphs 17G and 17H is not restricted or in any way limited by whether they are acting as liquidators of the Scheme or the Second Defendant and they are entitled to treat the assets of the Scheme as a single combined pool of assets for those purposes.
- 17J. An order that the Asset Preservation Orders made on 10 September 2025 be vacated upon the appointment of the Liquidators.

Further Orders

18. An order that there be liberty to any party and the Liquidators to apply ~~to the Commercial and Corporations List Judge~~ on reasonable notice.
19. An order that the Defendants pay the Plaintiff's costs of and incidental to this Amended Originating Process.
20. Such further or other orders that the Court considers appropriate.

Date: ~~15 August 2025~~ 15 May 2026

Cynthia Di Blasio
John Fogarty
DLA Piper Australia
Solicitor for the Australian Securities and Investments Commission

This application will be heard by the Federal Court of Australia, at 305 William Street, Melbourne, VIC 3000.

B. NOTICE TO DEFENDANT(S)

TO:

First Defendant: **GREGORY RAYMOND COTTON**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Second Defendant: **FIRST MUTUAL PRIVATE EQUITY PTY LTD (ACN 618 207 560)**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the Plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. FILING

Date of filing:

Signed by an officer acting with the authority of the District Registrar

This Amended originating process is filed by John Fogarty Cynthia Di-Blasio for the Plaintiff.

D. SERVICE

The plaintiff's address for service is:

~~Australian Securities and Investments Commission~~

DLA Piper Australia

Level ~~14, 7, 120~~ 80 Collins Street

Melbourne VIC 3000

Attention: ~~Cynthia Di Blasio and Mark Pangbourne~~ John Fogarty

Email: ~~cynthia.diblasio@asic.gov.au / mark.pangbourne@asic.gov.au~~
john.fogarty@dlapiper.com

It is intended to serve a copy of this originating process on each Defendant following the making of an ex parte application for interim orders.

The time by which a copy of this originating process is to be served has been abridged by order made by [name of Judge or other Court officer] on [date] to [time and date].

SCHEDULE A - Defendants' Accounts

Bank/Entity	Account Name	Account Type	Account number
[REDACTED]	GREGORY RAYMOND COTTON	[REDACTED]	[REDACTED]
[REDACTED]	GREGORY RAYMOND COTTON T/AS FIRST MUTUAL PRIVATE EQUITY	[REDACTED]	[REDACTED]
[REDACTED]	GREGORY RAYMOND COTTON	[REDACTED]	[REDACTED]
[REDACTED]	MR GREGORY RAYMOND COTTON	[REDACTED]	[REDACTED]
[REDACTED]	G R COTTON	[REDACTED]	[REDACTED]
[REDACTED]	MR GREGORY RAYMOND COTTON TA FIRST MUTUAL PRIVATE EQUITY	[REDACTED]	[REDACTED]
[REDACTED]	FIRST MUTUAL PRIVATE EQUITY PTY LTD	[REDACTED]	[REDACTED]
[REDACTED]	FIRST MUTUAL PRIVATE EQUITY PTY LTD	[REDACTED]	[REDACTED]
[REDACTED]	MR GREG COTTON	[REDACTED]	[REDACTED]
[REDACTED]	ENDEAVOUR GLOBAL PTY LTD	[REDACTED]	[REDACTED]
[REDACTED]	FIRST MUTUAL PRIVATE EQUITY PTY LTD	[REDACTED]	[REDACTED]
[REDACTED]	MR GREGORY R COTTON	[REDACTED]	[REDACTED]

SCHEDULE OF PARTIES

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

GREGORY RAYMOND COTTON

First Defendant

FIRST MUTUAL PRIVATE EQUITY PTY LTD (ACN 618 207 560)

Second Defendant