



Federal Court of Australia

District Registry: New South Wales Registry

Division: General

No: NSD1020/2024

**JONATHON SHERWOOD KEENAN** and others named in the schedule  
Plaintiffs

**YUYA HUANG** and another named in the schedule  
Defendants

### ORDER

**JUDGE:** Justice Moore

**DATE OF ORDER:** 2 April 2025

**WHERE MADE:** Sydney

#### THE COURT NOTES:

In these orders the following meanings are adopted:

**Admitted Entitlement Notice** has the meaning given to it at Order 3(a)(i).

**CBA Client Accounts** means the monies held in the Commonwealth Bank of Australia accounts bearing account numbers 1336-0135, 1336-0151, 1336-9981 and 1336-0143.

**Client Money** has the meaning given to it at Order 1(a).

**Client Portal** means the web-based client and creditor management platform hosted by Link Market Services on behalf of the plaintiffs.

**Company** means Prospero Markets Pty Limited (in Liquidation) bearing ACN 145 048 577.

**Dispute Notice** has the meaning given to it at Order 3(c).

**General Liquidation Account** means the account opened by the plaintiffs as liquidators of the Company with the National Australia Bank bearing account number 591118659, and any other bank accounts subsequently opened by the liquidators on behalf of the Company.

**Link Market Services** is an external service provider of the Client Portal.



**MT4 AU Clients Database** means the database recording the information for clients of the Company from the MetaTrader 4 trading platform used by the Company but licensed by Prospero Markets Company Limited (New Zealand).

**MT4 Offshore Database** means the database recording the information from the MetaTrader 4 trading platform used by Prospero Markets LLC in St Vincent & The Grenadines but licensed by the Company.

**MT4 Offshore Database Relevant Clients** means persons listed in the MT4 Offshore Database who contacted the plaintiffs prior to the date of the orders.

**Proposed Distribution Amount** has the meaning to it at Order 3(a)(i).

**Proposed Distribution Process** has the meaning given to it at Order 3.

**Rejection Notice** has the meaning given to it at Order 3(d)(ii).

#### **THE COURT ORDERS THAT:**

##### *Client Money and pooling*

1. The Plaintiffs are justified in:
  - (a) treating the money held in the CBA Client Accounts as the full extent of the funds held by the Company for its clients pursuant to s 981A of the *Corporations Act 2001* (Cth) (**Client Money**); and
  - (b) pooling the Client Money for the purposes of the Proposed Distribution Process into a single, interest-bearing bank account held in the Company's name controlled by the plaintiffs.

##### *Liquidators' remuneration*

2. The plaintiffs are justified in using the general assets of the Company, including the General Liquidation Account, to pay their remuneration, and costs and expenses, relating to the dealings with the Client Money.

##### *Distribution notice and dispute resolution*

3. The plaintiffs are justified in adopting the following distribution process (**Proposed Distribution Process**) for the purposes of calculating clients' individual proportionate entitlements to distribution from the Client Money:



- (a) subject to Order 4 below, emailing to each client in the MT4 AU Clients Database and each of the MT4 Offshore Database Relevant Clients, to the address recorded in the MT4 AU Clients Database and MT4 Offshore Database, or to an updated email address advised by the client (or, if email communication is not, in the plaintiffs' reasonable opinion, the most appropriate means of communication with any client, by posting correspondence to the client's last known address) a notification:
  - (i) providing the client with unique login credentials to access the Client Portal, informing the client of the value of the plaintiffs' proposed admitted amount of the client's entitlement to distribution from the Client Money (**Proposed Distribution Amount**) and outlining the matters in Orders 3(c) and 3(d) below (**Admitted Entitlement Notice**), such Proposed Distribution Amount being:
    - A. for the clients in the MT4 AU Clients Database, the 'Equity' or 'Balance' amount (as appropriate) recorded in relation to that client in the MT4 AU Clients Database; and
    - B. for the MT4 Offshore Database Relevant Clients – nil; and
  - (ii) asking clients with a Proposed Distribution Amount greater than zero to provide or update their current bank account details in the Client Portal for payment;
- (b) subject to Orders 3(c) and 3(d) and 4 to 8 below, the plaintiffs are justified in proceeding with distribution of the entirety of the Client Money, by no earlier than eighty-four (84) days from the date of the Admitted Entitlement Notice, on the following basis:
  - (i) *First*, subject to Order 4 below relating to client balances under AUD\$100, *pari passu* amongst all persons listed as clients in the MT4 AU Clients Database according to their 'Equity' or 'Balance' amount (as appropriate) recorded in that database, but not exceeding the maximum amount recorded in the Admitted Entitlement Notice or Revised Admitted Entitlement Notice (as applicable);



- (ii) *Next*, treating any Client Money remaining, if any, after the distribution in 3(b)(i) above, as assets of the Company;
- (c) providing clients a period of twenty-eight (28) days from the date of the Admitted Entitlement Notice to dispute their Proposed Distribution Amount, whereby the clients must provide the plaintiffs notice in writing with supporting evidence and reasons emailed to the plaintiffs (**Dispute Notice**); and
- (d) in the event that any Dispute Notice is received by the plaintiffs, the plaintiffs must review the Dispute Notice and either:
  - (i) issue a revised Admitted Entitlement Notice (with a revised Proposed Distribution Amount) and, by no earlier than twenty-eight (28) days from the date of the revised Admitted Entitlement Notice, proceed to distribute the client entitlement in accordance with the revised Admitted Entitlement Notice in accordance with Orders 3(b)(i) and 3(b)(ii) above; or
  - (ii) notify the client in writing with reasons that the Dispute Notice is rejected (**Rejection Notice**) and inform the client that the plaintiffs will proceed to distribute the client entitlement in accordance with the initial Admitted Entitlement Notice in accordance with Order 3(b)(i) above after twenty-eight (28) days from the date of the Rejection Notice, unless the client applies to this Court for orders in relation to the Dispute Notice and the Proposed Distribution Amount before the expiry of twenty-eight (28) days from the date of the Rejection Notice.

#### *Low Account Balances*

4. The plaintiffs are justified in treating persons listed in the MT4 AU Clients Database who have an 'Equity' or 'Balance' amount (as the case may be) recorded as AUD\$100 or less, as having no right to participate in the distribution of the Client Money.

#### *Conversion of Foreign Currency to Australian Dollars*

5. For the purposes of calculating each client's proportionate entitlement to the Client Money and for the purpose of pooling and distributing the same, the plaintiffs are



justified in converting any client entitlements in USD to Australian dollars at the exchange rate of USD0.6621 to AUD1 being the exchange rate as at 10 April 2024 (the date of the plaintiffs' appointment).

*Credit Bonus Promotion claims*

6. For the purposes of calculating the Proposed Distribution Amount and the subsequent distribution, the plaintiffs are justified in assessing the withdrawals of credit bonuses recorded in the MT4 AU Clients Database by reference to the conditions set out in the 'Credit Bonus Promotion Rules Wholesale Client Only' updated as at 1 October 2023.

*Clients for whom no bank account detail available*

7. The plaintiffs are justified in:
  - (a) requesting in the Admitted Entitlement Notice that all clients in the MT4 AU Clients Database who, to date, have failed to provide valid bank account details for distribution, provide such bank account details within twenty-eight (28) days of the date of the Admitted Entitlement Notice; and
  - (b) if no such bank details are provided, paying, at the conclusion of the liquidation of the Company, the distribution of the Client Money for the relevant person to the Australian Securities and Investments Commission in accordance with s 544 of the *Corporations Act 2001* (Cth).

*Shortfall of Client Money*

8. If, and to the extent that, there is a difference between:
  - (a) the Proposed Distribution Amount for a client; and
  - (b) the (lesser) amount in fact distributed to that client from the Client Money as part of the process described in Order 3,the plaintiffs are justified in acting as if each such client submitted a proof of debt for that difference as unsecured creditors in the liquidation of the Company (without the need for further notification or lodgement of a further proof of debt).

*Notice of orders and liberty to apply*

9. Within five (5) business days of the date of these orders, the plaintiffs are to give notice of these orders to the Company's creditors (including clients and any persons claiming to be creditors) by means of a circular:



- (a) to be published on the website maintained by the plaintiffs at <https://briferrier.com.au/about-us/current-matters/prospero-markets-pty-ltd> and uploaded to the Client Portal; and
- (b) sent by email communication to email addresses held by the plaintiffs or the Company.

*Electronic communications with clients*

10. The plaintiffs are justified in:
  - (a) communicating with, and serving notices and correspondence on, clients who are unable to access the Client Portal, or who inform the plaintiffs that their email addresses recorded in the MT4 AU Clients Database and MT4 Offshore Database are out of date, by any alternate email address that may be available to the plaintiffs for each client for the purposes of the Proposed Distribution Process; and
  - (b) adopting and applying the Proposed Distribution Process for the clients in Order 3(a) above.
11. Liberty to apply be granted to any person, including any creditor of the Company or the Australian Securities and Investments Commission, who can demonstrate by affidavit a sufficient interest to vary these orders on the giving of three (3) business days' notice to the plaintiffs, and to the Court, such liberty to be exercised within fourteen (14) days of the plaintiffs complying with Order 3 above.
12. The requirement to provide notice for the purpose of s 63(8) of the *Trustee Act 1925* (NSW) is dispensed with.
13. Any application under s 63(10) of the *Trustee Act 1925* (NSW) is to be made in accordance with the process set out in, and within the time prescribed by, orders 3(c) and 3(d) above.

*Costs of the proceedings*

14. The liquidators pay the reasonable remuneration and costs of the contradictor on an indemnity basis, such costs to be costs in the winding up.
15. The liquidators' reasonable costs and remuneration in relation to the proceedings be paid on an indemnity basis, such costs to be costs in the winding up.



*Originating process*

16. The plaintiffs be granted leave to file their further amended originating process in the form handed up to Justice Moore at the hearing on 26 March 2025.

*Non-publication*

17. Pursuant to s 37AF of the Federal Court of Australia Act 1976 (Cth), until further order of the Court, the information in Annexure A to the affidavit of Jonathon Sherwood Keenan sworn 20 March 2025 is not to be published.

**Date orders authenticated:** 2 April 2025

*Sia Lagos*  
Registrar

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



## **Schedule**

No: NSD1020/2024

Federal Court of Australia

District Registry: New South Wales Registry

Division: General

Second Plaintiff                      PETER PAUL KREJCI

Third Plaintiff                        ANDREW JOHN CUMMINS

Second Defendant                  LEI ZHANG