

# Liquidators' Second Report on the State of Affairs of

Digital Asset Exchange Limited (in Liquidation)

Company number: 6261371

NZBN: 9429046068682

13 March 2024



# Contents

|  |    |
|--|----|
| Introduction                             | 2  |
| Conduct of the liquidation               | 3  |
| Remaining Matters                        | 6  |
| Appendix A – Remuneration Report         | 7  |
| Appendix B – Statement of Affairs        | 10 |
| Appendix C – Schedule of Known Creditors | 11 |

# Introduction

David Ian Ruscoe (IP#50) and Malcolm Russell Moore (IP#42) of Grant Thornton New Zealand Limited (“Grant Thornton”) were appointed jointly and severally as Liquidators of Digital Asset Exchange Limited (“the Company”) on 14 August 2023 at 2:00pm by a special resolution of the shareholders pursuant to section 241(2)(a) of the Companies Act 1993 (“the Act”).

Liquidators of insolvent companies are required to be licensed insolvency practitioners. Information about the regulation of insolvency practitioners is available from the Registrar of Companies.

We have considered the Declaration of Independence, Relevant Relationships and Indemnities provided in our first report and confirm that there have been no changes to it.

We set out below our second report on the state of the affairs of the Company for the period from 14 August 2023 to 14 February 2024 (“the Period”) as required by section 255(2)(d) of the Act and section 7 of the Companies (Reporting by Insolvency Practitioners) Regulations 2020 (“the Regulations”).

## Restrictions

This report has been prepared by us in accordance with and for the purpose of section 255 of the Act and section 7 of the Regulations. This report is not intended for general circulation, nor is it to be reproduced or used for any purpose without the liquidators’ written permission in each specific instance.

The Liquidators, their employees and agents do not assume any responsibility or liability for any losses occasioned to any party for any reason including as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

The Liquidators reserve the right (but will be under no obligation) to review this report and, if considered necessary, to revise the report in light on any information existing at the date of this report which becomes known to them after that date.

We have not independently verified the accuracy of the information provided to us and have not conducted any form of audit in respect of the Company. We express no opinion on the reliability, accuracy or completeness of the information provided to us and upon which we have relied. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever arising from this report.

The statements and opinions expressed in this report are based on information available and assumptions made as at the date of this report. It is possible that actual outcomes may be significantly different from those disclosed in this report.

In addition, the following should be noted:

- Certain values included in tables in this report have been rounded and therefore may not add exactly; and
- All amounts are stated in New Zealand dollars.

# Conduct of the liquidation

## Receipts and Payments

There have been no receipts or payments incurred by the Company since the commencement of the liquidation, as such, the Liquidators have not included a Statement of Receipts and Payments for the period.

## Digital asset recovery

The Liquidators have a responsibility to protect and preserve the Company's digital asset holdings for the benefit of those entitled to them.

Since being appointed the Liquidators have been in contact with the third-party exchange and have recovered the Company's reported digital assets. The Liquidators have obtained the majority of transactional information held by this party, which will form the basis for the investigations into the conduct of the company and its officers.

The Liquidators have begun the process of reconciling users' balances and actual digital assets held by the Company to quantify the shortfall in holdings. As detailed in the initial Liquidators report, we anticipate the shortfall to be significant, with potentially less than 10% of customer liabilities covered by digital assets the Company claims to have held at our appointment.

## Investigations

We continue to investigate the affairs of the Company and its Directors, including related parties, in the period prior to our appointment to determine if there are any further avenues of recovery available to the Company. Our duties as Liquidator require a transparent and robust investigation into the Company.

Given the potential shortfall detailed above the Liquidators have been in contact with the Financial Markets Authority and the Serious Fraud Office ("SFO"). The Liquidators are working with the SFO who have opened an investigation into the Company (SFO case number: 231333). The SFO encourages anyone who has relevant information to its investigation to contact them at [dasset@sfo.govt.nz](mailto:dasset@sfo.govt.nz).

As a registered Financial Service provider (FSP1004807), the Company was required to provide access to a dispute services process. We have been informed by the Insurance and Financial Services Ombudsman ("IFSO") that the Company was removed from the IFSO scheme prior to liquidation as it had not responded to complaints raised by the IFSO. During the period of this report the company was deregistered.

If any insolvent transactions or breaches of legislation have occurred, we will take appropriate action where it has the potential to increase the recovery available to creditors and report where required to the relevant authorities.

## Users

The Liquidators have attempted to contact all Users that are recorded by the Company as placing an order with the exchange within the last five years and are working towards confirming outstanding user balances.

The Liquidators are in the process of applying to the court for legal directions on the terms and conditions of the exchange to consider the relationship with its Users. Specifically, whether the Crypto Assets are held in trust for Users, or whether they should be for the benefit of all Company creditors.

No assets can be distributed (to Users or creditors) until the Court has made the directions judgement.

With the legal matters above the Liquidators are looking to establish a User claims process that is agnostic and suitable to both potential outcomes of this direction's application. If you have not done so already, we request that Users you contact [dasset@nz.gt.com](mailto:dasset@nz.gt.com) stating they would like to be included on the Users mailing list. We hope to launch this claims process in the coming months.

## Creditors

### Secured Creditors

At the date of our appointment, there were no security interests registered against the Company.

### Preferential Creditors

To date, we have received 3 claims from employees totalling \$35,533 and a preferential claim from the Inland Revenue Department for PAYE / GST for \$150,932.

At this stage, it is unknown if there will be any funds available to make payment to preferential creditors.

### Unsecured Creditors

To date, we have received five unsecured creditors' claims totalling \$305,458.

The updated statement of affairs per appendix B excludes digital assets and User liability values. This is due to the planned legal directions application on the terms and conditions of the exchange. This needs to be resolved to confirm whether Users are creditors or beneficiaries.

At this stage, it is unknown if there will be any funds available to make payment to unsecured creditors.

## Digital asset holdings

As previously discussed, the Company held digital assets on a third-party offshore exchange. While most transactions were captured by the Company internal systems, all user balances were reliant on the real-time reporting of this third-party. While this exchange has been forthcoming with information, the CEO of the Company is understood to retain the key knowledge of how the Company operated and how User records were stored. Despite numerous attempts to contact him, the CEO has not responded to the Liquidators since day 3 of the liquidation and is believed to be overseas. We continue to explore all avenues to contact and communicate with the CEO including any legal powers granted to us as Liquidators of the Company.

To date after numerous interactions, compliance requests and information exchanges with the third-party exchange, we have recovered 94 cryptocurrencies and tokens. However, as previously reported there is a significant shortfall between the reported level of users' holdings and the amount of digital assets held by the Company, with digital assets of c. \$0.6m vs. user liabilities of c. \$6.9m.

Given this large deficit, we have investigated the Company's trading records, with a particular emphasis on blockchain withdrawals. Based on our preliminary findings the Liquidators have identified a number of unexplained withdrawal transactions. These transactions have been traced using blockchain analytics tools to several offshore and decentralised virtual asset service providers who mostly do not have a New Zealand presence. This includes several centralised and decentralised exchanges that allow derivative trading. These transactions which are valued at millions of dollars appear to be responsible for the large deficit in assets.

## Remuneration Report

The Liquidators' have not been paid any remuneration during the Period, however, time costs incurred by the Liquidators' total \$214,805 exclusive of GST.

A detailed breakdown of the Liquidators' outstanding fees and disbursements during the Period is enclosed at Appendix A, including a schedule of the qualifications and experience generally of staff at each level. A schedule of the work relating to the remuneration received during the Period is also summarised in Appendix A.

# Remaining Matters

## Investigations

We continue to investigate the affairs of the Company and its directors in the period prior to our appointment to determine if there are any further avenues of recovery available to the Company.

## Estimated date of completion of the liquidation

It is not practicable to estimate the date of the completion of the liquidation at this stage.

Should you have any queries in relation to any matter raised in this report then please contact Tom Aspin on [dasset@nz.gt.com](mailto:dasset@nz.gt.com).

Dated: 13 March 2024



Malcolm Russell Moore  
Liquidator  
Digital Asset Exchange Limited (in Liquidation)

# Appendix A – Remuneration Report

## Section 1: Initial Advice to Creditors

### Explanation of Hourly Rates

The rates for our remuneration calculation are set out in the following table together with a general guide showing the qualifications and experience of staff engaged in the Liquidation and the role they take. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

| Title                  | Description of title  | Hourly rate (Exc. GST) |
|------------------------|---|------------------------|
| Partner                | Accredited Insolvency Practitioner. Partner bringing specialist skills to Liquidations and Insolvency matters. Controlling all matters relating to the assignment.  | \$650                  |
| Director               | Qualified accountant and may be a Registered Insolvency Practitioner. Minimum 7/8+ years' experience. Highly advanced technical and commercial skills. Planning and control of all Liquidation and Insolvency tasks. Controlling substantial matters relating to the assignment and reporting to the appointee. | \$500                  |
| IT Specialist          | Specialist IT Practitioner bringing specialist skills in Cybersecurity, IT forensics, AML and other IT related matters.   | \$330 - \$450          |
| Manager/Senior Manager | Typically Qualified. 5-8 years' experience. Well developed technical and commercial skills. Planning and control of Liquidation and Insolvency tasks with the assistance of the appointee.  | \$380 - \$420          |
| Senior Analyst         | Typically Qualified. 3-4 years' experience. Required to conduct the fieldwork on small to medium Liquidations and Insolvency tasks and assist with fieldwork on larger Liquidations and Insolvency tasks.   | \$250                  |
| Analyst                | Typically undertaking Qualifications. Up to 3 years' experience. Required to conduct the fieldwork on smaller Liquidations and Insolvency tasks and assist with fieldwork on medium to large Liquidations and Insolvency tasks.   | \$120 - \$150          |
| Support Staff          | Conducts all aspects relating to administering the accounts function and other functions as required.   | \$170                  |



## Section 2: Calculation of Remuneration

### Calculation of Remuneration – Time based charges

Charged on an hourly basis and per the hourly rates set out by time and cost charged by key category:

|                | Hourly Rate (\$ph) | Administration/ Statutory |               | Asset Realisation |               | Creditors/Users |               | Investigations |               | Legal Matters |               | Total        |                |
|----------------|--------------------|---------------------------|---------------|-------------------|---------------|-----------------|---------------|----------------|---------------|---------------|---------------|--------------|----------------|
|                |                    | Hours                     | Cost (\$)     | Hours             | Cost (\$)     | Hours           | Cost (\$)     | Hours          | Cost (\$)     | Hours         | Cost (\$)     | Hours        | Cost (\$)      |
| Partner        | 650                | 25.5                      | 16,575        | 7.5               | 4,875         | 1.0             | 650           | 53.7           | 34,905        | 17.2          | 11,180        | 104.9        | 68,185         |
| Director       | 500                | -                         | -             | 3.0               | 1,500         | -               | -             | 57.5           | 28,750        | 28.5          | 14,250        | 89.0         | 44,500         |
| IT Specialist  | 330-450            | -                         | -             | -                 | -             | 81.5            | 27,195        | -              | -             | -             | -             | 81.5         | 27,195         |
| Senior Manager | 420                | 30.0                      | 12,600        | 32.0              | 13,440        | -               | -             | 54.0           | 22,680        | 7.5           | 3,150         | 123.5        | 51,870         |
| Manager        | 380                | 1.5                       | 570           | 4.5               | 1,710         | 5.0             | 1,900         | 2.8            | 1,064         | -             | -             | 13.8         | 5,244          |
| Senior Analyst | 260                | 2.0                       | 520           | -                 | -             | 3.5             | 910           | -              | -             | -             | -             | 5.5          | 1,430          |
| Analyst        | 120-150            | 1.6                       | 216           | -                 | -             | 12.6            | 1,644         | 70.1           | 9,021         | 0.5           | 60            | 84.8         | 10,941         |
| Support Staff  | 170                | 31.1                      | 5,287         | -                 | -             | 0.9             | 153           | -              | -             | -             | -             | 32.0         | 5,440          |
| <b>Total</b>   |                    | <b>91.7</b>               | <b>35,768</b> | <b>47.0</b>       | <b>21,525</b> | <b>104.5</b>    | <b>32,452</b> | <b>238.1</b>   | <b>96,420</b> | <b>53.7</b>   | <b>28,640</b> | <b>535.0</b> | <b>214,805</b> |

### Basis of Disbursement Claim

| Disbursements                                   | Total (\$ exc. GST) |
|---|---------------------|
| Travel (flights, car rental, accommodation etc) | 999                 |
| Amazon Web Services hosting                     | 27,067              |
| Misc. Incidentals and Advertising               | 6,556               |
| Total Disbursements                             | 34,622              |
| Total Fees                                      | 214,805             |
| <b>Total Liquidators costs</b>                  | <b>249,427</b>      |

## Section 3: Description of Work

Summary of work performed in relation the Liquidators' remuneration for the Period:

| Task Area                       | General Description           | Includes  |
|---------------------------------|-------------------------------|---|
| <b>Assets</b>                   | Debtors                       | <ul style="list-style-type: none"> <li>Correspondence with debtors</li> <li>Reviewing and assessing debtors ledgers</li> <li>Liaising with debt collectors and solicitors</li> </ul>  |
|                                 | Crypto Assets                 | <ul style="list-style-type: none"> <li>Review of company assets</li> <li>Reviewing notional values from Crypto markets of recovered assets</li> <li>Liaising with 3<sup>rd</sup> Party exchange around compliance requests and other incidentals</li> <li>Securing assets into cold storage and custodian control</li> </ul>  |
|                                 | Other Assets                  | <ul style="list-style-type: none"> <li>Tasks associated with realising other assets</li> </ul>  |
| <b>Creditors/Users</b>          | Creditor Enquiries            | <ul style="list-style-type: none"> <li>Receive and follow up creditor enquiries via telephone and email.</li> <li>Maintaining creditor enquiry register</li> <li>Review and prepare correspondence to creditors and their representatives via email</li> </ul>  |
|                                 | IT specialist environment     | <ul style="list-style-type: none"> <li>Imaging exchange environment including User databases</li> <li>Secure transfer of AWS tenancy to Liquidators control included access controls</li> </ul>   |
|                                 | Creditor reports              | <ul style="list-style-type: none"> <li>Preparing statutory report, investigation, meetings and general reports to creditors</li> </ul>  |
|                                 | Dealing with proofs of debt   | <ul style="list-style-type: none"> <li>Receipting and filing Proofs of Debt</li> <li>Corresponding with Proofs of Debt</li> </ul>   |
| <b>Administration/Statutory</b> | Company office obligations    | <ul style="list-style-type: none"> <li>Filing with Companies Office</li> </ul>  |
|                                 | Planning/Review               | <ul style="list-style-type: none"> <li>Meetings and engagement planning</li> </ul>  |
|                                 | Report as to Affairs          | <ul style="list-style-type: none"> <li>Directors Questionnaire</li> <li>Completion deadlines and extensions</li> <li>Drafting press releases for stakeholders</li> </ul>  |
| <b>Investigations</b>           | Tracing exercises             | <ul style="list-style-type: none"> <li>Using blockchain analytics tools on Cryptocurrency transactions</li> <li>Transaction analysis</li> </ul>   |
|                                 | Company/Directors duties      | <ul style="list-style-type: none"> <li>Reviewing company solvency and financial reporting</li> <li>Investigating director's duties</li> <li>Review of IT environment and company mailboxes</li> <li>Inspection of service agreements</li> <li>Reviewing conduct of companies for breaches of Companies Act</li> <li>Interviews with Directors and Shareholders</li> </ul> |
|                                 | Regulator engagement          | <ul style="list-style-type: none"> <li>Attending to regulatory/statutory requests</li> <li>Meetings with regulators</li> </ul>  |
| <b>Legal Matters</b>            | Identity verification scoping | <ul style="list-style-type: none"> <li>Initial review of customer database, collected KYC and other identity requirements.</li> <li>Crypto specific obligations</li> </ul>  |
|                                 | Legal memos                   | <ul style="list-style-type: none"> <li>Preparing legal memos on Liquidation progress and findings</li> </ul>  |

# Appendix B – Statement of Affairs

|   | Note | First Report<br>Estimated to<br>realise<br>(NZ\$) | Second Report<br>Estimated to<br>realise<br>(NZ\$) |
|---|------|---|--|
| <b>Assets</b>                             |      |   |  |
| Digital assets                            | 1    | Unknown   | Unknown  |
| <b>Total Assets</b>                       |      | <b>Unknown</b>                                    | <b>Unknown</b>                                     |
|   |      |   |  |
| <b>Liabilities</b>                        |      |   |  |
| User liabilities                          | 1    | Unknown   | Unknown  |
|   |      |   |  |
| <b>Preferential creditors</b>             |      |   |  |
| Employees                                 |      | Unknown   | 35,533   |
| IRD - GST and PAYE                        |      | Unknown   | 150,933  |
|   |      |   |  |
| <b>Unsecured creditors</b>                |      |   |  |
| Trade creditors                           |      | Unknown   | 19,350   |
| IRD – Unsecured portion                   |      | Unknown   | 286,108  |
| <b>Total Liabilities</b>                  |      | <b>Unknown</b>                                    | <b>Unknown</b>                                     |
|   |      |   |  |
| <b>Estimated net assets/(liabilities)</b> |      | <b>Unknown</b>                                    | <b>Unknown</b>                                     |

## Notes

- The statement of affairs excludes digital assets and user liabilities values. This is due to the planned legal directions application on the terms and conditions of the exchange. This needs to be resolved to confirm whether Users are considered creditors or beneficiaries.

# Appendix C – Schedule of Known Creditors

| Creditor Name              | Address   |
|----------------------------|---|
| Allen Cooper               | Address withheld  |
| Amazon Web Services        | Level 5, 18 Viaduct Harbour Ave, Auckland 1010                    |
| Cryptocurrency NZ Meetups  | Address unknown   |
| Dext Software              | Unit 1.2 Techspace Shoreditch, 25 Luke Street, London EC2A 4DS    |
| Future Sight Consulting    | Unit 214, 20 Mason Avenue, Otahuhu, Auckland 1062                 |
| Green ID                   | Level 2, 40 Taranaki Street, Te Aro, Wellington 6011              |
| Illion Open Data Solutions | B6, L2 Central Park, 666 Great South Rd, Ellerslie, Auckland 1051 |
| Illion Solutions           | Address unknown   |
| Inland Revenue Department  | PO Box 39090, Wellington Mail Centre, Lower Hutt                  |
| Iwantmyname                | ideegeo Group LTD, c/o iwantmyname, PO Box 116, Napier 4110       |
| Julia Malley               | Address withheld  |
| Longzhen Shen              | Address withheld  |
| Louis Lising               | Address withheld  |
| Only Office                | Address withheld  |
| OriginID                   | 18 Broadway, Newmarket, Auckland 1023                             |
| PHX Consulting             | Address unknown   |
| Sendgrid                   | 101 Spear Street, Ste500, San Francisco, CA 94105                 |
| Sherry Tabanao             | Address withheld  |
| Slack Technologies         | Address unknown   |
| Stephen Macaskill          | Address withheld  |
| TECHEMY LIMITED            | PO BOX 90497, Auckland, 1010                                      |
| ZenDesk                    | 7/395 Collins St, Melbourne, Victoria 3000, Australia             |

