

In the High Court of New Zealand
Wellington Registry

I Te Kōti Matua o Aotearoa
Te Whanganui-a-Tara

CIV-2024-485-404

Under Part 19 of the High Court Rules, Part 16 of the Companies Act 1993 and
s133 Trusts Act 2019

In the matter of an application concerning **Digital Asset Exchange
Limited (in liquidation)**, a company having its registered office at Floor 15,
215 Lambton Quay, Wellington, 6011 and carrying on business as a cryptocurrency
exchange

And

In the matter of an application by **David Ian Ruscoe** and **Malcolm
Russell Moore** of **Grant Thornton New Zealand Limited**,
insolvency practitioners of Wellington and Auckland respectively

Applicants

Court orders

Dated: *18 July* 2025

MinterEllisonRuddWatts.

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Court orders

The originating application for directions made by David Ian Ruscoe and Malcolm Russell Moore on 12 July 2024 (**Originating Application**) was determined by the Honourable Justice Gendall on 18 July 2025.

The determination was made following a hearing on 14 July 2025. Sean Gollin, Ana Simkiss and Hasaan Malik appeared for the applicants. Jenny Cooper KC appeared as Amicus Curiae.

The Honourable Justice Gendall made the following orders:

1. **As to the legal status of the Digital Assets:**

- (a) That all the various cryptocurrencies held by the liquidators of Digital Asset Exchange Limited (**Dasset** or the **Company**), David Ian Ruscoe and Malcolm Russell Moore of Grant Thornton New Zealand Limited (the **Liquidators**) (**Digital Assets**) constitute "property" as defined in section 2 of the Companies Act 1993;
- (b) that all of the Digital Assets are held on trust by the Liquidators for any or all users of the Company's cryptocurrency exchange services (**Account Holders**) together in one trust (the **Trust**) for the benefit of all Account Holders, where each Account Holder is a co-beneficiary of the Trust with a *pari passu* interest proportionate to their claim/holding of Digital Assets on the exchange; and
- (c) that the Trust came into existence the day that Dasset began trading, on 24 April 2017.

2. **As to all other assets:**

- (a) That each of the Account Holders has an unsecured claim to any cash or other assets which are available for payment of claims in the liquidation of Dasset, including any unclaimed Digital Assets, prorated in proportion to the value of their unsatisfied claims against Dasset for Digital Assets and any other property including fiat currency.

3. **Permitting the Liquidators to act as trustees in respect of the Trust and its assets:**



- (a) That, as trustees of the Trust:
 - (i) the Liquidators have all the powers and rights of trustees under the Trusts Act 2019 and otherwise; and
 - (ii) the Liquidators are entitled to indemnification from the Trust assets for their own fees, and all costs and liabilities incurred by them in exercising their powers or carrying out their duties as trustees, including legal costs of this application on a solicitor client basis.

4. **Authorising the conversion of Digital Assets to fiat currency/as to the realisation of Digital Assets:**

- (a) permitting the Liquidators, as trustees to convert into fiat currency the necessary quantity of any Digital Assets held on trust to cover the necessary and reasonable expenses of the liquidation, and of and incidental to the protection, preservation, recovery, management, administration and distribution of the assets of Dasset or their proceeds, whether they are trust assets or otherwise; and
- (b) permitting the Liquidators, as trustees or otherwise, to convert into fiat currency all other Digital Assets held on trust to distribute the proceeds to Account Holders and creditors, as beneficiaries or otherwise in accordance with the distribution process set out below at paragraph 6 and according to their duties under the Companies Act 1993.

5. **Authorising payment of the reasonable fees and disbursements of the Liquidators and legal costs from the Digital Assets:**

- (a) directing that, pursuant to order 4(a), the reasonable fees and disbursements of MinterEllisonRuddWatts, the Liquidators, and any other legal adviser engaged to assist the Liquidators, any creditor, or the Court shall be met, in the first instance, from the pool of realised Digital Assets, on the basis that the fees are a necessary and reasonable expense of the liquidation, and incidental to the protection, preservation, recovery, management, administration and distribution of the assets of Dasset or their proceeds; and



- (b) that the Liquidators' solicitor-client costs of this application be an expense incurred by the Liquidators in carrying out their duties as liquidators, and as trustees.

6. **As to the assessment of claims and distribution of Digital Assets:**

- (a) The Liquidators are permitted, and shall procure Dasset, to make distributions from all property held by Dasset including the amounts realised from Digital Assets held on trust, subject to the terms of the following orders described as follows:
 - (i) Order 7 Claim valuation date;
 - (ii) Order 8 Notification of claims process;
 - (iii) Orders 9 and 10 Registration process for claims;
 - (iv) Orders 11 to 13 Submission of claims before Cut-Off Date;
 - (v) Orders 14 to 16 Verification/acceptance/review of creditor claims made;
 - (vi) Order 17 Claims of low value;
 - (vii) Order 18 Revision of claims;
 - (viii) Order 19 Realisation of Digital Assets;
 - (ix) Order 20 Cryptocurrencies that have low or no value; and
 - (x) Order 21 Surplus assets/Top up process.

Claim valuation date

- 7. The Liquidators may adopt 14 August 2023, the date of the Liquidators' appointment, as the date at which the entitlement of each Account Holder shall be calculated (the **Valuation Date**).

Notification of claims process

- 8. The Liquidators shall promptly notify known creditors and Account Holders of the claims process as follows:



- (a) the Liquidators will prepare a description of the claims process, which will be in the form set out in the Schedule to the Originating Application and which will:
 - (i) provide a link to the custom claims form that Account Holders must complete and submit to the Liquidators' designated email address, Dasset@nz.gt.com, in order to register their claims; and
 - (ii) the orders made by the Court in this Originating Application;
- (b) the information required by order 8(a) will be hosted at grantthornton.co.nz/DASSET/;
- (c) the information required by order 8(a) will be included in an email which the Liquidators shall send to all Account Holders, and known creditors and shareholders; and
- (d) for any Account Holders or creditors for whom no email address is held, the information required by order 8(a) will be posted to the last postal address provided by that person (if any);

Registration process for claims

- 9. Account Holders and all creditors shall register their claims with the Liquidators by emailing documentation supporting their claim and the custom claims form to the Liquidators' designated email address, Dasset@nz.gt.com.
- 10. The registration process may include identity and balance verification processes that must be completed for a claim to be registered.

Submission of claims before Cut-off Date

- 11. Account Holders shall register their claim with the Liquidators using the process established by the Liquidators in accordance with the claim procedure at orders 9 and 10 above within 60 days of these orders being served in accordance with order 25 (**Cut-off Date**).
- 12. If any Account Holder or creditor has not registered their claim with the Liquidators by the Cut-off Date, then the Liquidators are permitted, and shall procure Dasset, to treat that Account Holder or creditor as having abandoned



their claim with the consequence that the Account Holder or creditor will lose their entitlement to receive a distribution.

13. Nothing in order 11 or 12 shall prevent the Liquidators, in the exercise of their discretion, from receiving, considering, resolving, and/or accepting a claim after the passing of the Cut-off Date, before they have made distributions.

Verification/acceptance/review/resolution of claims

14. The Liquidators will verify Account Holders' claims against the records held and supporting information provided by Account Holders.
15. The Liquidators may accept an Account Holder's claim either for the whole amount claimed, or for part of that amount.
16. The Liquidators may treat any Account Holder who has commenced but failed to complete the claims process as having no entitlement to receive a distribution.

Claims of low value

17. Permitting the Liquidators, and Dasset, to treat claims by Account Holders for which the value of the actual or anticipated distribution in relation to that claim is equivalent to or less than the actual or anticipated cost of administration of the Trust in relation to that claim as having no right to participate in the distribution of the assets of the Company.

Revision of claims

18. Permitting the Liquidators to review and revise their assessment of any claims before undertaking any further distributions to Account Holders or to others.

Realisation of Digital Assets

19. The Liquidators will convert Digital Assets to NZD (for the purpose of satisfying the claims of Account Holders and creditors) in a reasonable time frame and as soon as practicably possible following the date that this order is made by the Court and:



- (a) the Liquidators may appoint an independent agent or agents to facilitate the conversion of Digital Assets to NZD; and
- (b) the reasonable fees and costs of any independent agent that may be appointed or of the realisation process shall be met, in the first instance, from the pool of realised Digital Assets on the basis that the fees or costs are a necessary and reasonable expense of the liquidation or of the Liquidators as trustees, and incidental to the protection, preservation, recovery, management, administration and distribution of the assets of Dasset or their proceeds.

Cryptocurrencies that have low or no value

20. The Liquidators:

- (a) may take no steps in connection with the realisation and subsequent distribution of the proceeds of realisation of any cryptocurrency that has no realisable value or in relation to which the Liquidators reasonably consider the realisable value will be less than the costs of realisation and/or of distribution; and
- (b) may review and revise their assessment of the realisable value of any cryptocurrency before undertaking any further distributions to account holders.

Surplus assets/Top up process

21. In the event of any future recoveries of Digital Assets made by the Liquidators, the Liquidators will distribute those amounts in the same way as described in orders 6(a) to 20 by way of a 'top up' payment.

Providing for future administration costs

22. The Liquidators may realise Digital Assets in any amounts of sufficient value to meet their projected costs and expenses to complete distributions and to carry out their duties as liquidators and to the extent applicable, trustees.

Leave reserved

23. That leave is reserved for the Liquidators to apply to vary these orders or for such further orders as are necessary.



Costs

24. That the solicitor-client costs of the application are an expense incurred by the Liquidators in carrying out their duties as liquidators and/or as trustees administering a trust.

As to service

25. That the sealed orders made in this proceeding be served in accordance with the orders made in CIV-2023-404-1803 on 21 August 2023 by:
- (a) uploading a copy of the sealed orders to grantthornton.co.nz/DASSET/;
 - (b) sending an email to all known Account Holders, shareholders and creditors with a link to the documents hosted at grantthornton.co.nz/DASSET/; and
 - (c) for any Account Holders or creditors for whom no email address is held, by posting a copy of the sealed order to the last postal address provided by that person (if any).

DATED this 18th day of July 2025


Nathan Thatcher

(Deputy) Registrar

