



## Terence Mowschenson QC

Call: 1977

QC: 1995

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*“He is profoundly knowledgeable on an almost infinite number of areas of law and juggles his work brilliantly”*

Chambers & Partners 2016

### Memberships

- Barristers' Benevolent Association (Chairman)
- Chancery Bar Association
- Commercial Bar Association
- International Bar Association
- International Chamber of Commerce
- London Court of International Arbitration
- Fellow of the Chartered Institute of Arbitrators
- Fellow of the Australian Centre for International Arbitration

### Practice Overview

Terence has been ranked as a leading silk in *Chambers & Partners* for chancery commercial, commercial dispute resolutions, company and offshore and also ranked in related similarly in related fields in *The Legal 500*.

He has been described as *"first rate"*, *"a tenacious advocate with a strong court room presence and as having "the wisdom of Solomon" and the ability "to predict what opponents will do"*: *Legal 500, 2013*. *The legal directories note that "he is both highly intelligent and very easy to work with - he's so great in conference that we have no hesitation in putting him forward to clients" and "...he has astoundingly good judgment and is almost clairvoyant in predicting what the judge and the other side will do"*. *Chambers Chambers & Partners, 2014* note that *"he is very clever, a very good advocate and is very well regarded by his peers."*

He has an extensive offshore practice advising on the laws of and/or appearing in the BVI, Bahamas, Bermuda, BVI, Cayman Islands, Gibraltar, and the Isle of Man.

He has renowned experience in areas relating to -

- Banking and finance
- Company law (including shareholders agreements and disputes, stock exchange trading and broking)
- Commercial disputes
- Financing arrangements structured investment products
- Hedge funds
- Cross border insolvency
- Fraud, asset tracing and recovery
- Partnership and joint ventures
- Professional liability
- Trust disputes

*International Limited v Raven* and others in the Commercial Court and *Michailidis v Calyon* (the former Credit Agricola) in the Gibraltar Court of Appeal and which is due to be heard in the Privy Council in the latter half of 2014 and he acted for Herald Fund SPC in the Cayman Islands.

Much of his work is international in nature and he has a well-deserved reputation for his international expertise, acting and advising in the UK and in many offshore jurisdictions and arbitral tribunals. His pre-eminence in multi-jurisdictional disputes involves him in strategy, interim remedies such as freezing injunctions, conflicts of law, and asset tracing and recovery.



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## Commercial

Terence has extensive experience in business and commercial matters and a substantial part of his practice involves giving advice in relation to commercial, company and banking matters under English law and that of a number of jurisdictions including the BVI, Bahamas, Bermuda, BVI, Cayman Islands, Gibraltar, and the Isle of Man.

### Matters include:

- Lehman Bros International Europe Ltd where he acted for the liquidator in relation to obtaining the court sanction to distribute US \$19bn of assets.
- Acting for ABC Company in *ABC Company (SPV) v J & Co* involving an application by an investor in a split portfolio company which had suspended redemptions of a minority of its portfolios to wind up the company.
- Singer and Friedlander Investment (IOM) Limited where acted for the liquidator in seeking directions as to the application of client money held by the bank in breach of client money rules.
- *Madoff Securities International Ltd v Raven* and others where he acted for Mrs Kohn in successfully challenging the jurisdiction of the Commercial Court to hear a claim by the New York Madoff entity for the recovery of US \$60m in commissions paid to Mrs Kohn.
- *DE Shaw Oculus Portfolios LLC v Orient* – Express Hotels Limited where he appeared in the High Court in Bermuda on behalf of Orient Express Hotels Limited and successfully argued that it was lawful under the laws of Bermuda for a publicly-quoted company to be controlled by its own wholly owned subsidiary.
- *R v V* [2008] All ER (d) 111 successfully appearing for the successful party in the Commercial Court in the arbitration in a matter raising issues as to the enforceability of an award on public interest grounds.
- Appeared for a consortium of banks in *HSH Cayman v ABN Amro* in the Court of Appeal and High Court in the Cayman Island seeking to recover US \$600m.
- He appeared twice for Herald Fund SPC in relation to contested winding up petitions presented by the Madoff trustee in bankruptcy presented in the Cayman Islands.
- Acting on behalf of Caprikat in *Tullow Oil v Caprikat Ltd* before the commercial court in the BVI and successfully defending its rights to hydrocarbons in the BVI.
- Acting as an expert witness on Bermuda company law on behalf of Sea Containers in arbitration between GE Capital Containers v Sea Containers where his evidence was accepted.
- Acting for Calyon (the former Credit Agricole) in *Michailidis v Calyon* which has been heard twice in the Gibraltar Court of Appeal, once in the Privy Council, on an issue as to the effect of a foreign judgment and is due to be heard in the Privy Council in the latter half of 2014 on the issue as to when a bank has notice of a third-party claim to monies deposited with it and the relationship of anti-money regulations laundering regulations and notice of third party claims.
- Acting for Wardour in *Wadour v Nekrich* in the Supreme Court in Gibraltar. Wardour (a subsidiary of Rosneft) is claiming the proceeds of sale of consignments of oil allegedly diverted by Nekrich and Sagredos.
- Acted in *Derby v Weldon* (for the 3rd to 11th Defendants) a matter which involved 115 interlocutory applications before settling three months into the trial



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## Professional Liability

Terence has advised on and acted in numerous matters involving professional liability for and against accountants, lawyers, directors, and professional trustees and fiduciaries.

**Matters include:**

- *Anglo Group of Companies v Peter Willers*
- *Langstone Leisure v Pannone*
- *ITS v Hassans*
- *ITS v Line Trust*
- *Acting for leading counsel in Re Harris & Cartwright and Hains Watt v Thornhill QC*

## Trusts, Tax, Probate and Estates

Terence has acted in numerous matters involving breach of trust, disputes as to the validity or existence of a trust or the use of trust concepts in a commercial context.

**Recent Matters include:**

- *Re Lehman Bros Europe Limited* where he acted for the liquidator in relation to obtaining the court sanction to distribute \$19bn of assets in circumstances where there was uncertainty as to the identity of the beneficiaries.
- *Singer and Friedlander Investment (IoM) Limited* where he acted for the liquidator in seeking directions as to the application of client money held in breach of client money rules.
- Acting on a compromise and settlement of the affairs of one of the wealthiest families in North America sanctioned by the High Court in Bermuda.
- Acting for members of a family in litigation over the affairs of a settlement in the Bahamas.
- Acting for the 1st Defendant in *Michael Goodman v Mina Goodman*, *Re the Estate of Everard Goodman Deceased* [2013] WLR (D) 197 establishing that S 50 of the Administration of Justice Act 1985 applied to executors who had not been granted probate.

## International Arbitration

Terence is a member of the ICC and LCIA and a Fellow of the Chartered Institute of Arbitrators and the Australian Centre for International Commercial Arbitration.

He is also a panel member of the Kuala Lumpur Regional Centre for Arbitration (KLRC).

Amongst other arbitral rules he has acted under the rules of the ICC, UNCITRAL, CEPANI, LCIA and Chartered Institute of Arbitrators.

Terence has appeared as counsel in arbitrations as well as acted as an arbitrator on substantial matters including:

- Disputes between financial institutions arising out of trading on various exchanges.
- Shareholder disputes.
- Manufacturing and supply contracts.
- The construction of gas liquefaction facilities in the Middle East.
- Ownership of the largest bank in a country formerly part of the old Soviet Union.



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## International Arbitration continued

- Disputes over the mis-selling of securities.
- A dispute between on line gaming companies over the right to conduct gaming over the internet.
- A dispute between developers of a new town and housing estate over the distribution of land in the development scheme.
- A dispute over ownership of a brokerage company.
- He has also appeared in the Commercial Court in relation to the enforceability of an award on public interest grounds where he acted for the successful party in *R v V* [2008] All ER (d) 111.