



Tim Penny QC

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Clerks' Details

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Memberships

- Tim is a member of the LCIA and COMBAR

“Brilliant in all respects. He is tactically astute, quick to grapple with complex issues of law and a first-rate advocate.”

The Legal 500, 2022

Practice Overview

Tim has a strong commercial and chancery litigation practice, specialising in the areas of commercial fraud, commercial litigation, shareholder disputes, court-appointed receiverships, financial services related claims and breach of confidence / 'soft' intellectual property.

Tim has a particular expertise in worldwide freezing orders and search orders, and much of his work involves high value injunctions and/or jurisdiction / conflicts issues in England and Wales as well as in a variety of common law jurisdictions.

He has been instructed recently to advise and act in many high profile commercial cases, including acting for 2 of the 6 defendants in *Abu Dhabi Commercial Bank v Shetty & others*, a \$1B+ claim arising out of the collapse into administration of NMC Health PLC (2020-2022), 2 of the 6 defendants in the \$1B claim in *National Trust Bank v Yurov* (2019-2020) and for the wife in the high value divorce case *Akhmedova v Akhmedov* (2019-2020). He has been involved in a number of important recent cases in the developing area of receiverships by way of equitable execution and cross-border recognition of court appointed receivers, and he is the author of the chapter of *Kerr and Hunter on Receivers and Administrators on Recognition of Foreign Court-Appointed Receivers* (2020) dealing with cross-border recognition. He has also been involved in the leading recent cases on collective investment schemes in the Supreme Court and Court of Appeal. During 2020 he completed a course on *Cryptocurrency and Disruption* at LSE, and has been instructed on several fraud claims involving the misappropriation of cryptocurrency.

Tim is called to the Bar in the BVI, and is currently instructed in high value litigation in the BVI, the Turks & Caicos Islands and the Cayman Islands.

Tim is ranked in the directories in both commercial chancery and civil fraud.

Chambers and Partners 2022 notes that Tim **"presents very dense and factually intricate material in a really clear and persuasive way."** He is **"a really brilliant, thoughtful and compelling advocate. His written work is excellent, and he's a pleasure to work with."** and that **"he's extremely thorough and capable of getting through a lot of material while maintaining the quality of his drafting. In his oral submissions he's able to represent some very dense and factually intricate material in a really clear and persuasive way. An excellent leader."**

The Legal 500 2022 describes Tim as **"an excellent advocate whose thoughtful, balanced and considered style is highly effective."** and **"brilliant in all respects. He is tactically astute, quick to grapple with complex issues of law and a first-rate advocate."**



Practice Overview continued

Chambers and Partners 2021 describes Tim as *"A really brilliant, thoughtful and compelling advocate. His written work is excellent, and he's a pleasure to work with." "He's extremely thorough and capable of getting through a lot of material while maintaining the quality of his drafting. In his oral submissions he's able to represent some very dense and factually intricate material in a really clear and persuasive way. An excellent leader." "He is incredibly knowledgeable on civil fraud and freezing orders and has an assured advocacy style."*

The Legal 500 2021 notes that Tim is *"an impressive and charming advocate who has excellent judgement in choosing the points to run and the way to put them – he is particularly strong on jurisdictional issues and complex trust and tracing points."* Tim is also described as having a *"deep knowledge of the law, persuasive advocate, excellent in conference, a tremendous team player and a go-to QC for complex civil fraud"*.

Banking & Finance

Tim has a strong banking and financial services practice. In recent years, he has been particularly involved in litigation related to unregulated collective investment schemes.

Some of his recent cases include:

- *Scully Royalty v RBI*: CICA CoA, 30 December 2021, successfully upholding 1st instance decision to grant a WFO against the 2 Cayman 'anchor' defendants, with the CICA CoA imposing a cap of €153 million in place of an unlimited order.
- *Raiffeisen International Bank AG v Scully Royalty Ltd*, Cayman Grand Court, Parker J, March 2021: successful opposition to jurisdiction applications issued by 2 of the 8 defendants in this long-running asset-stripping dispute in Cayman, acting for the claimant bank.
- *Abu Dhabi Commercial Bank v Shetty* [2020] EWHC 3692 (Comm): December 2020: application for the imposition of a limited confidentiality club on the 1st return date of a \$1B WFO relating to the collapse of NMC Health PLC, acting on behalf of the second and third defendants.
- *Raiffeisen International Bank AG v Scully Royalty Ltd*, Cayman Grand Court, Parker J, 7 July 2020: Tim acts in this matter for the plaintiff, which claims that it is owed c €100m and that its guarantor was asset-stripped by the defendants. RBI asserts claims pursuant to the Cayman Fraudulent Dispositions Law 1989 (1996 Revision) and in the tort of unlawful means conspiracy. By this Judgment, Parker J held that RBI had established its right to injunctions against the Cayman defendants and to serve other defendants outside the Cayman jurisdiction.
- *National Bank Trust v Yurov & Others* [2020] EWHC 100 (Comm), 23 January 2020, [2020] EWHC 757 (Comm), 27 February 2020 Lengthy judgment of the Commercial Court Judge, and judgment on consequential issues, following a 9 week Commercial Court trial. Tim represented the 2nd and 5th Defendants in this case in which a Russian Bank claimed damages in the sum of c.US\$1 Billion against its former director/shareholders arising out of breaches of duty arising under Russian law.
- *The Financial Conduct Authority v Park First Limited & others* (2016–2020): Tim is instructed by the FCA in this very high value claim which is listed for trial in early 2022.
- *The Financial Conduct Authority v Capital Alternatives & 15 others* [2014] EWHC 144 (Ch), [2014] 3 All ER 780; [2015] EWCA Civ 284, [2016] EWHC 1984 (Ch), [2018] 3 WLUK 623: Tim headed up a team on 2 lengthy trials acting for the FCA: the first was a successful 10 day trial against 15 defendants on a preliminary issue of whether certain investment schemes were Collective Investment Schemes within s235FSMA, the defendants' appeal being dismissed by the Court of Appeal; the second was a 22 day trial on the FCA's claims under s.382 FSMA following which the FCA obtained substantial judgments against all of the defendants.
- *The Financial Conduct Authority v Asset L. I. Inc (trading as Asset Land) & others* [2016] UKSC 17; [2014] EWCA Civ 435 [2014] Bus LR 993; [2013] EWHC 178 (Ch) [2013] 2 BCLC 480: Tim headed up the FCA team in what was the first Unauthorised Business Department matter under s235 FSMA (collective investment schemes) to go to a fully contested trial and then to the Court of Appeal. Tim obtained without notice and on notice injunctions, closing down a £20 million 'land-banking scheme' and led the team at the subsequent trial of liability and the interim payment hearing.



Banking & Finance continued

- Tim regularly advises the FCA and private clients in issues relating to FSMA and in particular relating to the operation and promotion of collective investment schemes and other unregulated business.