

## Adam Al-Attar

Called to the Bar 2007

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Adam has a split practice divided between insolvency and restructuring, and commercial matters, in particular, banking, financial services and the law of trusts. He acts both as junior counsel, as a sole advocate and as a leader.

Adam has had substantial experience of bank and fund insolvencies. In the period 2009 to 2019, he has acted in relation to the insolvencies of *Lehman Brothers*, *MF Global* and certain *Madoff* feeder funds, appearing in many of the leading cases in that decade.

Adam has also appeared in many of the leading contested restructurings cases including *IMO Car Wash*, *Apcoa*, *Ocean Rig*, and *Lehman*. He has a substantial restructuring practice in the UK and offshore jurisdictions. Recent cases include *New Look*, *Travelodge*, *PizzaExpress*, *KCA Deutag*, *Matalan* and *Castle Trust*.

Adam's commercial work involves cases in the Commercial Court and the Chancery Division. In 2019, he was part of the team that restored the world-wide freezing injunction in *Privatbank v Kolomoisky* [2020] 2 WLR 993, CA. Recent cases in which Adam appeared as the sole advocate or as leading counsel include: *Banco San Juan v PDVSA* [2020] EWHC 2145 (Comm) and [2020] EWHC 2937 (Comm), in which Adam acted for the bank on its summary judgment application against the Venezuelan state oil company; and *IS Prime v TF Global Markets (UK) Limited* [2020] EWHC 3375 (Comm), in which Adam acted for the claimant broker to resist an application to stay the broker's claim for a breach of its exclusivity terms in the Commercial Court pursuant to section 9 of the Arbitration Act.

Adam is ranked in Band 1 in Chambers Global for restructuring and insolvency, and in Tier 1 in the Legal 500 for offshore work. He is also ranked in commercial litigation and dispute resolution, financial services regulation and banking and finance. In 2014, he was recognised as the Insolvency and Restructuring Junior of the Year at the UK Bar Awards.

His entry in the 2020 edition of Chambers UK described Adam as a: *"Standout junior exhibiting great strength in bank and fund insolvencies. He regularly attracts instructions in headline cases and demonstrates notable skill in contested restructurings."*

*"Adam stands out for his responsiveness, clarity of advice, commerciality and intellectual ability." "He is phenomenally intelligent and has a brain the size of a planet." "He'll happily command the court and gets the judge's respect - he's great."*

In relation to his commercial work, the 2020 edition of Chambers UK records the following client comments: *"He's very bright, incredibly hard-working and he will pick up any point you need him to no matter how difficult it might be. He's really creative in terms of problem solving - give him a blank sheet of paper and he'll always find a way to solve a client's problem." "He is exceptionally bright and very tactically smart. He is prepared to go the extra mile for clients and shows considerable empathy."*

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## Insolvency and Restructuring

### Insolvency

Cases of note include:

- **Lehman Brothers International Europe**, acted for and advised various counterparties including in relation to subordinated debt and statutory interest; acted for the administrators on discrete issues including third party set-off; acted for GLG in relation to client money issues; currently acting for Wentworth in relation to the **Waterfall II** applications to distribute the surplus in the estate.
- **MF Global**, retained to advise the special administrators including in relation to the close-out of exchange traded and OTC derivatives, the transfer of open positions, the settlement of DVP trades, and the operation of clearing house and exchange default rules.
- **Primeo**, retained by the joint official liquidators of Primeo Fund in relation to the trial of preliminary issues on the Madoff trustee's claim for relief under US and Cayman Islands insolvency law to set aside antecedent transactions: **Picard v Primeo Fund**, Cause FSD 275 of 2010, 14 May 2013. The Cayman Court of Appeal handed down judgment on part of the appeal in April 2014: CICA 1/2013 and 2/2013. In a further aspect of the Primeo litigation, Adam was instructed to oppose an appeal in the Privy Council; the Board upheld the Cayman Court of Appeal and rejected the submission that the liquidator had a wide power to rectify the register of members in the light of the Madoff fraud.
- **Monarch Airlines**, instructed by the companies to pursue the administration applications, and retained by the administrators on various issues arising out of the airline administration
- **DD Growth**, appeared in the Privy Council for the liquidators of a Cayman fund on a dispute as to the legality of redemption payments funded from the share premium account at a time when the fund was insolvent and had a negative NAV.
- **Travelodge Hotels Ltd v Prime Aesthetics Ltd**, instructed by the company to restrain the presentation of a petition based on an admitted, liquidated debt. The injunction was granted in the light of the COVID-19 pandemic and the anticipated enactment of the Corporate Insolvency and Governance Bill.
- **NMC Healthcare**, instructed by the administrators of the UK plc and the ADGM companies continued in the ADGM for the purposes of rescuing the business of the group following the discovery in 2020 of a sustained and systematic fraud in which in excess of \$4 billion of liabilities were concealed.

Other cases include:

- **Rollings v O'Connell** [2014] EWCA Civ 639, consideration by the appellate court of the power under paragraph 71 of Schedule B1 to override the consent of a fixed charge-holder
- **AIB Group (UK) v St John Spencer** [2012] EWHC 2317 (Ch), contested application to appoint an administrator under paragraph 35 of Schedule B1
- **Rawlinson & Hunter Trustees v Kaupthing Bank** [2011] 2 BCLC 682, jurisdictional challenge under the Credit Institutions Winding Up Regulations to a claim by Kaupthing in the Commercial Court
- **Byers v Yacht Bull Corporation** [2010] 2 BCLC 169, jurisdictional challenge to a tracing claim to assets in France asserted by the liquidator of Madoff's UK company

## Restructuring

Recent cases include *Punch Taverns*, *Cattles*, *FU JI Food & Catering Holdings*, *The Co-operative Bank*, *PHS*, *LDK Solar*, *SAB Miller*, *CHC Group*, *Algeco Scotsman*, *Frigoglass*, *Steinhoff*, *New Look*, *Travelodge*, *PizzaExpress*, *KCA Deutag*, *Matalan* and *Castle Trust*.

Contested restructurings include:

- **Re Bluebrook** [2010] 1 BCLC 338, which sets out the proper approach to the valuation of distressed company debt
- **Re Maltby Investments** [2012] EWHC 4 (Ch), in which the court rejected Terra Firma's application for pre-action disclosure of valuations relied on for the pre-pack sale of EMI
- **Drydocks Dubai LLC v Monarch Master Funding**, in which the Dubai entities obtained injunctive relief in support of CVAs sanctioned under Dubai law
- **The Co-Operative Bank** [2013] EWHC 4074 (Ch), a scheme of arrangement to recapitalise a bank which had failed its capital requirement tests and was threatened with resolution by the PRA
- **Re Apcoa Parking Holdings GmbH** [2015] 4 All ER 572, the leading UK scheme case on the validity of change of law schemes and the imposition of new obligation via a scheme
- **Re Ocean Rig Inc**, 15 September 2017, Grand Court of the Cayman Islands, the first cross-border Cayman Islands led restructuring involving a COMI-shift to facilitate recognition under Chapter 15 of the US Bankruptcy Code

## Bankruptcy and Personal Insolvency

Notable cases include:

- **Davis v Price** [2014] BPIR 494, CA, an appeal which considered the "cut off" date for IVA claims
- **Smith-Evans v Smailes** [2013] EWHC 3199 (Ch), an appeal in which the court held that the failure to obtain a debtor's consent to a modification did not render an IVA a nullity

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## Commercial and Financial Services Litigation

Notable cases include:

- **Libyan Investment Authority v Maud** [2016] EWCA Civ 788, an appeal which considered the application of the Libyan sanctions regime to the payment of a commercial guarantee.
- **Citibank N.A. London Branch v Oceanwood Opportunities Master Fund** [2018] EWHC 305 (Ch) and [2018] EWHC 448 (Ch), an expedited trial to determine the control of a bond issuer and, therefore, who could vote under the indenture terms.
- **Privatbank v Kolomoisky** [2020] 2 WLR 993, CA, an appeal which restored, at the time, the largest world-wide freezing injunction granted in the Chancery Division. The appeal considered several important points, including the constraints upon the use of the 'anchor' defendant jurisdiction to sue alleged co-conspirators in the UK and the approach to evidence

at an interlocutory stage, in particular, in connection with a fraud claim.

- ***Banco San Juan v PDVSA*** [2020] EWHC 2145 (Comm) and [2020] EWHC 2937 (Comm), an application by a bank for summary judgment application against the Venezuelan state oil company. The case produced two useful judgments: first, a judgment on the efficacy of contractual services clauses; secondly, a judgment on the relevance of foreign (US) law sanctions to a English loan contract to be repaid in the foreign jurisdiction in question.
- ***IS Prime v TF Global Markets (UK) Limited*** [2020] EWHC 3375 (Comm), a client's application, pursuant to section 9 of the Arbitration Act, to stay a broker's claim in the Commercial Court for a breach by the client of the broker's exclusivity terms. The case is noteworthy because the Florida arbitration was expressly "non-binding" and thus the Commercial Court had to consider the meaning of an "arbitration agreement" under section 6 of the 1996 Act and its relationship with section 58 of the same Act.

## Financial Services

Client Money:

- ***MF Global UK Ltd (Client Money Resolution Application)***, application by client money trustee to sanction compromise including claims for breach trust to enable closure of trust fund
- ***MF Global UK Ltd (Client Money Distribution Application)*** [2013] EWHC 1655 (Ch), application by client money trustee to distribute client money on assumed facts in the light of unknown claims
- ***MF Global UK Ltd (Shortfall Application)*** [2014] 1 BCLC 91, acted for the administrators of MF Global on their application to consider the extent of clients' shortfall claims against the general estate resulting from a breach of the client money trust
- ***MF Global UK Ltd (Hindsight Application)*** [2013] EWHC 92 (Ch), acted for the administrators of MF Global on their application to determine the scope of the hindsight principle
- ***Re Lehman Brothers International (Europe) (No 2)*** [2012] 1 BCLC 487 (SC); [2011] 2 BCLC 184 (CA); [2010] 2 BCLC 301, acting for GLG on behalf of segregated clients at all levels of the Lehman Brothers client money litigation under CASS 7
- ***Re Global Trader Europe Ltd*** [2009] 2 BCLC 18

Client Assets:

Acting for the special administrators of *MF Global* in relation to the 30.7 litigation, which considered, amongst other things, the efficacy of title transfer arrangements in a claim for US\$600m of US treasury bills.

Retained by the special administrators of ***Hartmann Capital*** and ***SVS Securities plc*** [2020] EWHC 1501 (Ch) in relation to their client asset distribution plans.

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## Offshore

Has experience in the following jurisdictions: the BVI, the Cayman Islands, Hong Kong, the Isle of Man, Dominica, St Kitts and Nevis, Anguilla, Guernsey, St Vincent and the Grenadines, Dubai and Abu Dhabi.

Appeared before the Dubai World Tribunal in 2013.

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## Awards and Recommendations

Chambers & Partners      Insolvency and Restructuring Junior of the Year 2014  
Recommended for Insolvency and Restructuring “*on the basis of his excellent reputation amongst peers and clients.*” He “*has enviable experience of acting in major banking and fund insolvencies*” and is “*highly praised for his advocacy and the robustness of his advice.*” He is “*intelligent, very easy to work with and incredibly helpful*” and “*provides a fast turnaround of work.*”

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## Career

2016 Called to the Bar of St Vincent and Grenadines  
2014 Called to the Bar of the Cayman Islands (ad hoc)  
2007 Called to the Bar of England and Wales

Adam is registered as an advocate in the Dubai International Financial Centre (DIFC) and has been admitted to the bar in the British Virgin Islands (2011). Adam has also appeared in the Courts of the Abu Dhabi Global Market (ADGM).

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## Publications

Contributor to ***Company Directors: Duties, Liabilities and Remedies*** (third edition, OUP, 2017)  
Contributor to ***European Debt Restructuring Handbook*** (first edition, Global Business Law, 2013)  
Contributor to ***Cross-Border Insolvency*** (fourth edition, Bloomsbury, 2015)  
Contributor to ***Rowlatt on Principal and Surety*** (sixth edition, Sweet and Maxwell, 2011)  
Contributor to ***The Law and Practice of Restructuring in the UK and US*** (second edition, OUP, 2017)

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## Education and Qualifications

2006 Oxford University, BCL  
2005 Oxford University, BA Jurisprudence