

Felicity Toubé QC

QC 2011, Called to the Bar 1995

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Felicity Toubé QC specialises in domestic and cross-border insolvency and restructuring, banking and financial services, commercial litigation, civil fraud, and company law. Felicity appears in the Cayman Islands on a regular basis. She also acts as an expert in international proceedings in English law, as well as the law of other common law jurisdictions. She is asked to speak regularly at conferences, including at INSOL and Offshore Alert.

Felicity has acted in relation to most of the recent major corporate restructurings or insolvencies and related litigation including most recently in *Saad, Madoff, Lehman, Stanford, Rastogi, Nortel, SPhinX, Sigma, Landsbanki, MF Global, and Rafidain Bank*.

Felicity is widely recognised in all the legal directories as an expert in several fields. She won Chambers and Partners Insolvency/Company Silk of the Year 2020 and is ranked as a Leading Silk both nationally and internationally by Chambers & Partners in Insolvency/Restructuring, Commercial Dispute Resolution, Company Law, and Commercial/Chancery Litigation .

Chambers UK Bar 2019 refers to her as *“at the top of her game - very bright, supremely user-friendly and great with clients.”* Other comments include:

“Felicity is quick-witted and extremely responsive. She’s redoubtable and very highly regarded, yet eminently approachable.”

“She is extremely user-friendly and provides clear, thoughtful and pragmatic advice quickly and in a very helpful format.”

“Felicity is an intelligent and empathetic silk who quickly gets to the heart of the matter.”

“Very much a strong leader, with strong submissions of her own style.”

She is ranked by Legal 500 2020 as a Leading Silk for Insolvency, Banking and Finance, Civil Fraud, Commercial Litigation, and Offshore: with comments including: *“Her written opinions should stand as an example of precisely what clients and instructing attorneys want to see - clear, concise and reliable.”*

Felicity is also ranked in Who’s Who in Insolvency and Asset Tracing, and also as a Thought Leader in Insolvency.

Felicity also publishes widely across all her fields of experience, including as editor and contributor to Toubé on *“International Asset Tracing in Insolvency”* (OUP) and as Editor of *Insolvency Intelligence*.

Felicity is an ADR Group Accredited Civil & Commercial Mediator, an accredited Arbitrator by CiArb, and is Co-Chair of the INSOL Mediation Colloquium.

Insolvency and Restructuring

Recently instructed in a variety of administrations and liquidations, including in respect of financial institutions (*Saad, Madoff, Lehman, Stanford, Nortel, SPhinX, Sigma, Landesbanki, MF Global, Debenhams, BHS, and Rafidain Bank*).

Recent cases include:

CFL Finance v. Bass [2019] EWHC 1837 (Ch) (ability to vote in IVA/bankruptcy petition)

Peak Hotels [2019] EWHC 2558 (Ch) (application of test for valuation of services under section 245 Insolvency Act 1986)

Peak Hotels [2019] EWCA Civ 345 (test for valuation of services under section 245 Insolvency Act 1986)

Crumpler v Candey Ltd [2018] EWCA Civ 2256 (Court of Appeal) (Nature of ownership of monies paid into Court - floating charge)

Re Lehman Brothers Europe Ltd [2017] EWHC 2031 (Ch) (Distribution to shareholders in administration by newly appointed director)

Re LB Holdings Intermediate 2 Ltd (In Administration) and others [2017] EWHC 2032 (Ch) (Sanction of settlement of Waterfall III litigation)

Chubb v Rafidain Bank Chancery Division (Companies Court), 27 July 2017 (unreported)

(Declaration of meaning of scheme of arrangement)

Leeds v Lemos [2017] EWHC 1825 (Ch) (privilege in bankruptcy does not pass to trustee in bankruptcy even in relation to "assets" documents)

PricewaterhouseCoopers v SAAD Investments Co Ltd (In Official Liquidation) Privy Council (Bermuda), 17 November 2016 [2016] UKPC 33; [2017] 1 W.L.R. 953 (costs of aborted document production exercise not paid by office holders)

Lehman Brothers Luxembourg Investments S.A.R.L. v Lehman Brothers UK Holdings Limited (In Administration) [2016] EWHC 617 (Ch) (Construction of loan document and subordination)

Citicorp International Ltd v Castex Technologies Ltd [2016] EWHC 349 (Comm) (contents of notice for mandatory conversion notice)

Indah Kiat International Finance Co BV [2016] EWHC 246 (Ch); [2016] B.C.C. 418 (adjournment of convening meeting for scheme of arrangement - requirements for convening order)

Centaur Litigation SPC (In Liquidation) v Terrill [2015] EWHC 3420 (Ch) (freezing order -

breach of duty by director)

MF Global UK Ltd (In Special Administration) [2015] EWHC 2319 (Ch) [2016] Ch. 325

(denial of section 236 order against foreign respondents)

Black Diamond Offshore Ltd v Fomento De Construcciones Y Contratas SA [2015] EWHC 1035 (Ch) (denial of stay of proceedings pending homologation proceedings in Spain; subsequent relief granted in favour of Black Diamond)

Northsea Base Investment Ltd (and 7 others) [2015] EWHC 121 (Ch) (COMI of 7 Cypriot companies in England)

Re Business Environment Fleet St [2014] EWHC 3540 (Ch) (powers of administrators to sell disputed assets)

Pricewaterhouse Coopers v Saad Investments Company Limited [2014] UKPC 35 (ability of stranger to liquidation to set aside winding-up order)

Singularis Holdings Limited v Pricewaterhouse Coopers [2014] UKPC 36 (extent of common law assistance in cross border insolvencies; existence of common law power to assist investigations as to assets)

Re ARM Asset Backed Securities (EC Regulation and Luxembourg) [2014] EWHC 1097 (Ch)

JSC Bank of Moscow and others v Kekhman (No: 4893 of 2012) [2014]

London Scottish Finance [2013] EWHC 4047 (Ch) Ch D

ARM Asset Backed Securities [2013] EWHC 3351 (Ch)

Re Tambrook [2013]

Re Nortel Networks NV; Re Lehman Brothers International (Europe) [2013] UKSC 52

Lehman Brothers Special Financing v Carlton Communications [2012] EWCA Civ 419

Re Nortel Bloom v The Pensions Regulator [2011] EWCA Civ 1124

Lehman Brothers Special Financing v Carlton Communications [2011] EWHC 718 (Ch)

Global Distressed Alpha Fund 1 Limited Partnership v PT Bakrie Investindo [2011]

EWHC 256 (Comm)

Re Nortel Bloom v The Pensions Regulator [2010] EWHC 3010 (Ch)

Madoff Securities International v Financière Meeschaert [2010] EWHC 133 (Ch)

Re Lehman Brothers International (Europe) v CRC [2010] EWHC 47

Re Lehman Brothers International (Europe) v CRC [2009] EWHC 3228 (Ch); [2009] WLR (D) 371

Re Stanford International Bank [2009] EWHC 1441 (Ch)

Re Sigma [2009] UKSC 2

Re Global Trader Europe [2009] EWHC 602 (Ch)

Banking and Finance

Recently instructed in a variety of issues including the client money litigation, as well as cases arising under ISDA Master Agreements, Facility Agreements and other security documents, and issues relating to schemes of arrangement (*Saad, Lehman, Stanford, SPhinX, Sigma, Landesbanki, MF Global, and Rafidain Bank*).

Recent cases include:

Akers v Samba Financial Group [2014] EWHC 540 (Ch)

London Scottish Finance [2013] EWHC 4047 (Ch)

Lehman Brothers Special Financing v Carlton Communications [2012] EWCA Civ 419

Lehman Brothers Special Financing v Carlton Communications [2011] EWHC 718 (Ch)

Global Distressed Alpha Fund 1 Limited Partnership v PT Bakrie Investindo [2011] EWHC 256 (Comm)

Madoff Securities International v Financière Meeschaert [2010] EWHC 133 (Ch)

Re Lehman Brothers International (Europe) v CRC [2010] EWHC 47

Re Lehman Brothers International (Europe) v CRC [2009] EWHC 3228 (Ch); [2009] WLR (D) 371

Re Stanford International Bank [2009] EWHC 1441 (Ch)

Re Sigma [2009] UKSC 2

Re Global Trader Europe [2009] EWHC 602 (Ch)

Black Diamond Offshore Ltd v Fomento de Construcciones y Contratas SA [2016] EWCA Civ 1141; [2017] 1 B.C.L.C. 196 (construction of bond documentation/insolvency events of default)

Lehman Brothers Luxembourg Investments Sarl v Lehman Brothers UK Holdings Ltd

Chancery Division (Companies Court), 21 March 2016 [2016] EWHC 617 (Ch); [2017] 1 All E.R. (Comm) 393; [2016] 2 B.C.L.C. 244 (Construction of subordination agreement – solvency issues)

Citicorp International Ltd v Castex Technologies Ltd Queen's Bench Division (Commercial Court), 24 February 2016 [2016] EWHC 349 (Comm) (issues of notice requirements in relation to

convertible bonds)

Commercial Litigation and Arbitration

Major commercial litigation, and in particular civil fraud claims. Recent commercial cases and arbitrations include:

Mohamed v. Breish [2020] EWHC 696 (Comm) - Identity of Chairman of Libyan Investment Authority

Mohamed v. Breish [2019] EWHC 1768 (Comm) - one voice principle

Mohamed v. Breish [2019] EWHC 306 (Comm) - authority dispute within Libyan Investment Authority

Crumpler v Candey Ltd [2018] EWCA Civ 2256 (Court of Appeal) (Nature of ownership of monies paid into Court - floating charge)

Shaw v Breish [2017] EWHC 2972 (Comm) (Collateral use of documents; variation of court appointed receivership)

UBS AG, London Branch v Glas Trust Corp Ltd [2017] EWHC 1788 (Comm) (powers of Note Trustee)

Black Diamond Offshore Ltd v Fomento de Construcciones y Contratas SA [2016] EWCA Civ 1141; [2017] 1 B.C.L.C. 196 (construction of bond documentation/insolvency events of default)

Lehman Brothers Luxembourg Investments Sarl v Lehman Brothers UK Holdings Ltd

Chancery Division (Companies Court), 21 March 2016 [2016] EWHC 617 (Ch); [2017] 1 All E.R. (Comm) 393; [2016] 2 B.C.L.C. 244 (Construction of subordination agreement - solvency issues)

Libyan Investment Authority v Codeis Securities SA Queen's Bench

Division (Commercial Court), 02 November 2016 [2016] EWHC 2773 (Comm) (powers of court appointed receiver where authority dispute in Libya) **RBG v Rastogi and others** [2014] EWHC 2316 (Ch)

Akers v Samba Financial Group [2014] EWHC 540 (Ch)

Lehman Brothers Special Financing v Carlton Communications [2012] EWCA Civ 419

Lehman Brothers Special Financing v Carlton Communications [2011] EWHC 718 (Ch)

Re Nortel Bloom v The Pensions Regulator [2010] EWHC 3010 (Ch)

Madoff Securities International v Financière Meeschaert [2010] EWHC 133 (Ch)

Re Lehman Brothers International (Europe) v CRC [2010] EWHC 47

Re Lehman Brothers International (Europe) v CRC [2009] WLR (D) 371

Re Stanford International Bank [2009] EWHC 1441 (Ch)

Re Sigma [2009] UKSC 2

Re Global Trader Europe [2009] EWHC 602 (Ch)

Citicorp International Ltd v Castex Technologies Ltd Queen's Bench

Division (Commercial Court), 24 February 2016 [2016] EWHC 349 (Comm) (issues of notice requirements in relation to convertible bonds)

Company

Recently instructed in a variety of company law cases including in relation to schemes of arrangement.

Scheme proponent in the **Sphinx** case in the Cayman Islands

Global Distressed Alpha Fund 1 Limited Partnership v PT Bakrie Investindo [2011] EWHC 256 (Comm)

Madoff Securities International v Financière Meeschaert [2010] EWHC 133 (Ch)

Re Lehman Brothers International (Europe) v CRC [2010] EWHC 47

Re Lehman Brothers International (Europe) v CRC [2009] WLR (D) 371

Re Sigma [2009] UKSC 2

Re Global Trader Europe [2009] EWHC 602 (Ch)

Civil Fraud and Asset Recovery

Recent cases include:

RBG v Rastogi and others [2014] EWHC 2316 (Ch)

Akers v Samba Financial Group [2014] EWHC 540 (Ch)

Madoff

Stanford

Offshore

Felicity has appeared in the following foreign jurisdictions, the Cayman Islands (where she appears on a regular basis in the Grand Court), the BVI (including appearing in the BVI Court), Antigua, USA, EU (in particular realising property and unravelling frauds in France and Spain), Jersey, Guernsey and Isle of Man.

Also acts as an expert in international proceedings in English law, as well as the law of other common law jurisdictions. Currently retained in one case by the US Department of Justice as an expert on foreign law.

Recent cases include:

Ardon Maroon (judgment awaited from Eastern Caribbean Court of Appeal - redemptions between Master and Feeder Fund)

Libyan Investment Authority: proceedings in the Cayman Islands in relation to Palladyne

Pricewaterhouse Coopers v Saad Investments Company Limited [2014] UKPC 35 (ability of stranger to liquidation to set aside winding-up order)

Singularis Holdings Limited v Pricewaterhouse Coopers [2014] UKPC 36 (extent of common law assistance in cross border insolvencies; existence of common law power to assist investigations as to assets)

Re Saad (Bermuda, Cayman, and Saudi Arabia)

SPhinX liquidation (Cayman Islands)

Re ARM (EC Regulation and Luxembourg) [2014] EWHC 1097 (Ch)

Tambrook (Jersey)

Madoff SIPA Trustee v Harley (Cayman Islands)

Stanford International Bank (Antigua, Switzerland, and Canada)

Global Distressed Alpha Fund 1 Limited Partnership v PT Bakrie Investindo [2011] EWHC 256 (Comm) (Indonesia)

PricewaterhouseCoopers v SAAD Investments Co Ltd (In Official Liquidation) Privy Council (Bermuda), 17 November 2016 [2016] UKPC 33; [2017] 1 W.L.R. 953 (costs of aborted document production exercise not paid by office holders)

Awards and Recommendations

Company/Insolvency Silk of the Year 2020

Junior Insolvency and Corporate Restructuring Barrister of the Year 2006

Career

2020	Co-Chair of INSOL Mediation Colloquium
2019	Teaching on Corporate Insolvency Law course, BCL, University of Oxford
2015	Appointed to INSOL International Mediation Panel
2015	ADR group Accredited Civil and Commercial Mediator
2012	First Called to the Bar of the Cayman Islands (on the cases of SPhinX and Harley)
2011	Appointed Queen's Counsel
1995	Called to the Bar of England and Wales
1994-1995	Taught Restitution with with Prof Peter Birks from All Soul's College, Oxford

Memberships

Commercial Bar Association

Chancery Bar Association

International Insolvency Institute (Board Member)

Publications

Editor of and contributor to *International Asset Tracing in Insolvency* (Toube, OUP 2009)

Editor of *Insolvency Intelligence*

Contributor to *Insolvency Intelligence*

Editor of *Totty & Moss on Insolvency* case summaries

Case editor for *Sweet & Maxwell Complete Insolvency Service* CD Rom

Contributor to *EC Regulation on Insolvency Proceedings* (Moss, Fletcher and Isaacs)

Contributor to *Lightman & Moss on Receivers and Administrators*

Author of chapter in *Rowlatt on Surety*

Contributor to *Halsbury's Laws of England* Volume 3(2) (fourth edition, 2002 reissue)

Co-editor of *Halsbury's Laws of England* Volume 7 (fifth edition, 2013 reissue)

Author of *Restitution for Public Lawyers* [1996] JR 92

Author of *Restitution under Article 85(2) EC Treaty - Can it be Done?* (F Rose)

Author of *Cross-Border Security Enforcement and the Conflict of Laws* (F Rose)

Lectures and Seminars

Speaker and Chair and numerous events on insolvency and asset tracing (in particular cross-border insolvency issues): INSOL, INSOL Europe, R3, ILA, IWIRC, Offshore Alert

Education and Qualifications

1993-1994 Magdalen College, Oxford University, BCL, First Class

1990-1993 Magdalen College, Oxford University, BA

Prizes and Scholarships Princess Royal Scholarship (ICSL)

Princess Royal Scholarship (ICSL)

Interests

Charity work (Trustee of Magdalen College Development Trust, Legal Friends of the Hebrew University, New West End Synagogue, and various other deaf, homeless, and educational charities)

Cooking, reading, cricket