

Richard Hacker KC

KC 1998, Called to the Bar 1977

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Richard has a mixed litigation/advisory business law practice, with a specialisation in a range of areas of commercial dispute resolution. The areas covered include shareholder disputes, fraud and asset tracing, conflicts of law and jurisdictional disputes, sovereign immunity issues and a broad range of contentious and non-contentious insolvency work including schemes of arrangement.

Much of Richard's work is offshore based or has an offshore connection. He has been admitted and appeared in the courts of Bermuda, the British Virgin Islands, the Cayman Islands and the Isle of Man, and has had a close involvement in litigation in Jersey and Guernsey. Richard also has experience of conducting arbitrations and of court proceedings ancillary thereto. He is very used to operating as part of a multi-jurisdictional team with lawyers from a wide range of jurisdictions, whether in an advocacy, advisory or supervisory role.

Areas of Practice

A mixed litigation and advisory practice involving many aspects of business and commercial law. Specialisms have developed and evolved over the years and have included the following:

- General commercial litigation involving contractual and banking disputes and professional negligence claims
- Multi-jurisdictional disputes involving parallel or competing proceedings (both court and arbitration proceedings) in different jurisdictions, including extensive experience of the use of anti-suit injunctions
- Seeking interlocutory remedies intended to secure and otherwise preserve assets and evidence, or found jurisdiction in an appropriate forum
- Shareholder disputes in a range of jurisdictions including Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Hong Kong
- Major corporate Insolvencies and the substantial litigation stemming from them
- Schemes of arrangement and restructurings, both generally and specifically in the area of insurance companies
- Litigation arising out of the collapse of offshore investment and mutual funds
- Company law and corporate governance issues
- First instance and appellate work before the English, Bermuda, British Virgin Islands Cayman Islands and Isle of Man courts, including offshore Courts of Appeal, the House of Lords and the Privy Council
- Experience of guiding and assisting in the conduct of litigation in other offshore jurisdictions in which English Barristers cannot be accorded direct rights of audience (Jersey, Guernsey, the USA, Canada, Abu Dhabi and Kuwait)

Cases include advising or representing:

- A major shareholder dispute in Guernsey (with potential ancillary proceedings in the BVI) between the owners of a Russian oil refinery, and assisting the local advocates in relation to the conduct of the proceedings
- A substantial shareholder in a leading Russian retailer in relation to a shareholder dispute litigated in an *LCIA* arbitration, with ancillary litigation conducted in the English and British Virgin Islands courts
- The principal shareholder in a major Russian property owning group in relation to a shareholder dispute and allied litigation in an *LCIA* arbitration, with ancillary litigation conducted in the English and British Virgin Islands courts
- The majority Taiwanese shareholders of a very substantial Cayman Islands company with operations in the Far East, in relation to a significant shareholder dispute being fought in the Grand Court of the Cayman Islands (including numerous appearances at first instance and before the Cayman Islands Court of Appeal)
- The liquidators of one of the *Lehman* group companies in relation to substantial claims asserted against the estate
- A creditor of another *Lehman* group company in proceedings before the Supreme Court of Bermuda
- Various creditors of failed investment funds incorporated in the Cayman Islands, the British Virgin Islands and Bermuda
- The Isle of Man Treasury in relation to the promotion of a Scheme of Arrangement in relation to *Kaupthing Singer & Friedlander IOM*
- A London Magic Circle solicitors firm in relation to its own position in a high profile asset tracing dispute
- A Hong Kong based joint venture party in relation to a significant dispute with its fellow joint venture partner concerning a project to construct a casino, retail and hotel complex in Macau
- *IPOC* International Growth Fund and related companies in relation to a wide range of issues concerning its ownership of a stake in the Russian Megafon mobile phone operator, over the period 2005 – 2008 including anti-suit injunction proceedings in the Bermuda courts (involving an appeal to the Bermuda Court of Appeal), together with associated arbitration proceedings in Switzerland and restraint and criminal proceedings in the British Virgin Islands. Then advising and assisting the Joint Liquidators of the *IPOC* group, on the development and implementation of their liquidation strategy
- Conducting substantial litigation in the British Virgin Islands on behalf of the Hong Kong partnership of *PriceWaterhouseCoopers*. This involved numerous appeals to the BVI Court of Appeal and several applications and substantive appeals to the Privy Council
- The majority shareholders of a Bermuda incorporated exempt company in relation to a significant shareholder dispute being fought in the Bermuda courts (including an appeal to the Bermuda Court of Appeal)
- The former guiding mind of a failed major Bermuda incorporated company, in relation to litigation in Hong Kong and Bermuda brought against him by its liquidators, including the mounting of anti-suit injunction proceedings in Bermuda.
- The captive derivative trading operation of a substantial group, in relation to a major audit negligence claim in the Hong Kong courts
- A re-insurer of the Home Insurance Company, an insolvent New Hampshire insurer. This included the provision of expert evidence in the New Hampshire Superior Court
- The various European office-holders in the multi-jurisdictional insolvency of the European arm of the *Collins & Aikman* group. This involved the provision of expert evidence for use in proceedings in Belgium and Spain
- The substantial minority shareholder of a Bermudian incorporated company listed on the Hong

Kong Stock Exchange (Pacific Challenge Holdings) in its highly publicised dispute with the company's majority shareholders. This involved litigating an unfair prejudice petition in the Supreme Court of Bermuda (with evidence taken on commission in Hong Kong and an interlocutory appeal to the Bermuda Court of Appeal)

- Both office-holders and bondholders in relation to a range of substantial insolvencies, bond restructurings and schemes of arrangement (both solvent and insolvent and UK and overseas based), including *Olympia & York*, *Polly Peck*, *Federal Mogul*, *Enron*, *Akai*, *British Energy* and *GM Pfaff*
- A leading Taiwanese semi-conductor manufacturer in complex and substantial Commercial Court litigation relating to derivative contracts, involving English, Taiwanese and Hong Kong law and complex accounting issues
- The Bank of China and its former subsidiaries in relation to a range of litigation in which it was involved in Hong Kong.
- The counter-party to a major 'Islamic Banking' transaction in litigation in England concerning the nature and enforceability of such transactions (at first instance and in the Court of Appeal)
- The Provisional Liquidations of the North Atlantic Insurance Company in relation to all aspects of the insolvency including trans-national litigation arising from the collapse of the company and the formulation and implementation of a scheme of arrangement. This included the provision of expert evidence to the US Bankruptcy Court (SDNY)
- The Provisional Liquidators/Liquidators of the CA Pacific Stockbroking group in Hong Kong in relation to the insolvency of the group and the complex issues concerning the distribution of its assets amongst its 14,000 clients. This was one of the highest profile insolvencies in Hong Kong of the 1990s
- The Provisional Liquidators of Ocean Marine Mutual Insurance Company, an insolvent Turks & Caicos Islands insurer. This included the provision of expert evidence to the US Bankruptcy Court (SDNY)
- *IONICA* Group Plc in relation to trans-national insolvency issues arising from the collapse of *IONICA* and in relation to a scheme or arrangement implemented in respect of the company. This included the provision of expert evidence to the US Bankruptcy Court (SDNY)
- On behalf of the principal French state-owned corporation defending litigation arising from its acquisition of a UK insurance company, in which the claims exceeded £300 million
- Participation in the formulation and implementation of the strategy underlying the rescue of the Barings banking group, from the discovery of its financial difficulties to its sale to ING and beyond
- The Kuwait Investment Authority in relation to major commercial litigation intended to recover compensation for substantial losses suffered by the KIA in the wake of the collapse of its Spanish investment arm (the 'Grupo Torras affair')
- In the courts of a variety of jurisdictions, the Government and Ruling Family of the Emirate of Abu Dhabi in relation to all aspects of the collapse of the BCCI group, in which they were the majority shareholders. This matter involved detailed consideration of the many issues arising from a substantial trans-national insolvency and gave rise to proceedings in England, the Cayman Islands, Luxembourg and the US
- The (Bermudian) Liquidators of Mentor Insurance Limited (perhaps the largest and most complex Bermudan insolvency of the 1980s) in relation to all insolvency related aspects of the liquidation
- Obtaining the Administration Orders made in respect of the Maxwell 'private' companies and thereafter advising and representing the Administrators in relation to insolvency matters and substantial asset recovery proceedings

- The (Luxembourg) Liquidators of Banco Ambrosiano in their world-wide attempts to recover assets of the bank from the Calvi family. This involved a close involvement in proceedings in the Bahamas and in Canada
- The (Hong Kong) Liquidators of Carrian Investments Limited in relation to the largest insolvency in Hong Kong of the 1980s
- The Liquidator of Laker Airways in litigation which was taken on appeal to the House of Lords, concerning the right of the Liquidator of Laker Airways to pursue US Anti-Trust proceedings against a number of British and European Defendants. This remains a leading English law authority in the context of anti-suit injunctions

Career

2003 Called to the Bars of the British Virgin Islands (and Bermuda, the Cayman Islands and the Isle of Man on an *ad hoc* basis)

1998 Appointed King's Counsel

1977 Called to Bar of England and Wales

Appointments

Appointed to chair a Public Inquiry into the Parliamentary constituency boundaries for the county of Hertfordshire

Appointed by the London Court of International Arbitration as a member of the tribunal adjudicating on disputed claims arising in the *TXU* insolvency

Memberships

North American Committee of the English

Education and Qualifications

1978 University of Brussels, Postgraduate Licence Speciale en Droit European

1976 Downing College, Cambridge University, MA

Languages

French, German