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Peter Arden KC

Call: 1983 Silk: 2006

Peter is a highly regarded silk, with a focus on insolvency and restructuring, company and commercial chancery work.

He has a particular expertise in large and complex insolvency cases, often with a cross-border element and, in many instances, concerning or involving businesses in the financial sector.

Restructuring & Insolvency

- Corporate restructuring
- Company voluntary arrangements
- Administration and special administration regimes
- Winding-up
- Contentious insolvency (adjustment of transactions; enforcement of directors' duties)
- Creditor schemes of arrangement
- Bonds and securities litigation
- Law of Property Act receiverships
- Cross-border cases

Peter's expertise in this area is well known, and he has been involved in most of the major insolvencies and insolvent restructurings over the years. His instructions have included matters relating to cases such as Federal-Mogul, HIH Insurance, Eurotunnel, Lehmans, the Icelandic banks, Travelodge, MF Global, and the Co-Operative Bank. Many of those matters have included an international or cross-border element.

Particular cases in which Peter has been instructed include the following:

Re African Minerals Ltd [2015]

Peter was instructed on behalf of the administrators of the (Bermudian) company in connection with the threatened sale by a Hong Kong security agent of the company's mining interests in Sierra Leone. Letters of request seeking assistance from the courts of Hong Kong were issued by the English court, after an urgent application for relief by the administrators.

Re Eiffel Steel Works Ltd [2015] EWHC 511 (Ch)

Here, Peter appeared for administrators seeking declarations as to the validity of their appointment where there had arguably been a defect in the appointment process.

Re Commonwealth Institute [2014] EWHC 2218 (Ch)

In this case, Peter was instructed on behalf of the Secretary of State for the Foreign and Commonwealth Office. The judgment followed the hearing of an application for directions to resolve a number of issues arising during the course of the winding up of the Institute's affairs.

Re Co-Operative Bank Plc [2013] EWHC 4072, 4074 and 4397 (Ch)

Peter was instructed by the trustee of various notes and other securities in relationship to the bank's proposed scheme of arrangement, and bond and securities exchange.

Re MF Global UK Ltd [2013] EWHC 2556 (Ch)

In this case, the court considered the relationship between distributions under CASS and those made out of the general estate of an investment firm subject to a special administration regime.

Re Danka Business Systems Plc [2013] EWCA Civ 92

Acting for the liquidators in this case, which considered the proper approach of liquidators to claims under long-term indemnities given in share-sale agreements.

Re Cobbetts LLP [2013]

Instructed by the firm on its application for an administration order.

Kelly v Inflexion Fund 2 Ltd [2010] EWHC 2989 (Ch)

Acted for the administrators in this case which concerned the right of a secured creditor to participate in the prescribed part.

Mourant & Co Trustees Ltd v Sixty UK Ltd (in administration) [2010] EWHC 1890 (Ch)

Appeared for the landlords in this successful challenge to a retailer's CVA.

Re Kaupthing Capital Partners II Master LP Inc [2010] EWHC 836 (Ch)

Acting for Kaupthing Bank hf and the Icelandic public employees' pension fund in this challenge to the appointment of administrators over a limited partnership, on the basis that its COMI was not in England and that on other grounds the appointment was defective.

Re HIH Casualty & General Insurance Ltd [2008] UKHL 21

One of first cases to come before the UK's highest court dealing with the nature and extent of the English's court's power and duty to assist foreign office-holders; here, at common law and under s 426.

Hill v Haines [2007] EWCA Civ 1284

Peter acted on behalf of the trustee in bankruptcy in this adjustment of prior transactions case.

Re the Eurotunnel group [2006 to 2007]

French sauvegarde proceedings; enforcement of turnover and security rights under English law facility agreements and security; Insolvency Regulation, article 5.

Sirius International Insurance Co (Publ) v FAI General Insurance Ltd [2004] UKHL 54

The House of Lords upheld the claims of a Swedish reinsurer against an insolvent Australian insurance company.

Re T&N Ltd (Federal Mogul Inc): [2004 to 2008] (and continuing)

International asbestos insolvencies involving numerous hearings before US and UK courts; courts' approach to judicial communications; proving in respect of foreign torts; whether claim in tort provable before damage; schemes of arrangement, comparators and third parties; rights of pension trustees; claims' handling under asbestos policy and insurance related issues; CVAs for asbestos claimants and others; amendment of CVAs.

Corporate

- Corporate reorganisations
- Schemes of arrangement
- Capital reductions
- Directors Duties'
- Shareholder's rights
- Corporate finance

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The principal focus of Peter's practice is on businesses that are insolvent or experiencing financial difficulties. In that context, many of the cases in which Peter is instructed involve complex issues of company law – for example, relating to capital maintenance and corporate governance – or corporate and financial restructuring, for example, by way of schemes of arrangement or contractual mechanism.

Together with the matters referred to under restructuring and insolvency, further examples of matters in which Peter has been instructed include the following:

Re Mount Capital Fund Ltd [2015] (Eastern Caribbean)

Acting for the joint liquidators of a closed investment fund in connection with claims to recover payments made to investors prior to the collapse of BLMIS.

The Marme Group [2014]

In this matter, Peter is acting on behalf of one of the joint owners of the group – a substantial property investment group now subject to insolvency proceedings in Spain – in connection with the intended restructuring of the group and enforcement proceedings relating to the group's debts.

Re Bell Group Limited [2013]

Advising a bondholder on various issues arising from the settlement of the long-running Bell group litigation in Australia.

In addition, Peter is regularly instructed in respect of corporate issues arising in solvent cases; for example, in relation to the application of the capital maintenance provisions of the 2006 Act, and in relation to the operation of rate-setting mechanisms in a substantial bond issue following the decision of the BBA to embargo publication of LIBOR rates contributed by contributor banks.

Litigation and Arbitration

- Shareholder disputes
- Joint venture disputes
- Fiduciary obligations
- Warranty claims
- Commercial disputes

Much of Peter's practice is litigation-based. Although the context in which the litigation takes place is often one of insolvency, the subject matter of the cases covers the broad spectrum of work undertaken in Erskine Chambers.

Together with the matters referred to under restructuring and insolvency, and corporate, further examples of matters in which Peter has been instructed include the following:

Edgeworth Capital v Maud [2015] Commercial Court

Whether the English court should dismiss an application for summary judgment where there was a dispute as to the effect of a foreign insolvency law provision on an English law guarantee.

Re Pan Ocean Co Ltd [2014] EWHC 2124 (Ch)

This case concerned difficult issues relating to ipso facto termination clauses in shipping contracts, which were

arguably void under Korean law, pursuant to which the company was incorporated and where it was undergoing rehabilitation proceedings. The case gives rise to difficult cross-border issues. Peter was instructed on behalf of the security trustee for a syndicate of lenders

Harvey v Dunbar Assets Plc [2013] EWCA Civ 952

This appeal related to bankruptcy proceedings where the debtor, a guarantor, contended that his guarantee was vitiated by the forgery of a signature of another guarantor, and where the Court of Appeal had to consider and apply the proper approach to the construction of guarantees.

Smeaton v Equifax Plc [2013] EWCA Civ 108

This appeal concerned the nature and extent of the duties of credit reference agencies to ensure the accuracy of information maintained by them – here, relating to bankruptcy.

Barclay-Watt v Alpha Panareti, Alpha Bank and others [2012]

A substantial mis-selling claim relating to properties in Cyprus and associated financing documents.

McGuinness v Norwich & Peterborough Building Society [2011] EWCA Civ 1286

A bankruptcy case, dealing with the nature of a claim by a creditor against a guarantor and whether it could form the basis of a petition.

White v Davenham Trust Ltd [2011] EWCA Civ 747

A case relating to statutory demands, and whether a guarantor could require the creditor to bring into account security provided by the principal debtor.

Re Amazing Global Technologies Ltd, Hall v Prudential Trustee Co Ltd [2011] (Eastern Caribbean)

Striking out a claim against a security trustee arising out of the trustee's application for a court-appointed receiver.

Re Energy Holdings (No 3) Ltd [2010] EWHC 788 (Ch)

A TXU related matter, dealing with the relationship between the establishment of claims under a CVA and parallel proceedings in a foreign court.

Financial Services

- Prospectus Liability
- Financial promotion
- Financial regulation and enforcement
- Special resolution/special administration regime
- Client money

Peter is frequently instructed in respect of businesses operating in the financial sector. Together with the cases referred to under other practice areas (such as MF Global and the Co-Operative Bank in restructuring and insolvency) further examples of matters in which Peter has been instructed include the following:

Re Various Insolvency Proceedings [2015]

Acting for various office-holders in connection with the recovery and treatment of compensation for mis-sold interest rate hedging products.

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Re Hartmann Capital Ltd [2014]

This is a special administration case, where Peter was asked to advise the administrators in relation to various issues arising during the course of the administration.

Re RSM Tenon PLC [2013]

Advising the purchaser in relation to various issues arising in connection with the sale of this business.

Re Kaupthing Singer & Friedlander Ltd [2009]

Advising a financial institution on set-off issues arising in this and related insolvencies.

International and Offshore

A significant part of Peter's practice has a substantial international or cross-border element involving one or more foreign jurisdictions. He is instructed by foreign firms, and has been admitted and appeared before the courts of a number of foreign jurisdictions.

Memberships and publications

Chancery Bar Association

COMBAR

Insolvency Lawyers' Association

Ranked in

Chambers & Partners –

Insolvency, Company, Chancery: Commercial

Legal 500 –

Insolvency, Company & Partnership