



GBRW
EXPERT WITNESS

Trade Finance

2020

GBRW Expert Witness is a specialised company based in the City of London which provides expert support, in the form of expert reports and/or advice, on banking, insurance and financial sector issues. Our directors and associates engaged by us have given evidence in more than 600 disputes over the past ten years. Five of our directors work as experts and our pool of around 50 experienced associates is one of the widest internationally for financial sector cases.

Our experience includes civil and criminal court proceedings, arbitrations and mediations and our experts have given evidence in jurisdictions which include England and Wales, Northern Ireland, Scotland, Australia, Bahamas, Canada, Cayman Islands, Dubai, France, Hong Kong, Ireland, Jersey, New Zealand, Poland, Singapore, Sweden, Switzerland and the United States.

Over the past three years, we have been steadily developing the scope of our Trade Finance related expertise. Three of our directors – John Turnbull, Martin Edwards and Paul Rex – have backgrounds structuring trade finance transactions and dealing with documentation issues. We are also able to provide expert support in trading physical commodities and commodity derivatives, marine, aviation and trade credit insurance and shipping finance.

GBRW Expert Witness also has an agreement with a group of specialists in the steel and metals sector and can now provide experts on a range of technical and commercial issues, including raw materials supply, melt shop operations, casting, rolling, steel distribution and transport.

FINDING THE RIGHT EXPERT

Law firms looking for expert witnesses or advisers in financial sector litigation face a number of challenges:

- Identifying the right expert in a specialised discipline
- Developing a short list of suitable candidates on a discreet basis
- Avoiding individual experts “shoe-horning” themselves into roles for which they are not properly equipped
- Assessing individuals’ strengths and weaknesses and prior track records

Our experience - as experts ourselves and from working with our associates over an extended period - normally enables us to propose one or more candidates whom we consider the best equipped to

address specific issues on which expert evidence is required. On occasions, we may suggest using more than one expert where the requirements of the case cannot be covered by a single individual.

Our consulting activities also enable us to identify potential “new” experts, particularly when recent industry experience is important. These will not appear in the usual expert directories and websites and we invest a lot of time to help develop them in the expert role.

Where individuals have had little or no prior experience, we assist them where necessary with research and presentation issues and carry out a detailed critical review of their first draft and final reports. If required, we can also help prepare experts for cross-examination.

CONTRACTUAL APPROACH

When an expert is selected, GBRW Expert Witness signs an engagement letter with the instructing law firm and a matching engagement with the expert concerned. The law firm issues a letter of instruction directly to the expert and communicates directly with him or her from that point.

Billing is on an hourly basis, with supporting time records. We do not make any charge for the expert search.



CLIENTS

We have been engaged by **75%** of the **Legal Week Top 50 UK firms** as well as overseas practices and UK Government Agencies (including HMRC Solicitor's Office, the National Crime Agency, the Financial Services Compensation Scheme and the Government Legal Department)

OUR CLIENTS INCLUDE

Addleshaw Goddard

Allen & Overy

Appleby (Jersey and Grand Cayman)

Arthur Cox (Dublin)

Berwin Leighton Paisner

BLM

Bond Dickinson

Burges Salmon

Clifford Chance

Clyde & Co

CMS

Collyer Bristow

DAC Beachcroft

Dentons

DLA Piper

DWF

Edwin Coe

Eversheds Sutherland

Fenchurch Law

Freshfields Bruckhaus Deringer

Gateley

Herbert Smith Freehills

Hill Dickinson

Hogan Lovells

Holman Fenwick Willan

Hughes Hubbard & Reed

K&L Gates

Kennedys

Levy & McRae

Linklaters

Lipman Karas (Hong Kong)

McCann FitzGerald (Dublin)

Mills & Reeve

Mishcon de Reya

Ogier (Jersey and Grand Cayman)

Penningtons Manches

Pinsent Masons

Plexus

Reed Smith

RPC

Shoosmiths

Signature Litigation

Simmons & Simmons

Simpson Grierson (Auckland)

Squire Patton Boggs

Stephenson Harwood

Stewarts Law

Taylor Wessing

TLT

Weightmans

Withers

WongPartnership (Singapore)



PAUL REX

Managing Director

Paul Rex oversees GBRW Expert Witness's activities. He has dealt personally with a range of areas which include lending and credit approval procedures, trade finance and other forms of specialised lending.

Paul has acted as an expert in more than 70 cases and has given oral evidence in several of these, most recently in a UK extradition hearing for the owner of Kingfisher Airlines (2017), a London Arbitration (2015), IRD v Westpac New Zealand (2009, High Court of New Zealand) and KBC & BOTM UFJ v Ferrero & Others (2009, High Court).

His initial career as a banker involved senior positions at Chemical Bank (now JP Morgan) and Crédit Agricole and he has worked in more than 30 countries during his 25 years as a banking consultant and expert witness.



JOHN TURNBULL

Director, Trade Finance

Formerly Joint General Manager and Global Head of Structured Trade and Commodity Finance at Sumitomo Mitsui Banking Corporation,

John Turnbull has acted as expert witness in a number of high-profile trade finance legal cases, including Documentary Credits discrepancy disputes, Trade Based Money Laundering and fraud, his most recent case being Mena Energy DMCC v Hascol Petroleum Ltd (2017, High Court).

John is Chair of the ICC UK Banking Committee, a member of the ICC Banking Commission Global Financial Crime Committee and a former Chair of the UK Association of Foreign Banks Trade Finance Committee. He was also Co-Chair of the ICC Consulting Group for the revision of UCP 500 (now UCP 600) and has chaired, organised and lectured at many UK International Chamber of Commerce conferences on International Trade, Documentary Credits and regulatory issues for over 25 years. He speaks regularly at conferences and training courses organised by GTR, The London Institute of Banking and Finance and others.



MARTIN EDWARDS

Director, Asia

Martin Edwards opened our Singapore office in 2011. He spent 23 years in Asia during his banking career with Crédit Agricole, Banque Indosuez and Chemical Bank (now JP Morgan) and has had business development and credit responsibilities for portfolios of Commodity and Trade Finance and other lending activities in the Asia/Pacific region and the Middle East (Bahrain/Dubai/Yemen).

Martin also has considerable consulting experience working with banks in South East Asia and a deep knowledge of trade flows and trade financing techniques such as pre-financing and counter-trade in the region.

In the mid 1980s Martin founded and developed a Singapore based financial consulting/trade services group of companies focused on trade finance linkage between Asian based SMEs and specialist trade finance banks.



EXPERIENCE



TIM DOWLEN

Director, Insurance

Tim Dowlen is a former Senior Examiner in Liability Insurance for the Chartered Insurance Institute and an experienced broking expert who until recently was a practising insurance broker in the Lloyd's and London market.

Tim is retained as insurance adviser by a well-known fund management group. He has been instructed in over 130 cases (including six court appearances) and oversees the development of GBRW EW's insurance work.

Tim has been involved in identifying and engaging new experts in a number of specialised insurance areas in the trade finance field.

OTHER DIRECTORS

David Croft has given evidence in a number of high value cases involving structured finance, complex investment products, capital markets and bank treasury/risk issues. His oral evidence includes *Thornbridge Limited v Barclays Bank PLC* (2015, High Court), *Alliance Bank JSC v Metropol (Cyprus) Ltd* (2013, LCIA), *Central Bank of Ecuador v Contincorp/Ortegas* (2010, Supreme Court, Bahamas) and *Deutsche Bank Group Services (UK) v Commissioners for HMRC* (2010, Tax and Chancery Chamber).

Dr David Ellis has given testimony in cases involving fixed income, derivatives, structured finance, credit analysis, trading patterns in Libor and other interest rate benchmarks, the CDS market and the FX market and the impact of illiquidity on securities prices. Recent cases have included *LBI v RBI* (2017, High Court), *Shah v HSBC* (2012, High Court), *CRSM v Barclays* (2010, High Court), *IRD v Westpac* (2009, High Court of New Zealand), *ConEd v United States* (2008, U.S. Court of Federal Claims), *Boeing v. Airbus* (2008, WTO).

Jeremy Denton-Clark has worked as a senior consultant with banks in more than 20 countries in Central and Eastern Europe, Asia, Middle East and Africa. He was previously General Manager of London Interstate Bank and CEO of City Merchants Bank in London and has been a Non-Executive Director of two banks in South-Eastern Europe. Jeremy is an Associate Member of the Academy of Experts.

Based in Athens, **Emmanouil Skourtis** is GBRW Expert Witness's Representative for Greece & Cyprus. His prior experience as Head of KPMG's M&A and Restructuring Practice in Greece, which he developed from 2007 onwards, includes acting as Monitoring Trustee of Piraeus Bank reporting to the European Union DG Competition and the bank's Board of Directors. Emmanouil has advised on matters including strategic business planning, financial performance, debt management, internal policies and M&A and is a KPMG-accredited restructuring and valuation specialist.

FINANCING DISPUTES

Instructed as an expert on credit and structuring issues in connection with Arbitration of fraudulent insurance claims relating to the collapse of the AlGosaibi Group.

Provided an opinion for a Greek pipe manufacturing exporter on potential claims against a bank providing export finance to the exporter's customer.

Instructed by law firm defending claims against an accounting firm in connection with an invoice financing fraud perpetrated by one of its clients.

Expert evidence on behalf of Ferrero SpA, who were defending claims by KBC and Bank of Tokyo Mitsubishi UFJ in the English High Court in connection with a Turkish hazelnut prefinancing fraud.

Ukrainian grain finance. A case involving three Swiss banks claiming against an international inspection company over a grain financing fraud.

Instructed by law firm acting for a London-based bank in a claim against the Swedish auditors of a company involved in fraudulent pre-financing of metals exports from Russia.

DOCUMENTARY CREDITS AND COLLECTIONS

Expert advisor in claim in the High Court of Hong Kong concerning the presentation of fraudulent documents under Documentary Credits and Collections.

Expert advice on claims by a Malaysian bank against a European bank and on a dispute between French and Chinese banks concerning alleged discrepancies in documents presented under Documentary Credits.

Dispute over whether Letter of Credit issued in connection with exports of low ash metallurgical coke was compliant with underlying sales contract.

Evidence on the use of documentary credits in financing international trading transactions involving "back to back" credits with two trading legs and the applicability of the UCP 500.

Dispute over documentary requirements for shipments of rice from California to Kingdom of Saudi Arabia.

Provided expert evidence in the London High Court concerning the genuineness of documents presented under an L/C in a dispute between the beneficiary and confirming bank.

Expert evidence for a Lebanese bank claiming against its Irish correspondent over delays in presenting shipping documents for live cattle exports under Documentary Letters of Credit.

Expert evidence on the creditworthiness of Solo Industries, a Sharjah-based smelter and trader in non-ferrous metals and alloys involved in a financing fraud, and associated trade based money laundering in Documentary Credits.

TRADING DISPUTES

Expert opinion on behalf of a shipowner whether one cargo of naphtha provided a structural hedge against

losses suffered by the shipper when delays occurred in lifting a second cargo.



REPRESENTATIVE ENGAGEMENTS

INSURANCE

Instructed by lawyers for a syndicate of trade credit insurers in connection with claims under trade credit policies relating to Bills of Exchange issued in connection with sales of palm and vegetable oils and grains.

Avoidance of a trade credit insurance policy covering a number of structured steel trades on the basis of material non-disclosures and misrepresentations on the part of the insured.

Advice on whether a European bank claiming against its credit insurer acted as a prudent insured when lending to a steel trading business with links to Iran.

Negligence claim against insurance broker over alleged failure to provide suitable insurance cover for shipments of fur pelts stored in Chinese warehouses.

Advice on pre-financing structures used by a bank providing finance to a Mongolian copper producer in connection with possible claims against its credit risk insurers.

SHIPPING FINANCE

Valuations of a joint venture shipping business in connection with a dispute between the two shareholders.

Opinion on commercial risk issues involved in lease structure used by a lessor in dispute with tax authority.

Expert witness in prosecution of Mr Kautilya Nandan Pruthi at Southwark Crown Court over the UK's largest Ponzi scheme, which purportedly provided financing to facilitate customs clearance.

CONTACT US

To discuss any requirements for expert evidence or advice, please contact any of our directors at:

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Our website provides further information on our activities, including a series of Briefing Papers on disputes in different fields and our quarterly newsletter, **Expertise**.



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