



## Peter Tyers-Smith

Lawyer

### CAYMAN ISLANDS

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Peter Tyers-Smith is an English barrister representing clients in complex, ultra-high value international disputes typically with a connection to one or more offshore jurisdictions. Mr. Tyers-Smith frequently leads major litigation proceedings in the Cayman Islands and the British Virgin Islands, where he holds permanent court-admissions, but he also has significant experience in acting in global disputes originating from or proceeding before the courts of Nevis, Antigua, Bahamas, Bermuda and Gibraltar, where he has been admitted *pro hac vice*.

Mr. Tyers-Smith's practice is focused on disputes arising from distressed or insolvent mutual and private equity funds, failed joint venture arrangements or shareholder relationships and private wealth. He has substantial experience in litigation associated with the affairs of UK and offshore-domiciled companies; Mr. Tyers-Smith is a long-standing contributor to leading practitioner text "Gore Browne on Companies" (authoring the increasingly topical Chapter 34 - dealing with company management and ownership disclosure requirements). Chambers & Partners - UK Bar (Company Law) has also ranked Mr. Tyers-Smith as "switched on" and for his "reputation for getting the results his clients want."

Mr. Tyers-Smith acts for and against large international corporations, institutional investors, sovereign states, general partners, investment managers, court-appointed officeholders, trustees and other financial professionals. His cases invariably involve allegations of grave financial misconduct, dishonesty and/or breach of fiduciary duty. Accordingly, Mr. Tyers-Smith has extensive experience in obtaining time-sensitive freezing injunctions, disclosure orders and interim receiverships as well as deploying aggressive on- and offshore discovery strategies in support of domestic and foreign-proceedings.

Mr. Tyers-Smith has very substantial advocacy experience. He has appeared as sole advocate in well over 50 trials and substantially more contested "heavy" interim hearings in the Commercial Court (now the Business and Property Court of England & Wales), the BVI Commercial Court and the Cayman Islands Grand Court, Financial Services Division, where he has often appeared against Queen's Counsel. Mr. Tyers-Smith has also acted in cases before the House of Lords (now the UK Supreme Court) and the Court of Appeal (England & Wales and BVI).

Mr. Tyers-Smith is also ranked in Chambers & Partners Global, the Legal 500 and WWL. Prior to joining Kobre & Kim, Mr. Tyers-Smith practiced as a barrister in the Commercial & Chancery Group at No.5 Chambers.

### Admissions

- Attorney, Cayman Islands
- Barrister, Eastern Caribbean Supreme Court (British Virgin Islands)
- Barrister, England & Wales
- Solicitor, England & Wales

### Education

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- Nottingham Law School
  - University of Northampton, LLB (Hons)
  - Cardiff University, LLM (Distinction)
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## Accolades

*Who's Who Legal*, Commercial Litigation 2021  
Restructuring Insolvency Specialist Association (RISA) Lawyer of the Year Nominee, 2020  
*Who's Who Legal*, Asset Recovery Global Leader  
*Lexology*, Restructuring & Insolvency Thought Leader

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## Select Engagements

### Special Situations Disputes

- Representing Court-appointed interim receivers of shares, independent professional directors of, and various companies within the "XiO Group" in heavily contested, highly complex multi-jurisdictional litigation and arbitral proceedings concerning the holding and ultimate beneficial ownership of US \$3.2 billion in assets and their net proceeds of sale.
- Representing a BVI-domiciled Private Mutual Fund in defending claims pursued by an investor seeking permission to bring derivative proceedings in the name of the fund against directors, officers and third parties and/or for an order rescinding a 15 year-old, pre-global financial crisis investment in the fund on the grounds of misrepresentation and unfair prejudice.

### Insolvency & Debtor-Creditor Disputes

- Representing the liquidating trustee of a brokerage firm relating to the Tom Petters Ponzi scheme involving US \$5 billion+ in investments. Acting as special counsel focused on clawback and director and officer claims of US \$300 million+ against debtors with assets located in onshore and offshore jurisdictions.
- Representing a large, well-known Miami-based, commercial law firm in formulating defensive strategies to professional negligence claims arising from the US \$12 billion Ponzi-scheme orchestrated by Allen Stanford and intimated by the US Court-appointed Receiver and Antigua Court-appointed liquidators of Stanford International Bank.
- Expert evidence on liability for a director's breach of fiduciary duty and the assessment of equitable compensation under BVI law in respect of US \$48 million claims brought in the Singapore High Court by the liquidators of a BVI company against its former directors.

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- Expert witness on BVI insolvency law in support of the first application of its kind to the Dubai International Financial Centre Court for the recognition of the liquidator appointed over regulated forex trading business FCI Markets Inc. a BVI company that had been used to perpetrate a US \$200 million Ponzi scheme.
- Representing the liquidators of Pacific Andes Enterprises (BVI) Ltd, a BVI subsidiary of a Bermudan company listed on the Singapore Stock Exchange in pursuing various BVI-domiciled agents for US \$600+ million in alleged pre-payments for a global market share of frozen fish.

## **Claim Monetization and Dilution**

- Representing Chevron in the successful enforcement of an investment treaty arbitration award against the Republic of Ecuador for US \$100 million+ (with interest). Kobre & Kim's efforts in executing an enforcement strategy, including asset tracing, efforts to identify seizure targets and the service of numerous discovery requests, culminated in Ecuador's paying Chevron the entirety of the original award plus interest.
- Representing Arricano Real Estate PLC in enforcing a US \$50 million LCIA award in the BVI. The proceeding were the first of their kind under the BVI Arbitration Act 2013, in which the Commercial Court considered the restricted scope for challenging a Convention award.
- Representing Skatteforvaltningen, the Danish Customs and Tax Administration, in obtaining orders for the production of documents from 20 Registered Agents and Corporate Service Providers relating to 80+ companies domiciled in the BVI and Cayman Islands used to perpetrate the highly controversial US \$2 billion "Cum-Ex Fraud." The BVI and Cayman Islands Courts were satisfied that making the orders for production of documents did not breach the rule against the enforcement of foreign tax laws.
- Representing an energy company in the enforcement and monetization of a US multi-billion-dollar arbitration award against an African state.

## **Joint Venture & Partnership Disputes**

- Representing the successful appellant in the BVI Court of Appeal in Ng Man Sun v Peckson Limited. The proceedings concerned a disputed claim to the ownership of the majority shareholding (worth £400 million) in the BVI holding company of a Macau casino, specifically whether the Court of Appeal had jurisdiction to reverse the execution of its decision handing management of the casino to the Respondent pending appeal to the Privy Council.
- Representing a BVI holding company in defending multimillion-dollar unfair prejudice and derivative claims arising from a private executive jet joint venture operating in Pakistan.

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## Trusts & Estates Litigation

- Representing the trustees of a Cayman Islands trust in resisting the disclosure of confidential information to a third party to be used for the purposes of attacking the trust on the basis of a US \$75 million guarantee (In the Matter of Safeguard Management Corp (As Trustee of the Timis Trust)).
- Representing the Hong Kong-based trustee of a BVI trust in a claim for declaratory relief and directions following an adverse ruling of a foreign court on the settlor's mental capacity in Re BKR.

## Professional & Community Involvement

- American Bankruptcy Institute, Member
- Chartered Institute of Arbitrators, Associate
- Commercial Bar Association, Member
- INSOL International, Member
- Bankruptcy Bar Association of the Southern District of Florida, Member
- Society of Trust & Estate Practitioners, Member

## Publications & Presentations

- Contributing Author, Gore-Browne on Companies – Chapter 34 (2012 – Present)
- Co-Author, "British Virgin Islands" (*The Asset Tracing and Recovery Review 7th Edition*, 2020)
- Panelist, "Family Disputes, Trust & Estates Litigation and Civil Fraud" (IPC Virtual Panel Session, 2020)
- Panelist, "Professional Disclosures in Bankruptcy Cases: The Ethics Face-Off of the Century" (ABI Caribbean Insolvency Symposium, 2019)
- Author, "Self-Settled Spendthrifts, Illusions and Shams: When an Asset Protection Trust Affords No Protection" (*New York Law Journal*, 2019)
- Speaker, "Ultimate Beneficial Owner Register Update" (STEP Cayman, 2018)
- Speaker, "Stanford Update" (STEP Caribbean Conference, Nassau, May 2014)

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He is "*switched on*" and has "*a reputation for getting the results his clients want*"

- Chambers & Partners – UK Bar

*"He is skilled at distilling challenging and complex facts into clear, pragmatic recommendations," and "His clear, direct and thoughtful communication style is very persuasive"*

- Chambers & Partners – Global

*"Peter Tyers-Smith is a key contact for complex commercial and insolvency-related litigation"*

- Legal 500

## KOBRE & KIM

Peter Tyers-Smith is "*an excellent advocate*" who has "*a top-notch practice and is great to work with.*"

- Who's Who Legal