



Timothy de Swardt

Lawyer

BVI

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Timothy de Swardt is admitted as a barrister in England and the BVI and as an attorney in California. He regularly represents high-value clients in enforcing international judgments and recovering offshore assets, often in cases arising from misappropriation, fraud and the proceeds of crime. Mr. de Swardt also handles cross-border insolvency cases and trusts and estates disputes.

Mr. de Swardt regularly appears in high-stakes matters in the BVI and England, including in misfeasance claims by the liquidators of Barrington Capital Group against its former director, and multiple judgment enforcement actions, including a \$1.2 billion judgment award against Tata Sons Ltd. on behalf of NTT DoCoMo Inc., and a \$9 billion arbitration award against the Republic of Nigeria on behalf of Process & Industrial Developments Ltd.

Through his global asset recovery practice, Mr. de Swardt has worked extensively with local counsel in foreign jurisdictions such as Australia, Bermuda, Brazil, the Cayman Islands, the Cook Islands, Cyprus, Dubai, Liechtenstein, Nevis, New Zealand, Russia, Switzerland, and the United States.

Who's Who Legal has ranked Mr. de Swardt as a leading asset recovery lawyer, commenting that he "enjoys the praise of peers on the international stage and is known for his proficiency-enforcing foreign judgments and assisting in the recovery of offshore assets."

Before joining Kobre & Kim in the BVI, Mr. de Swardt practiced at the Chambers of William Clegg QC, 2 Bedford Row, in London.

Admissions

- Barrister, Eastern Caribbean Supreme Court (British Virgin Islands)
- Barrister, England & Wales
- California

Education

- College of Law, UK, LLB
- Oxford University, MSc
- Columbia University, BA

Accolades

Who's Who Legal, Asset Recovery
Astbury Scholar, Harmsworth Scholar, and Harmsworth Entrance Exhibition (Middle Temple)

KOBRE & KIM

Select Engagements

- Representation of Process & Industrial Developments Ltd., an international engineering company, to enforce a US \$9 billion arbitration award against the Federal Republic of Nigeria.
- Representation of NTT DoCoMo Inc., Japan's predominant mobile telephone provider, in enforcing a US \$1.2 billion London Court of International Arbitration (LCIA) award against Tata Sons Ltd., the holding company for India's top business conglomerate Tata Group, and culminating in a settlement involving full payment of the award to NTT DoCoMo.
- Representation of a Chinese maritime vessels and equipment manufacturer in proceedings in the British Virgin Islands involving millions of dollars in a dispute against several debtors arising from oil rig construction contracts.
- Representing a defendant BVI company in successful opposition by minority shareholders to an application in the BVI Commercial Court in a large investment fund for permission to commence derivative proceedings in the name of the BVI company in the U.S. District Court for the Southern District of Florida against directors accused of breach of fiduciary duties, fraud and the making of secret profits. The allegations involved disputed expert evidence on minority shareholder oppression, conflicts of law, disputes issues of forum and detailed accounting evidence.
- Representation of a judgment creditor in Korea in the enforcement of a default judgment entered of approximately ₩5 billion (US \$5 million) affirmed by the Supreme Court of the Republic of Korea, against a judgment debtor with operations and assets in Hong Kong, the British Virgin Islands, Canada and several other locations.
- Representation of the liquidators of Barrington Capital Group in pursuing claims against a former director for fraudulent trading and misfeasance.
- Representation of the liquidating trustee of the Petters estate in pursuing claims against former investors, subsequent transferees, and fund managers.
- Representation of a BVI holding company in proceedings in the BVI Commercial Court to discharge a Black Swan Injunction obtained in support of \$85 million conspiracy claim ongoing in London.
- Representation of two BVI companies owned by BVI trusts in proceedings initiated by governmental actors and agencies to recover unpaid sums out of trust funds in the BVI.
- Assisting a company incorporated in Saint Kitts and Nevis to recover \$1 million+ in funds allegedly misappropriated by its sole director, a corporate services provider.

KOBRE & KIM

- Representation of a Spanish multinational in dispute with a corporate finance advisory boutique in respect of fees allegedly due from advice on a major debt restructuring. Successfully challenged the jurisdiction of the English court to hear the dispute in favor of the Spanish court.
- Representation of Asia-based business executive in a multijurisdictional investigation involving allegations of fraud, bribery and money laundering.
- Advising wealthy Central American family on issues related to cross border implications of a politically motivated prosecution in their home country. The repercussions include an offshore asset freeze.
- Representation of a significant property investment fund in an alleged joint venture dispute relating to a £200 million+ development.
- Representation of a shareholder in evaluating potential litigation strategies against certain other shareholders based in the British Virgin Islands and Hong Kong.
- Representation of a U.S. software company in connection with recovery of license fees and proceedings in the English High Court for breach of a commodity trade risk management (CTRM) contract by a foreign oil and gas company.
- Provision of BVI insolvency and asset recovery advice to an international law firm in connection with a BVI liquidation resulting from an alleged Ponzi scheme.
- Representation of a U.S. restaurant franchise in the enforcement of a guarantee against a BVI company in respect of defaults by its Russian affiliate.

Professional & Community Involvement

- INSOL International, Member
- Recovery and Insolvency Specialists Association, Member
- Chartered Institute of Arbitrators, Member
- Honourable Society of the Middle Temple, Member
- Society of Trust and Estate Practitioners (STEP), Member

Publications & Presentations

- Speaker, "Navigating Cross-Border Insolvencies Involving Cryptocurrency: Addressing Fraud and Maximizing Recovery" (*Global Restructuring Review*, May 2022)
- Co-author, "BVI court issues 'groundbreaking' committal order against extraterritorial debtor" (*Global Restructuring Review*, March 2021)
- Co-Author, "British Virgin Islands" (*The Asset Tracing and Recovery Review 7th Edition*, 2020)
- Co-author, "Asset Recovery — British Virgin Islands" (*Getting the Deal Through*, 2014, 2016 and 2017)

KOBRE & KIM

- Co-author, *The International Comparative Legal Guide to: Enforcement of Foreign Judgments 2016, BVI Chapter* (Global Legal Group, March 2016)
- Co-author, "Enforcing Arbitral Awards: Success Lies In The Strategy" (*Law360*, April 2016)
- Co-author, "Aspects of the Failed US Department of Justice Prosecution of Ex-UBS Senior Executive Raoul Weil" (*Gore-Browne Special Release*, March 2015)
- Co-author, "Solving Cases - Civil Asset Recovery 2014 (British Virgin Islands)"
- Contributing author, *The International Comparative Legal Guide to International Arbitration — 10th Edition* (Global Legal Group, 2013)
- Co-author, "Issues of Jurisdiction, Separate Corporate Personality, Asset Recovery and Information Gathering: Recent Pro-Creditors Decisions from New York," (*Gore-Browne Special Release*, February 2013)
- Co-author, "Offshore Jurisdictions and Chasing Unpaid Taxes to the Sun — pitfalls and some possible solutions," (*Gore-Browne Special Release*, March 2012)