

# GBRW

EXPERT WITNESS



2023

**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 750 disputes over the past fifteen years. These have involved banking, investment management, insurance, derivatives and related areas.

Five of our directors - Paul Rex, David Croft, Tim Dowlen, David Ellis and John Turnbull - work as experts and our pool of around 100 experienced associates is one of the widest internationally for financial sector cases.

Our experience includes civil and criminal court proceedings, arbitrations and mediations worldwide. We have been engaged by more than 80% of the Legal Week Top 50 UK firms and overseas practices in countries including Australia, Bahamas, BVI, Cayman Islands, Dubai, France, Hong Kong, Ireland, New Zealand, Singapore, Sweden and the United States.

Martin Edwards, our Director, Asia, is based in Singapore and is responsible for our relationships with law firms in the region, especially those in Hong Kong and Singapore.

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## 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.

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## 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.



We have been engaged by more than **80%** 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 & Gledhill** (Singapore)

**Allen & Overy**

**Appleby** (Jersey and Grand Cayman)

**Arthur Cox** (Dublin)

**Ashurst**

**BLM**

**Bryan Cave Leighton Paisner**

**Burges Salmon**

**Clifford Chance**

**Clyde & Co**

**CMS**

**Collyer Bristow**

**DAC Beachcroft**

**Dentons**

**DLA Piper**

**DWF**

**Edwin Coe**

**Enyo Law**

**Eversheds Sutherland**

**Fenchurch Law**

**Freshfields Bruckhaus Deringer**

**Herbert Smith Freehills**

**HFW**

**Hill Dickinson**

**Hogan Lovells**

**Kennedys**

**Levy & McRae**

**Linklaters**

**Matheson** (Dublin)

**Mayer Brown**

**McCann FitzGerald** (Dublin)

**Mills & Reeve**

**Mishcon de Reya**

**Norton Rose Fulbright**

**Ogier** (Jersey and Grand Cayman)

**Penningtons Manches Cooper**

**Pinsent Masons**

**Quinn Emanuel**

**Reed Smith**

**RPC**

**Shoosmiths**

**Signature Litigation**

**Simmons & Simmons**

**Simpson Grierson** (Auckland)

**Squire Patton Boggs**

**Stephenson Harwood**

**Stewarts Law**

**Taylor Wessing**

**TLT**

**Weightmans**

**Womble Bond Dickinson**

**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.

He has given oral evidence in several cases, 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).



DAVID CROFT

*Director*

**David Croft** has given expert opinions in over 60 cases and given oral evidence in 14 high value cases, examples being: *Ennismore Fund Management Limited 2018 v Fenris Consulting Ltd* (Grand Court Cayman Islands); *Fine Care Homes Ltd v Royal Bank of Scotland PLC* (High Court 2020); (*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). His expertise is in structured finance, derivatives and complex investment products, capital markets, fund management and risk management.



DR DAVID ELLIS

*Director*

**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 a corporate v HMRC (2022, Upper Tribunal), *Andrews et al. v Messrs Beg Limited* (2020, High Court), *Shearer et al. v Neal et al.* (2017, High Court), *LBI v RBI* (2017, High Court), *Shah v HSBC* (2012, High Court), *RSM 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).



**TIM DOWLEN**

*Director, Insurance*

**Tim Dowlen** was Senior Examiner in Liability Insurance for the Chartered Insurance Institute. He is an experienced insurance broking expert who was throughout his career a practising

insurance broker in the Lloyd's and London market. He is retained as insurance adviser by a well-known fund management group. He has been instructed in over 140 cases (including six court appearances) and oversees the development of GBRW Expert Witness's insurance work.



**JOHN TURNBULL**

*Director, Trade Finance*

Formerly Joint General Manager and Global Head of Structured Trade and Commodity Finance at Sumitomo Mitsui Banking Corporation Europe, **John Turnbull** has acted as expert witness in a

number of high-profile trade finance legal cases the most recent being UniCredit Bank AG v Glencore Singapore Pte Ltd (2022, Singapore High Court). He is Chair of the ICC UK Banking Committee, a member of ICC Banking Commission Global Financial Crime Committee and a former Chair of the UK Association of Foreign Banks Trade Finance Committee.



**JEREMY DENTON-CLARK**

*Director*

**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.



**MARTIN EDWARDS**

*Director, Asia*

**Martin Edwards** opened our Singapore office in 2011. The largest part of his banking career has

been spent in Asia with Crédit Agricole, Banque Indosuez and Chemical Bank (now JP Morgan Chase) and he has specialised in corporate banking, trade finance, and commodity financing. Martin is also active in consulting and investing in the region.

## BANKING

**Derivatives:** Disputes over derivatives contracts, including options and interest and currency swaps; assessing actions taken by parties; margin and closeouts; regulatory issues; use of models and input data; analysis of alternative scenarios; risk management; and calculations of quantum.

**Commercial property lending:** Prudent approval procedures; contributory negligence; relationships between banks and their professional advisors; loan to value ratios; use of interest swaps/options; Mortgage Indemnity Policies; loan documentation; and reckless/negligent lending.

**Syndicated lending:** Duties of an Agent bank; litigation between syndicate members and Agent; interpretation of loan documentation; secondary market trading in distressed debt; and different mechanisms for risk participation.

**Residential property lending:** Market conditions at various points and their impact on loan to value ratios; buy to let mortgages; non-status mortgages; the role of mortgage brokers.

**Trade finance:** Financing approaches; contributory negligence issues; pre-financing in emerging markets;

banks' responsibilities when presented with fraudulent documents; use of Bills of Exchange; banks' duties to clients; responsibilities of a negotiating bank to an issuing bank; credit evaluation and monitoring procedures.

**Banking operations:** Advice on a range of branch and head office issues, including Know Your Customer and Anti-Money Laundering procedures; use of debit and credit cards; the operation of the Direct Debit system; international funds transfers; and cheque, electronic payment and ATM frauds.

**Borrowing frauds:** Expert reports dealing with high value claims against corporates whose officers entered into fraudulent borrowing facilities with a range of banks. Areas covered include credit analysis and approval procedures, due diligence and KYC/ AML procedures in different jurisdictions.

**Structured finance:** Project and limited recourse approaches; use of Single Purpose Companies and Special Purpose Entities in securitisation; analyses of tax-based financing structures, including credit, funding and risk-rating issues.

## INVESTMENTS

**Investment manager's responsibilities:** Suitability of investments; customers' risk appetites and associated fact finding; execution of instructions; and whether regulatory requirements have been met.

**Complex investments and Structured Products:** Investment instruments involving derivatives and structured products; securitisations; credit support mechanisms; leverage; split caps; traded endowment policies; and other complex structures.

**Quantum calculations:** Calculation of quantum for alternative portfolios or investment scenarios; valuations of existing or assumed portfolios at various

past dates; impact of losses of tax relief or of pension fund constraints.

**Fraud:** Cases involving the roles and responsibilities of parties such as wealth managers, IFAs, custodians, auditors and other professional advisers in situations where fraud has taken place.

**Investment performance:** Performance analysis across a wide range of investment portfolios (UK and non-UK equities, bonds, structured investments and derivatives), benchmarked to historic data and/or performance targets.

**Market practice:** Trading practices and settlement procedures.



## INSURANCE

**Broking:** Brokers' duties to clients on preparation of proposals, notification of insured events and other communications with underwriters for a wide range of policies, including commercial all risks, professional indemnity, directors and officers, marine cargo, intellectual property and title insurance .

**Avoidance:** Reports for both insured parties and underwriters in cases where underwriters are seeking to avoid a policy, commenting on the grounds put forward for avoidance, whether cover would have

been available on a full disclosure and, if so, what impact this would have had on premium levels.

**Disputes between insurers:** Commentary on claims made under policies involving a number of insurers and reinsurers, including market practice in handling claims; allocation of costs and liabilities; and disputes between lead insurers and reinsurers.

**Personal insurance cover:** cases involving life and health insurance, residential property insurance, PPI and motor claims.

## RELATED ENGAGEMENTS

**Intellectual Property:** Evidence on mechanical similarities and differences between different models of ATM in connection with an Intellectual Property Arbitration.

**Commodity Trading:** Analysis of trading transactions involving shipments of crude oil, naptha, iron ore, palm oil and sugar involving commentary on trading practices and/or quantum calculations.

**Krugerrands:** Discussion of the status of Krugerrands in different jurisdictions as expert evidence for a judgement on whether these constitute "cash".

**Derivatives Trading:** Expert evidence for the UK Serious Fraud Office in connection with prosecutions

for manipulation of LIBOR and EURIBOR rates.

**Consulting Engagement Fees:** Analysis of the scope of work carried out and time records to assess the reasonableness or otherwise of invoices for a corporate finance consulting engagement.

**Employment issues:** Loss of earnings following road traffic and other accidents; performance bonus disputes; severance claims; industry norms for employee benefit packages.

**Extradition and Immigration proceedings:** Expert evidence to support or rebut extradition requests from foreign Governments and immigration applications.

## CONTACT US

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

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[martin.edwards@gbrowexpertwitness.com](mailto:martin.edwards@gbrowexpertwitness.com) (Singapore)

[www.gbrwexpertwitness.com](http://www.gbrwexpertwitness.com)

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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