



## Reuben Comiskey

Call: 2002

### Barrister

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**Reuben Comiskey** is a busy commercial chancery junior, with a focus on fraud and insolvency. He is frequently instructed in company, shareholder and partnership disputes. He has particular expertise in cases involving breaches of fiduciary duty (directors' or otherwise), proprietary remedies (particularly in cases of accessory liability) and obtaining pre-emptive remedies.

#### INSOLVENCY

Reuben's practice covers the full spectrum of both corporate and personal insolvency. He acts for office-holders, individuals, directors, and insolvent companies in both an advisory and a representative capacity. Much of Reuben's practice involves asset recovery, and in particular claims involving breaches of directors' duty, transactions at undervalue, or preferences. In addition, he frequently acts for insolvency practitioners in disputes involving technical aspects of insolvency practice and procedure, challenges to officeholders' actions and appointments, and disputes over their remuneration. Reuben contributes to Kerr & Hunter on Administrators and Receivers (20<sup>th</sup>Ed.), and A Practical Guide to Insolvency Litigation (2<sup>nd</sup>Ed.), and has been recommended as a leading junior for insolvency in the Legal 500 since 2008.

Selected cases include:

- *LF2 Ltd v Superstone* [2018] EWHC 1776 (Ch); [2018] Bus LR 2303; [2018] BPIR 1320 – Defending administrators in an application to require them to assign a cause of action to a creditor: the leading authority on the correct approach for officeholders to take to claims of doubtful merit.
- *Toone v Robbins* [2018] EWHC 569 (Ch); [2018] BCC 728 – Acting for liquidators in a claim against directors to recover wrongfully paid dividends and unauthorised remuneration.
- *AB Agri v Curtis* [2016] BPIR 1297 – Acting for a creditor successfully challenging an IVA on the grounds of material irregularity in admitting it to vote for only £1, and successfully obtaining a costs award against the Supervisor.
- *In the Matter of Hoare Capital Markets LLP* (2015) – Acting for Liquidators of a failed hedge fund in the recovery of overpaid entitlements in circumstances where distributions to members exceeded profits made.
- *Thomas v Edmondson* [2014] EWHC 1494 (Ch); [2015] 1 WLR 1395; [2014] 3 All ER 976; [2014] BPIR 1070 – Acting for a trustee in bankruptcy in an application for an Income Payments Order: it was the first case to decide

that an IPO could be made in circumstances where an Income Payments Agreement had already been made but had come to an end.

- *In the Matter of Petroplus Marketing AG* (2013) – Acting in a complex, international and substantial receivership concerning oil and petroleum assets. Acted for the English Receiver and advised on cross-border issues arising between the Receiver and Swiss Administrator.
- *MG Rover Dealer Properties Ltd v Hunt* [2013] BCC 698 – Acting for creditors and contributories of MG Rover in an application seeking to compel the liquidators of MG Rover to provide documentation which might enable a guarantor of its liabilities to challenge the guarantee liability claimed.

## COMMERCIAL DISPUTES

Reuben has a busy commercial practice relating to many different types of commercial contract, including sale of goods or supply of services, IT, business sale and share purchase agreements, restrictive covenants and shareholders' agreements. As such he is well placed to address the difficult issues of causation or quantum which may arise in such claims.

In particular, Reuben's practice regularly involves issues of civil fraud, and he acts for both claimants and defendants in claims involving deceit, conspiracy, breach of fiduciary duty, knowing receipt and dishonest assistance. There is an extensive cross-over between this area of Reuben's practice and his company and insolvency practices. Not only do many of the claims involve alleged breaches of duty or misappropriation of assets by directors or senior employees, but also in many the potential availability of pre-emptive or injunctive relief, or proprietary remedies and the viability of tracing claims is of crucial importance.

Some illustrative examples include:

- *Maurice J Bushell v Born* [2017] EWHC 2227 (Ch) – Acting for the respondent to an arbitration appeal, successfully opposing an application for the court to determine costs itself instead of remitting the matter to the arbitrator.
- *Higgins v Swanlea Ltd* [2016] EWHC 1147 (Ch); [2016] All ER (D) 163 (May) – Acting for the Defendants to a claim for rectification of a company's share register, obtained an order striking out the claim on the ground that it had no real prospect of success.
- *In the Matter of Caremark Properties Limited* (2015) – Acting for one partner to a failed joint venture. The dispute centred on the construction of agreements between the joint venture companies and the other joint venture partner, and that partner's entitlement to charge the joint venture companies for services provided to them.
- Advising a majority shareholder in an IT company in relation to breaches by a minority shareholder of the shareholders' agreement and other agreements with the company relating to the provision of software and development services. Issues included the extent to which the shareholder had any direct claim, questions of reflective loss, and whether a derivative claim would be barred by the terms of the shareholders' agreement.
- *Stirling Ackroyd v Larke* (2016) – Acting for a large London estate agents in a claim against its financial controller arising out of unauthorised abstraction of funds.
- *TCG Consulting Partners LLC v Drew* (2014) – Acting for a multinational travel consultancy in the recovery of wrongfully abstracted fees, in a case which settled successfully following the return date of a freezing order.
- *In the Matter of Tag Capital Ventures Ltd* [2012] EWHC 1171; [2012] All ER (D) 78 (May) – Acting for the victim of a boiler room fraud who was seeking to wind up the company, alleging a debt on the ground that he had not entered into a valid agreement for the purchase of shares or that any agreement was vitiated by fraud.

## **BANKING AND FINANCIAL SERVICES**

Reuben has a growing practice in the area of banking and financial services both in an insolvency context and otherwise. He has extensive experience of claims involving guarantees or the construction and classification of finance and security documentation and the enforceability of charges, and expertise with many forms of financial instrument. In addition, he has acted in several cases involving financial services fraud or mis-selling, and associated issues of regulation by the FCA.

Some significant cases include:

- *AB Agri v Curtis* [2016] BPIR 1297 – Acting for a creditor successfully establishing the existence and validity of a guarantee given by a director, in circumstances where he had denied signing the guarantee documentation.
- *In the Matter of Benyons Solicitors Limited* (2015) – Advising the administrator as the correct classification of a charge given to the funder of a solicitors’ business being carried on through a limited company. The issues involved the extent to which a “payments waterfall” gave the charge holder sufficient control to render the charge fixed.
- *In the Matter of Hoare Capital Markets LLP* (2015) – Acting for Liquidators of a failed hedge fund in the recovery of overpaid entitlements in circumstances where distributions to members exceeded profits made.
- *Vanrenen v Professional Funding Services Ltd* (2013) – Acting for investors in a defunct litigation funder seeking return of their investment. Issues included whether they had retained any beneficial interest in the funds advanced, and whether the arrangement amounted to a charge.
- *In the Matter of Tag Capital Ventures Ltd* [2012] EWHC 1171; [2012] All ER (D) 78 (May) – Acting for the victim of a boiler room fraud who was seeking to wind up the company, alleging a debt on the ground that he had not entered into a valid agreement for the purchase of shares or that any agreement was vitiated by fraud.

## **COMPANY**

Reuben is experienced in all aspects of contentious company law and practice. He has particular experience of shareholder disputes and unfair prejudice petitions. He regularly advises or appears in cases involving the interpretation of articles of association and shareholders’ agreements, directors’ duties, and the declaration or recoupment of dividends or other distributions.

Cases of note include:

- *Higgins v Swanlea Ltd* [2016] EWHC 1147 (Ch); [2016] All ER (D) 163 (May) – Acting for the Defendants to a claim for rectification of a company’s share register, obtained an order striking out the claim on the ground that it had no real prospect of success.
- Advising a majority shareholder in an IT company in relation to breaches by a minority shareholder of the shareholders’ agreement and other agreements with the company. Issues included the extent to which the shareholder had any direct claim, questions of reflective loss, and whether a derivative claim would be barred by the terms of the shareholders’ agreement.
- *Harvey v Foundation IT Ltd* (2014) – Acting in an unfair prejudice claim arising out of wrongful transfer of a company’s business to newco controlled by director/majority shareholder.
- Acting for a minority shareholder in relation to improper use of company funds to finance the controlling shareholder’s other business venture.

## **PARTNERSHIP AND JOINT VENTURES**

Reuben acts and advises in partnership disputes both in relation to continuing partnerships and those where dissolution has taken place or is sought. He is alive

to the specific issues which arise out of such disputes, and in particular the need for a different approach to the kind of litigation which might ensue. He also acts in relation to less formal joint venture arrangements and has advised on various matters in relation to LLPs.

Selected significant cases include:

- *Maurice J Bushell v Born* [2017] EWHC 2227 (Ch) – Acting for the respondent to an appeal in the arbitration of a partnership dispute, successfully opposing an application for the court to determine costs itself instead of remitting the matter to the arbitrator.
- *In the Matter of Caremark Properties Limited* (2015) – Acting for one partner to a failed joint venture. The dispute involved issues relating to the true identity of the other partner and that partner’s rights to charge the JV companies for services provided to them.
- *In the Matter of Hoare Capital Markets LLP* (2015) – Acting for Liquidators of a failed hedge fund in the recovery of overpaid entitlements in circumstances where distributions to members exceeded profits made.
- Advising certain members of regional surveyors’ practice as to the possibility and effect of a dissolution of the LLP through which they traded.
- *Cortese v Coussens* (2013) – Acting for a party to a joint venture for the marketing of a financial product in a claim to his share of the proceeds of the venture.
- *Maurice J Bushell & Co v Born* [2013] EWHC 7; [2013] All ER (D) 64 (Feb) – Acting for the respondent to an appeal against the award of an arbitrator in a dispute arising out of the retirement of a partner from a firm of accountants.

## **PROFESSIONAL LIABILITY**

Reuben advises and acts for both professionals and their clients in relation to disputes arising out of the other areas in which he practices. He has particular experience in acting in relation to services provided by accountants, solicitors and insolvency practitioners.

Selected significant cases include:

- *LF2 Ltd v Supperstone* [2018] EWHC 1776 (Ch); [2018] Bus LR 2303; [2018] BPIR 1320 – Defending administrators in an application to require them to assign a cause of action to a creditor: the leading authority on the correct approach for officeholders to take to claims of doubtful merit.
- *Hawtin v Pedley & Co* (2015) – Acting for partners in a claim against their accountant for advising them to channel consultancy fees through a company instead of the partnership, leaving them exposed to claims following the company’s liquidation.
- *Singla v Stockler* [2012] EWHC 1176 (Ch), [2012] BPIR 1061 – Acting for a liquidator seeking to restrain his former solicitors from acting for a creditor in misfeasance proceedings brought against him, on the ground that he was entitled to assert confidentiality in relation to communications passing between himself and his former solicitors in litigation funded by that the creditor.

## **RECOGNITION**

Reuben is recommended as a leading insolvency junior in *The Legal 500 UK Bar* and *Chambers UK Bar*. Testimonials include:

- “Extremely bright. Inventive and very responsive.” (Insolvency, *Legal 500 UK Bar 2024*)
- “He is always very dependable in understanding the nuance of the legal argument.” (Restructuring/Insolvency, *Chambers UK Bar 2024*)
- “Reuben is our go-to counsel on complex matters. He is intelligent and very strong technically.” (Restructuring/Insolvency, *Chambers UK Bar 2024*)

- “He is a very thorough, strong advocate.” (Restructuring/Insolvency, *Chambers UK Bar 2024*)
- “Thorough and gives careful consideration to legal issues.” (Insolvency, *Legal 500 UK Bar 2023*)
- “He is fiercely intelligent and his written work is exceptional.” (Restructuring/Insolvency, *Chambers UK Bar 2022*)
- “Thinks on his feet outstandingly well and deals easily with curveballs thrown by both judges and opponents.” (Insolvency, *Legal 500 UK Bar 2022*)
- “A calm and erudite advocate.” “He has an excellent reputation in the insolvency field.” (Restructuring/Insolvency, *Chambers UK Bar 2021*)
- “Calm under pressure, good instincts when a problem arises, technically strong and always approachable.” (Insolvency, *Legal 500 UK Bar 2021*)
- “He is a very good senior junior.” (Insolvency, *The Legal 500 UK Bar 2020*)
- “He is a very effective and charming advocate.” “He is an excellent insolvency barrister – he’s unflappable and very bright.” (Restructuring/Insolvency, *Chambers UK Bar 2020*)
- “Provides thoughtful, legally astute and commercial advice.” (Insolvency, *The Legal 500 UK Bar 2019*)
- “He provides thorough technical advice and demonstrates good commercial awareness.” (Insolvency, *The Legal 500 UK Bar 2016*)
- “He has strong knowledge of the insolvency legislation.” (Insolvency, *The Legal 500 UK Bar 2015*)
- “Efficient and client-friendly – gets the job done with minimum fuss.” (Insolvency, *The Legal 500 UK Bar 2014*)
- Reuben Comiskey is a “master technician in the field of insolvency”. (Insolvency, *The Legal 500 UK Bar 2012*)

## **PUBLICATIONS AND SPEAKING**

Reuben is happy to speak at internal and external seminars and events. He is also able to provide comments and articles on his practice areas.

Reuben’s publications:

- Contributor to “Kerr & Hunter on Receivers & Administrators” (20<sup>th</sup>Ed)
- Contributor to “A Practical Guide to Insolvency Litigation” (2<sup>nd</sup>Ed)

## **MEMBERSHIPS**

- Chancery Bar Association
- COMBAR
- Insolvency Lawyers’ Association

## **POLICIES AND OTHER DETAILS**

- Read Reuben’s [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#).