

*We don't believe in law as usual  
For us, law is inspiring...*



## *David Herbert*

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### **Overview**

#### **What he's best at**

David is an experienced litigator and commercial-Chancery barrister. He specialises in high-stakes, complex disputes, insolvencies and restructurings – particularly those centred on offshore trusts, structures and investment funds. David has extensive experience of proceedings in international Courts, and his cases frequently play out against the backdrop of jurisdictional challenges and disputes as well as highly contentious applications for interim relief. Recently, he has been instructed in defending an Australian financial services group in \$250m conspiracy claims in the Cayman Islands, and in the UK Courts David was engaged for the Claimants in the highly acrimonious and heavily publicised £132m *Holyoake v Candy* trial, which was prominent in *The Lawyer's* Top 20 Cases of 2017. He works for insolvency practitioners, banks, private and corporate investors, trustees and ultra-high net worth individuals.

David also has a background and interest in art – and has litigated numerous cases involving looted or stolen artefacts or involving disputes over provenance.

### **Who he works for**

- Corporate & Private Investors & Creditors
- Hedge Funds & Investment Funds
- Insolvency Practitioners
- Wealth Management Professionals and Trustees

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### **Experience highlights**

- Fraud & asset tracing – including acting for the Claimants in the highly-publicised and hotly-contested *Holyoake v Candy*, *Candy & Ors* proceedings, resulting in a 9 week trial in the Chancery Division; the liquidators of a complex SPV in successfully defending \$10bn fraud claims in a \$126bn Ponzi scheme in *AHAB v Saad*; defending an Australian financial services

group in \$250m conspiracy claims made by the general partner of a Cayman private equity fund; acting in a successful claim by a US bank to recover sums paid out to a Nevis trust by a \$43m judgment debtor; and acting for investors in and then Receivers of the *Axiom* segregated portfolio funds in the context of an alleged £125m litigation funding Ponzi scheme.

- Private equity and hedge fund disputes & insolvencies – acting in numerous cases involving distressed or illiquid hedge funds, investor/manager disputes, and contentious fund liquidations including successfully acting for a substantial bank investor through a Sharia compliant vehicle in proceedings to wind up a \$125m Cayman fund invested in Middle Eastern power and desalination plants; acting in numerous Madoff related claims and liquidations including for a substantial bank investor in the \$2bn Herald fund and for the liquidators of the Rye Funds; acting for a US bank in interpleader proceedings between liquidators and fund managers in Reserve International Liquidity Fund; acting for a group of forcibly redeemed investors in the Sextant funds; acting for holders of S-Shares in the commingled Sphinx funds liquidations; and acting for derivative claimants in the Hadar fund.
- Trust disputes – acting variously for trustees, beneficiaries, protectors and enforcers in numerous high value international trust disputes in jurisdictions including Jersey, Guernsey, BVI, Cayman, Bahamas and Nevis.
- Commercial Litigation – acting in claims in diverse business sectors, including transport, defence procurement, care-homes, engineering, and energy, including in *Australia v Peacekeeper International* [2008] EWHC 1220 (interpleader proceedings concerning armoured vehicles in Baghdad); *Nearfield v Lincoln* [2007] 1 All ER (Comm) 441 (property joint venture dispute involving construction of a guarantee); and *Thames Valley Power v Total Gas & Power* [2006] 1 Lloyds Rep 441 (whether unexpected price rises constituted force majeure in contracts for long-term supply of gas to Heathrow airport).