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Patrick Harty

Call: 2008

Patrick specialises in commercial fraud, corporate law and insolvency. His cases often involve an international element and applications for pre-emptive and interlocutory relief including freezing orders, Norwich Pharmacal orders and other interim injunctions.

Patrick has been involved in some of the largest civil fraud claims in recent years including the JSC *Mezhdunarodniy Promyshlenniy Bank v Pugachev* litigation on applications for £1.17 billion freezing orders, search orders, passport orders and committal applications and the \$2 billion *LIA v Societe Generale* litigation, involving allegations of bribery and undue influence. Patrick also has extensive insolvency and corporate law experience, with recent cases including acting for the managing director of the Tonstate Group (a substantial property development group which owned the Hilton Metropole in London and Birmingham) and litigation arising out of the insolvency of the Ramblas group, owner of the global headquarters of Santander.

Patrick regularly appears in the Chancery Division, Commercial Court and Court of Appeal, both as a sole advocate and with a leader. He also has significant experience as a trial advocate, including in fraud actions.

Litigation & Arbitration

- Shareholder disputes including:
 - derivative actions
 - unfair prejudice petitions
 - personal actions by shareholders
- LLP disputes
- Civil fraud and asset recovery
- Joint venture disputes
- Warranty claims
- Warranty claims
- Professional negligence
- Interim remedies

The Libyan Investment Authority v Societe Generale SA

Patrick was instructed by the Fifth Defendant in this \$2 billion fraud claim. Beyond being one of the largest claims recently litigated in this jurisdiction, the claim raised complex legal issues including issues as to the law of bribery and dishonest assistance, the capacity of a foreign state entity and complex conflict of laws issues. The Libyan Investment Authority ultimately discontinued its claim against Patrick's client.

JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev (various judgments including: [2015] EWCA Civ

906, [2015] EWHC 2623 (Ch), [2014] EWHC 4336 (Ch)

Acting for the liquidator of what was formerly one of Russia's largest privately owned banks on its claims against one of its founders, Sergei Pugachev, under, among other things, the Cross Border Insolvency Regulations 2006. Among other things: successfully obtaining the continuation of a US \$2 billion freezing order under s. 25 of the Civil Jurisdiction and Judgments Act 1982 in support of Russian proceedings; and successfully acting on an *ex parte* appeal against a Judge's refusal to grant a *Chabra* freezing order – the Order was granted by the Court of Appeal and continued on the return date (with Stephen Smith QC and Ben Griffiths).

Jackson v Feeney [2016] EWCA Civ 479

Patrick acted as sole counsel for the appellant on this appeal involving issues as to a party's right to be heard, debaring orders and the granting of declarations. In the face of the appeal, the Respondent discontinued the underlying proceedings.

Edgeworth Capital Luxembourg SARL v Maud [2015] EWHC 3464 (Comm) & [2015] EWHC 2364 (Comm)

Acting (with Peter Arden QC) for Glenn Maud (a high-profile property Tycoon) in proceedings concerning the fate of the property in Madrid which houses Santander's global headquarters and is estimated to be worth at least €3 billion.

Re Guidezone Limited (Lawtel AC0147346)

Successfully acting for the respondents' to an unfair prejudice petition on a 5 week trial of a preliminary issue (with Lance Ashworth QC).

Re Guidezone Limited [2014] 1 WLR 3728

Appearing (as sole advocate) on the first in-time application for an extension of time post-*Mitchell* against a team of a senior silk and a junior; the application was allowed by Nugee J for reasons which were "*essentially those advanced by Mr Harty in his able and well argued submissions*".

The Mediterranean Insurance & Reinsurance Company v Collins

Acting as sole counsel for the Liquidators of an insurance and reinsurance company on a claim for breach of fiduciary duty through check fraud. Patrick was instructed from the start of proceedings and obtained an initial freezing injunction for over £2 million followed by judgment for £10.5 million and a post-judgment freezing order.

Sehgal v Sehgal

Acting for the Petitioners on this substantial unfair prejudice petition concerning a company and connected partnership which operate a number of care homes worth several million pounds. The case involved allegations that of shams agreements, allegedly entered into to defraud HMRC, along with allegations of breach of fiduciary duty and exclusion from the running of the business.

Intellimedia Systems Limited v Richards

Acting for the Defendants on a claim for breach of fiduciary duty relating to an internet protocol tv business and responding to urgent interim applications for the appointment of a receiver and freezing order-type relief. The application was ultimately withdrawn.

Pourghazi v Kamyab (Court of Appeal) [2015] EWCA Civ 562

Acting for the respondent to an appeal and obtaining an order that, unless the appellant paid £950,000 (the part of the judgment which was not subject to the appeal) to the respondent, the appeal would be struck out.

Pourghazi v Kamyab (Lawtel AC0143106)

Acting for the claimant on a 4 day trial of fraudulent misrepresentation claims; the claim was successful and the defendant was ordered to pay £1.3m and costs on the indemnity basis.

Interactive Technology Corporation Limited v Ferster

Acting for a company on claims against one of its directors to set aside a purported sale of the Company's assets and claims for breach of fiduciary duty (with Richard Snowden QC and Nigel Dougherty).

Re South Pacific Oil Limited (Western Pacific Court of Appeal)

Acting for the former managing director of, and a minority shareholder in, an oil company worth over £100m on an unfair prejudice petition and defending a claim for breach of fiduciary duty. Patrick was called on an *ad hoc* basis to the bar of the Solomon Islands and appeared in the Western Pacific Court of Appeal.

Hawkins v Atex Group Limited

Acting for the former CEO of a digital media company on both an unfair prejudice petition and claims against him for breach of fiduciary duty and breach of his contract of employment (with David Chivers QC).

Moussavi v Zaero-Polo

Acting for the defendant to a claim for the specific performance of a demerger agreement arising out of the divorce of two architects.

Anglo European Studbook Limited

Acting for a company on a claim to set aside a purported sale of the entirety of the company's business by its former managing director; Patrick sought and obtained interim injunctions and unless orders, ultimately leading to the defendants being debarred from defending and judgment being given in favour of the claimant company with indemnity costs.

J & W Sanderson Limited v Fenox (UK) Limited

Acting for a 50% shareholder in a UK company which owned 42% of a car factory in Minsk Belarus, worth approximately \$20m. Patrick obtained an interim injunction preventing the holding of meetings of the company's board of directors and restraining the defendants from purporting to act as the company's directors.

Re Candeo Technologies Limited

Acting for the respondents to an unfair prejudice petition in respect of a tech company (with James Potts QC).

Westminster Group plc v Johnsons

Successfully opposing the enforcement of an expert determination pursuant to a share purchase agreement.

Sira v Thornhurst Properties Limited (Lawtel AC9701012)

Acting for the defendant on an application for summary judgment. The Judge praised Patrick's "*admirable skeleton argument*" and paid tribute to the way that he had got on top of the complex legal arguments

Corporate

- Companies House matters, including:
 - Rectification of the register of members
 - Registration of charges
 - Restoration to the register
- Company meetings
- Construction and drafting of constitutional documents
- Disclosure and Transparency Rules
- Takeover Code

Hounslow Badminton Association v Registrar of Companies [2013] EWHC 2961 (Ch)

Application for directions following the restoration of a company to the register; established that the attempted registration of a charge during the period of a company's dissolution is retrospectively validated by its restoration to the register.

Re ESG Holdings Limited

Acting for a minority shareholder on an application for rectification of the company's register of members in a dispute over the purported use of drag along provisions in the company's articles.

Unio 03300406 Limited

Application for rectification of a company's register of members along with a vesting order under s. 51 of the Trustee Act 1925 where the company had no members or directors.

Patrick also has a significant advisory practice. Examples include:

- Advising a plc seeking a listing on the Korean Stock Exchange in respect of issues arising out of the payment of dividends;
- Advising on the construction of articles of association and shareholders' agreements;
- Acting for a plc in respect of issues arising following the use of squeeze-out provisions during a take-over offer;
- Advising on the operation of compulsory purchase provisions under a company's articles of association;
- Advising on shareholder requisitions of general meetings;
- Advising on distributions and other maintenance of capital issues;
- Advising on financial assistance;
- Advising on class rights issues and entrenching provisions in a company's articles of association;
- Advising on the meaning of equity share capital under the Companies Act 2006;
- Advising on and drafting a broad range of documents for corporate transactions.

Restructuring & Insolvency

- Contentious insolvency
- Cross-border issues
- Disputed winding up petitions
- Jurisdiction to wind up
- Injunctions to restrain presentation and advertisement of petitions
- Setting aside statutory demands
- Administration (incl. extensions of time)
- Validation Orders
- Transactions at an undervalue/preference
- Bankruptcy hearings

JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev (various judgments including: [2015] EWCA Civ 906, [2015] EWHC 2623 (Ch), [2014] EWHC 4336 (Ch)) Acting for the liquidator of what was formerly one of

Russia's largest privately owned banks on its claims against one of its founders, Sergei Pugachev, under, among other things, the Cross Border Insolvency Regulations 2006 (with Stephen Smith QC and Ben Griffiths).

Edgeworth Capital Luxembourg SARL v Maud [2015] EWHC 3464 (Comm) & [2015] EWHC 2364 (Comm)

Acting (with Peter Arden QC) for Glenn Maud (a high-profile property Tycoon) in proceedings concerning the fate of the property in Madrid which houses Santander's global headquarters and is estimated to be worth at least €3 billion.

Re Afren Plc (in Administration)

Acting (with Peter Arden QC) on this application for directions relating to the sale of several very valuable oil fields in Nigeria. The case raised complex issues as to jurisdiction in an insolvency context and the significance of foreign proceedings in circumstances where the foreign court had no jurisdiction over the Administrators.

The Mediterranean Insurance & Reinsurance Company v Collins

Acting as sole counsel for the Liquidators of an insurance and reinsurance company on a claim for breach of fiduciary duty through check fraud. Patrick was instructed from the start of proceedings and obtained an initial freezing injunction for over £2 million followed by judgment for £10.5 million and a post-judgment freezing order.

MF Global Inc

Acting for the trustee for the liquidation of MF Global Inc on an application for recognition under the Cross Border Insolvency Regulations 2006.

Eliyon Limited v Gathani

Acting for the former directors of a company in liquidation defending claims for alleged fraudulent breaches of fiduciary duty.

Angel Group Ltd v British Gas Trading Ltd [2013] BCC 265

Appearing for a substantial commercial landlord on an application to restrain the advertisement of a petition presented by British Gas in respect of alleged utilities bills of over £600,000.

Re Naz One Limited

Appearing for a company on an application to restrain presentation of a winding up petition based on contracts purportedly entered into by a rogue director without authority.

Re First Power Limited

Appearing on a company's petition for its own winding up raising issues as to the authority to present the petition.

Patrick's practice also includes:

- Numerous other disputed winding up petitions, applications to restrain presentation of winding up petitions and applications to restrain advertisement;
- Applications for validation orders;
- Applications for directions in administrations and liquidations;
- Advising liquidators, administrators, receivers and other office holders in respect of insolvency issues

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including asset recovery, proprietary claims, issues as to the validity of fixed and floating charges, misfeasance claims, transactions at an undervalue, preferences and unlawful dividends;

- Advising in respect of issues arising under s. 216 of the Insolvency Act 1986 (prohibited names);
- Advising on set-off.

International & Offshore

Experience of work involving: the Cayman Islands, the BVI, Antigua & Barbuda, Jersey, India and the Solomon Islands where Patrick has been called to the Bar on an ad hoc basis and appeared as an advocate before the Western Pacific Court of Appeal.

Memberships & Publications

Chancery Bar Association - Co-author of Chancery Bar Association's paper: *"Impact of Mitchell"*

COMBAR

Contributor to Buckley on the Companies Act.

Education & Awards

St John's College Cambridge: BA (Mathematics) Triple First, Horne Scholar, three time Wright Prize winner

City University: CPE (Commendation)

BPP Law School: BVC (Outstanding)

Patrick has also won Lord Bowen, Lord Denning, Hubert Greenland and City University scholarships from Lincoln's Inn. Patrick was a scholar of Winchester College.