

Tamara Solecki

Call: 1999

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Tamara is a highly experienced Civil & Regulatory practitioner and advocate in the civil courts and tribunals with a wide knowledge of general civil law as well as of POCA. Her current practice has been focussed on disputes involving an element of fraud and the enforcement of civil debts including through the use of freezing orders, bankruptcy and insolvency mechanisms. She also has substantial experience of acting on behalf of the UK Government.

She combines this with a strong regulatory/public law experience gained principally whilst acting as chief Counsel to the Director of the former Assets Recovery Agency responsible for Part 6 of POCA (asset recovery by taxation) and then by being on the SFO Panel.

GOVERNMENT EXPERIENCE

SFO PANEL

Tamara was a member of the Panel for 3 years. She was involved in some high profile matters such as the Asil Nadir case. She advised upon a range of civil matters and conducted extensive civil discovery exercises involving vast amounts of financial evidence.

THE ASSETS RECOVERY AGENCY

Whilst in Chambers, she was seconded to the Assets Recovery Agency from Feb 2003 – April 2004 and thereafter until June 2006 as permanent chief Counsel responsible for advising the Director of ARA on taxation and related civil and public law matters. She was brought in to advise upon and litigate cases under Part 6 of POCA 2002 under which tax law is used to recover proceeds of crime). The work involved advising the Director and investigators on an untested new area of the law and the application of the UK Tax law system to criminal proceeds, including the use of “source-less” income tax assessments. It also involved Tamara advising on a whole host of new public law issues particularly as to the extent of the Director’s powers vis-à-vis that of the board of HMRC. She also advised the case teams on conducting their investigations within appropriate legal thresholds, on the enforcement mechanisms available to them and on issuing discovery assessments on individuals and companies. Tamara successfully tested all the major issues arising in this new area. Further, she has also chaired a number of meetings and advised the Home Office in the drafting of The Special Commissioners (Amendment) Regulations 2002 and on a new version of Part 6.

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She was an advocate in the High Court and the old Special Commissioners tribunal.

AREAS OF THE LAW

INVESTIGATIONS

As the Director of ARA's chief tax adviser, a great deal of the work consisted of advising the Director and HMRC tax investigations team on investigative strategy and on whether a case was suitable for applying the Part 6 regime. Tamara worked very closely with the HMRC tax team advising them on the legal and strategic issues that arose from the conduct of tax investigations and the issue of discovery assessments (estimated tax bills) upon individuals and companies. The nature of the work involved analysing accounts and other financial documents and assessing in any particular case the likelihood of recovering assets as against risks such as dissipation of assets and the costs of the case.

This government experience was followed by acting on the other side of similar disputes whilst working in private practice.

SECURING OF ASSETS

Tamara has vast experience in obtaining and resisting injunctions, particularly freezing orders. She is highly skilled in dealing with complex circumstances where a creative approach is required. By way of example, in a tax context, she successfully argued that the Divisional court had an inherent jurisdiction to grant a freezing order where there was no cause of action but where there was a presently performable obligation whose breach was threatened. This procedure was confirmed by the High Court in The Director of the Assets Recovery Agency v McCormack [2007] All ER (D) 512.

USE OF INFORMATION POWERS

Tamara is highly experienced in advising upon the use of Information powers and obtaining the relevant orders in court. Whilst working for the Assets Recovery Agency, she advised HMRC staff on the use of investigative powers under the Taxes legislation including on the obtaining of section 20(3) Notices requesting information about the taxpayer. These would often involve complex tracing exercises through multiple accounts and jurisdictions in order to establish to the tribunal that the accounts at issue were in fact that of the taxpayer.

ENFORCEMENT

Tamara has significant experience of advising upon domestic and international enforcement of civil and taxation debts and dealing with offshore jurisdictions.

PENALTIES

Tamara has acted for both sides in this area including advising upon strategy.

MTEC LITIGATION

Tamara has very good knowledge of both the issues and the strategies involved. She has particular experience of advising upon HMRC raids, search and seizure, cash forfeiture and confiscation in this area.

CIVIL/COMMERCIAL LITIGATION

Tamara has wide experience of general civil and commercial litigation. Having trained in a commercial set of chambers, Tamara is an experienced advocate in all the civil courts and has dealt with a broad range of work including all manner of contractual disputes, negligence and fraud whether it be in full scale trials or on applications for

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summary judgment/strike out.

She has particular experience of matters involving misrepresentation and limitation disputes.

Her international experience has encompassed acting for claimants and defendants pursuing litigation in different jurisdictions and making applications for permission to serve outside the jurisdiction.

FINANCIAL

Tamara also trained in a financial services/company law set of Chambers.

She successfully represented investors in a major class action for fraudulent/negligent misrepresentation and operation of a collective investment scheme in contravention of s19 FSMA in a nationwide land banking Scheme: Dhaliwal & Ors v Blubell Land Limited & Ors [2011] (Ch). She has successfully advised and represented other similar land banking claimants in recovering their investments.

She has represented a number of clients on a variety of business disputes ranging from partnership to family company disputes involving unfair prejudice, duress and undue influence.

She advised and represented clients on both sides of the disputes in bridging loan litigation particularly on the issue of penal interest rates.

BANKRUPTCY/INSOLVENCY

Bankruptcy – She has a strong background in this area having successfully represented clients on a wide variety of disputes including successfully setting aside and/or defending bankruptcy petitions, annulment applications as well as appeals and judicial review.

Insolvency – She regularly represents companies and petitioners at petition hearings and on applications for injunctions to restrain winding up.

HUMAN RIGHTS

Tamara has extensive experience in Human Rights as a result of her government experience particularly on art 6 and art 8.

She won the seminal Part 6, POCA case where the issue was whether or not tax assessments used to recover criminal proceeds were criminal and/or civil proceedings within art 6 and so subject to its regime: Khan v The Director of the Assets Recovery Agency [2006] STC (SCD) 154.

She successfully represented the Romanian Royal family at the ECHR in De Hohenzollern of Romania v Romania on the issue of unreasonable delay: De Hohenzollern of Romania v Romania [2010] (App No 18811/(12) 27 May 2010)

NOTABLE REPORTED CASES

De Hohenzollern of Romania v Romania [2010] (App No 18811/(12) 27 May 2010)

Dhaliwal & Ors v Blubell Land Limited & Ors [2011] (Ch)

Khan v The Director of the Assets Recovery Agency [2006] STC (SCD) 154.

Forbes v The Director of the Assets Recovery Agency [2007] STC (SCD) 1.

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The Director of the Assets Recovery Agency v McCormack [2007] All ER (D) 512.

PUBLICATIONS/LECTURES

Tamara has lectured extensively at accredited conferences including Specialist Asset Forfeiture and Proceeds of Crime conferences on tax and the applicability of Part 6.

She was a contributing author to the Mitchell, Talbot and Taylor on “Confiscation and Civil Recovery – Proceeds of Crime” 2 Vols (Sweet & Maxwell).

A number of published articles in Taxation Journal, Taxation Magazine and Property Law.

Special Commissioners tribunal trainer on Part 6 POCA 2002.

Her work has been referred to in the Tiley & Collison: UK Tax Guide and in Simon’s Direct tax Service.

A number of published articles including “*Taxing the Untaxable*” – December 2003 Taxation magazine.

Tamara published an article on Stamp Duty and Participation Agreements Schemes in The Property Law Journal No 82/02 which was reviewed in the CPD journal.

Memberships

- POCLA

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