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MICHAEL GIBBON KC

CALL: 1993 **KC:** 2011
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OVERVIEW

Michael is one of the leading advocates at the Chancery Bar. He has extensive litigation and advisory experience in the legal fields of commercial; company; charity; financial services; insolvency and restructuring; tax; and trusts. He has appeared in numerous reported cases at all levels from specialist tribunals through to the Supreme Court. His cases often have an international element, and are frequently high value or have a high profile in their fields.

Before training for the Bar, Michael was an investment banker, working first in international capital markets and then in corporate finance. His background brings particular understanding of financial businesses and products.

Michael is a KC Standing Counsel to the Insolvency Service. He was chair of the International Sub-Committee of the Chancery Bar Association from 2018 to 2023, and is admitted to the Bar of the BVI. He is also a Bencher of Lincoln's Inn.

Michael is Head of Chambers at Maitland.

EXPERTISE

COMMERCIAL LITIGATION & ARBITRATION

Michael has been involved in a significant amount of commercial litigation over the years, including cases involving practical commercial questions (in particular, issues of valuation of shares and other assets).

- ***Netley v HMRC*** [2017] SFTD 1044 (First-tier Tribunal) (principles on which the market value of shares admitted to the Alternative Investment Market and gifted to a charity should be determined)
- ***Goldtrail Travel v Aydin*** [2015] 1 BCLC 89 (High Court) (claims based on allegations of breach of fiduciary duty and dishonest assistance)
- ***Marks (Stephen) v HMRC*** [2011] UKFTT 221 (TC) (First-tier Tribunal) (Concerning the valuation of shares owned by the founder of French Connection)
- ***Allen (VO) v Freemans*** [2011] RA 91 (Upper Tribunal) (a substantial dispute concerning the rateable value of a large distribution warehouse)

Michael's arbitration advocacy experience includes an LCIA arbitration arising out of a substantial shareholder dispute concerning a Russian social network. Michael is happy to accept arbitrator appointments.

COMPANY & PARTNERSHIP

Michael has substantial advisory and advocacy experience of cases involving contractual disputes, directors' duties, directors' disqualification, minority shareholders' rights, debt instruments, and disputes over the interpretation of partnership agreements. Michael has a particular expertise in questions of share valuation. His cases in this field frequently also have complex tax angles.

His reported cases include:

- ***Smith & Nephew Overseas v HMRC*** [2020] 1 WLR 2770 (Court of Appeal) (concerning debits and credits and credits to be brought into company's statement of recognised gains and losses as a result of group restructuring)
- ***Hancock v HMRC*** [2019] 1 WLR 3409 (Supreme Court) (correct tax treatment of loan notes issued pursuant to a takeover)
- ***Goldtrail v Onur Air*** [2017] 1 WLR 3014 (Supreme Court) (the circumstances in which an owner's means should be taken into account when imposing a financial condition on a company)
- ***Netley v HMRC*** [2017] SFTD 1044 (First-tier Tribunal) (market value of shares admitted to the Alternative Investment Market)
- ***Jetivia SA v Bilta (UK) Ltd*** [2016] AC1 (Supreme Court) (whether illegality can be raised as a defence by controlling directors of a company in defence to a claim by the company for breach of fiduciary duty – instructed for intervener)
- ***Pike v HMRC*** [2014] BTC 33 (Court of Appeal) (an additional sum payable on the redemption of loan stock was interest, not capital)

As a junior, cases in which Michael was instructed included ***DCC Holdings v HMRC*** [2011] 1 WLR 44 (Supreme Court) (proper treatment of fixed price contracts for the sale and repurchase ("repo") of gilts); and ***Gamlestaden v Baltic Partners*** [2008] 1 BCLC 468 (Privy Council) (claim for relief for unfair prejudice available to investor member, even if potential benefit can only be achieved in his capacity as a loan creditor)

INSOLVENCY & ASSET RECOVERY

Michael has substantial experience of insolvency and restructuring matters, including a great deal of advocacy experience in litigation concerning corporate and personal insolvency, including civil fraud, asset tracing and proceedings against directors and shareholders for corporate debts and unlawful dividends. He also frequently advises in relation to issues arising in insolvencies with an international dimension.

Previous insolvency work has included litigation over the ownership of assets associated with Bernard Madoff, and litigation in relation to restructuring of a large commercial paper backed investment fund which closed as a result of the credit crunch.

His cases include:

- ***Official Receiver v Shop Direct*** (2023) (Court of Appeal) (time limits for PPI mis-selling complaints referred by the OR as trustee in bankruptcy of numerous personal insolvencies)
- ***Chandrasekaran v Fisher*** (2023) (High Court) (concerning alleged defects in out of court appointment of administrators under Sch B1)
- ***Re Xpress Money Services*** (2023) (High Court) (court approval of distribution plan for the first payment institution to be put into special administration)
- ***Re Carillion*** (2018) (High Court) (acting for liquidators in the urgent application to appoint Special Managers over the principal Carillion companies as part of the novel out of hours winding up hearing)
- ***Re: GP Aviation*** [2014] 1 WLR 166 (High Court) (whether the right to appeal a company's tax assessment was a chose in action capable of assignment by a liquidator)
- ***Trimast v Tele-Columbus*** [2010] All ER (D) 51 (High Court) (concerning proper construction of intercreditor agreement in context of restructuring of German telecommunications group)

OFFSHORE & TRUSTS

Michael's principal focus in this area is litigation, in particular involving the removal of trustees and personal representatives, and attacks on trust structures. His current work in this field includes acting in an ongoing multi-jurisdictional trust dispute.

Michael has also written on beneficiary information rights for Trusts and Trustees (Vol 17, Issue 1, pp27-33).

Reported cases include:

- ***Audley v HMRC*** [2011] UKFTT 219 (TC) (First-tier Tribunal) (concerning an avoidance scheme utilising relevant discounted securities and a two trust structure)
- ***Thomas & Agnes Carvel Foundation v Carvel*** [2008] Ch 395 (Chancery Division) (mutual wills, discretion

to remove personal representative under Judicial Trustees Act 1896)
- ***Herman v HMRC*** [2007] STC (SCD) 571 (Special Commissioners) (attempt using two trust structure to avoid tax on gains held in an offshore trust)

As a junior Michael was instructed in a number of prominent cases in this field, including ***West v Trennery*** [2005] 1 All ER 827 (House of Lords) (capital gains tax avoidance scheme involving use of two trusts) and ***Schmidt v Rosewood*** [2003] 2 AC 709 (Privy Council) (trustees' duties of disclosure to persons claiming to be interested in a trust, Court's supervisory role in respect of trusts)

BANKING & FINANCIAL SERVICES

Michael has a background in investment banking, which gives him a particular interest in and understanding of financial businesses and their products. He has over recent years increasingly developed a practice in financial services.

His cases include:

- ***Official Receiver v Shop Direct*** (2023) (Court of Appeal) (time limits in DISP in the FCA Handbook for PPI mis-selling complaints referred by the OR as trustee in bankruptcy of numerous personal insolvencies)
- ***Re Xpress Money Services*** (2023) (High Court) (court approval of distribution plan for the first payment institution to be put into special administration)

He has been involved a number of other high profile financial services disputes, and has ongoing involvement in the special administration of an electronic money institution.

TAX

Michael has undertaken a significant amount of tax litigation over the years, principally for the Crown, and has appeared in a number of very high value and prominent cases.

Reported cases concerning tax or with significant tax elements include:

- ***Inmarsat v HMRC*** [2022] STC 1426 (Court of Appeal) (concerning capital allowances on satellite launch costs)
- ***Smith & Nephew Overseas v HMRC*** [2020] 1 WLR 2770 (Court of Appeal) (concerning debits and credits to be brought into company's statement of recognised gains and losses as a result of group restructuring)
- ***Hancock v HMRC*** [2019] 1 WLR 3409 (Supreme Court) (correct tax treatment of loan notes issued pursuant to a takeover)
- ***Clavis Liberty Fund 1 LP v HMRC*** [2017] STC 2392 (Upper Tribunal) (correct treatment of deductions and receipts in context of complex offshore avoidance structure)

- Degorce v HMRC [2017] 4 WLR 79 (Court of Appeal) (whether film finance structure amounted to trading)

Michael was shortlisted for Tax Silk of the Year in 2020.

CHARITIES

Michael has over recent years increasingly been instructed in disputes concerning Charities. Work has included advising on the governance arrangements for a prominent cultural institution; litigation concerning a substantial international religious charitable trust; and advice to a prominent national charitable institution in connection with the terms on which a property was acquired.

He was instructed (alongside) in the high-profile challenge by Mermaids to the Charity Commission's decision to register LGB Alliance as a charity (Mermaids v Charity Commission [2023] UKFTT 563 (GRT)).

DIRECTORY QUOTES

"He has an excellent manner with clients. He has the ability to anticipate issues and then strategically plan."

Legal 500 UK Company (2027)

"A hugely respected barrister who prepares meticulously and is very detail- focused. In situations where there's a lot going on, he keeps a calm head and wins the trust of the judges as he's always credible and firmly on top of the evidence."

Chambers UK: Chancery: Commercial (2027)

"An exceptionally able and thorough barrister who takes a real team approach and is very good to deal with."

Chambers UK Company (2027)

"Michael is brilliant. His vast experience shines through in court and with clients. He has a calm demeanour and consistently provides outstanding advice for clients. The court listens to his every word with admiration."

Chambers UK Tax (2027)

"Michael is an enormously respected barrister who is one of the go-to barristers for the government."

Chambers UK: Chancery: Commercial (2027)

"Massive intellect, clear thinking, calm, charming. No weaknesses."

Legal 500 UK Insolvency (2027)

"Michael's ability to think strategically and see the bigger picture is great. He has a great grasp of the details in the case."

Chambers UK Chancery: Commercial (2026)

"Michael Gibbon KC is a barrister with a lot of gravitas who is super bright and very easy to work with. He is already thinking multiple steps ahead to try and prevent problems."

Chambers UK Company (2026)

"Michael has got a very good sense of the right way for a charity to approach things and understands the perspective of that particular sort of client and the environment in which they operate."

Chambers UK Charities (2026)

"Michael is incredibly thorough and well-prepared, at pains to explore all possible counter-arguments etc without losing sight of the overall picture. If you instruct him, he will leave no stone unturned."

Legal 500 Tax: Corporate (2026)

"Very experienced charities specialist, who brings to bear not only very strong technical legal expertise, but also a strong appreciation of the charities sector."

Legal 500 Charities (2026)

"Michael picked up the detail quickly and his advice was incisive. He had the confidence of the client."

Chambers UK Charities (2026)

"He is incredibly impressive, with razor sharp intellect and he brings a real sense of gravitas to any court proceedings."

Chambers UK Restructuring/Insolvency (2026)

"He is very measured and is prepared to stand up for the client. He also likes playing 3D chess, anticipating the future so we are as well prepared as possible."

Legal 500 Company (2026)

"He's a reliable and honest advocate."

Chambers UK Restructuring/Insolvency (2026)

"His ability to think strategically and see the bigger picture is great."

Chambers UK Restructuring/Insolvency (2026)

'Michael is immensely intelligent and hard working. At the same time he is user friendly, and has an ability to devise novel solutions and approaches'

LEGAL 500 INSOLVENCY (2025)

'Responsive, intelligent and charming, Michael is a superb operator who shows fantastic attention to detail and is able to distil difficult concepts.'

LEGAL 500 COMPANY (2024)

"Michael is very responsive and a strong advocate."

Legal 500 Insolvency (2024)

"Superbly persuasive in his advocacy."

Chambers UK Chancery: Commercial (2023)

"He wears his outstanding intellect lightly, is a joy to work with and provides clear commercial advice at all times."

Legal 500 Tax: Corporate (2023)

"He is calm and unflappable, and is popular both with opponents and judges."

Chambers UK Chancery: Commercial (2023)

"Technically excellent, commercial and innovative."

Legal 500 Insolvency (2023)

"A forceful and persuasive advocate."

Chambers UK Company (2023)

"Michael has great knowledge of the subject-matter and a sensible approach to guide charity clients through difficult issues."

Legal 500 Charities (2023)

"A lucid advocate"

Chambers UK: Tax (2022)

"He is excellent and definitely an expert in his field - clients love him, and he's really user-friendly, very thorough and detailed in his work."

Chambers UK: Restructuring/Insolvency (2022)

"Michael is an excellent advocate. He is very pragmatic, sensible and approachable."

Chambers UK: Restructuring/Insolvency (2021)

"He has an exceptional intellect and is very dedicated. He is a highly effective advocate." "An outstanding commercial silk who really knows his stuff and is technically very good. He's sensible, extremely bright and can see the bigger picture."

Chambers UK: Chancery: Commercial (2021)

AWARDS

Legal 500 UK Awards 2020
Shortlisted for 'Tax - Silk of the Year'

MEMBERSHIPS

- COMBAR
- Chancery Bar Association
- Insolvency Lawyers' Association

- Wales & Chester Circuit

QUALIFICATIONS

- MA (Magdalen College Oxford) (First Class)
- MPhil (King's College Cambridge)

APPOINTMENTS

- Former KC member of Bar Tribunal & Adjudication Service panel (professional disciplinary tribunal)

LANGUAGES

- French (working knowledge)

NOTABLE CASES

- *Mermaids v Charity Commission for England and Wales [2023]*
- *The Official Receiver v Shop Direct Finance Company Limited [2023] EWCA Civ 367; [2023] 2 All ER (Comm) 1074; [2023] Bus LR 1245*
- *Chandrasekaran v Fisher [2023] EWHC 522 (Ch)*
- *Shop Direct Finance Company Ltd v The Official Receiver [2022] EWHC 1355 (Comm); [2022] Bus LR 871; [2022] BPIR 1280*
- *Inmarsat Global Ltd v Revenue and Customs Commissioners [2021]*
- *HMRC v Smith & Nephew (2020)*
- *Inmarsat Global Ltd v Revenue & Customs Commissioners [2019]*
- *Hancock v Revenue & Customs Commissioners (2019)*
- *Onur Air Tasimacilik AS v Goldtrail Travel Ltd (In Liquidation) (2017)*
- *Clavis Liberty Fund 1 LP v Revenue & Customs Commissioners (2017)*
- *Patrick Degorce v Revenue & Customs Commissioners (2017)*
- *Goldtrail Travel v Aydin & Ors (2017)*
- *Netley v HMRC (2017)*
- *(1) Anthony Hancock (2) Tracy Lee Hancock v Revenue & Customs Commissioners (2017)*
- *Hancock v HMRC (2017)*
- *Degorce v Revenue & Customs Commissioner (2016)*
- *Hancock v Revenue & Customs Commissioners (2016)*

- *DMWSHNZ Ltd v Revenue & Customs Commissioners (2015)*
- *Goldtrail Travel Ltd v Aydin (2015)*
- *Jetivia SA v Bilta (UK) Ltd (In Liquidation) (2015)*
- *Nicholas Pike v Revenue & Customs Commissioners (2014)*
- *Goldtrail Travel Ltd (In Liquidation) v Abdulkadir Aydin & Ors (2014)*
- *DMWSHNZ Ltd v Revenue & Customs Commissioners (2014)*
- *In the Matter of GP Aviation Group International Ltd (2013)*
- *Nicholas Pike v Revenue & Customs Commissioners (2013)*
- *Malcolm Healey v Revenue & Customs Commissioners (2013)*
- *Patrick Degorce v Revenue & Customs Commissioners (2013)*
- *AH Field (Holdings) Ltd v Revenue & Customs Commissioners (2012)*
- *Simon Barker, Kevin Harper & James Wickes v Revenue & Customs Commissioners (TC01487) (2011)*
- *Revenue & Customs Commissioners v DCC Holdings (UK) Ltd (2010)*
- *Revenue & Customs Commissioners v DCC Holdings (UK) LTD (2009)*
- *Astall v Revenue & Customs (2009)*
- *M R Klincke v Revenue & Customs Commissioners (TC00122) (2009)*
- *DCC Holdings (UK) Ltd v Revenue & Customs Commissioners (2008)*
- *(1) PA Snell (2) M Snell v Revenue & Customs Commissioners (SpC 699) (2008)*
- *John Astall & Graham Edwards v Revenue & Customs Commissioners (2008)*
- *Alan Blackburn v Revenue & Customs Commissioners (2008)*
- *Nicholas John Harding v Revenue & Customs Commissioners (2008)*
- *John Astall & Graham Edwards v Revenue & Customs Commissioners (2007)*
- *Thomas & Agnes Carvel Foundation v (1) Pamela Carvel (2) Carvel Foundation Inc (2007)*
- *Golden Grove Estates Ltd v Chancerygate Asset Management Ltd (2007)*
- *Gamlestaden Fastigheter AB v Baltic Partners Limited & Ors (2007)*
- *David Peter Herman & Barbara Herman v Revenue and Customs Commissioners (SpC 609) (2007)*
- *Ghassemian v Secretary of State for Trade and Industry (2006)*
- *Revenue & Customs v Salaried Persons Postal Loans Ltd (2006)*
- *Neil Fraser v Revenue & Customs Commissioners (SpC530) (2006)*
- *Eileen O'Sullivan v D Philip (HMIT) (2005)*
- *In the matter of Modern Jet Support Centre Ltd (2005)*
- *Graham West & Ors (HMIT) v Stephen Graham Trennery & Ors (2005)*
- *McEwan v Martin (HMIT) (2005)*
- *Barca v Mears (2004)*
- *Courtney Lodge Management Ltd v Andrew Blake & Ors (2004)*
- *Ross Marks v Valerie Jane Sherred (HMIT) (2004)*
- *Euroafrica Shipping Lines Co Ltd v Zeluga Polska SA (2004)*
- *Graham West & Ors (HMIT) v Stephen Graham Trennery & Ors (2003)*
- *Might SA v Redbus Interhouse PLC & Ors (2003)*
- *De La Mare v Chief Land Registrar (2003)*
- *Graham West & Ors (HMIT) v Stephen Graham Trennery & Ors (2003)*
- *Vadim Schmidt v Rosewood Trust Ltd (2003)*
- *Inland Revenue Commissioners v Nash (2003)*
- *In The Matter Of Equity & Provident Ltd (2002)*

- *Taylor & Sons (Farms) v Secretary of State for the Environment, Transport & the Regions (2001)*
- *R v Secretary of State for the Environment, Transport & The Regions & Ors (2001)*
- *Mr & Mrs Sheath v Secretary of State for the Environment & Ors (2001)*
- *The Official Receiver v Ivan Alfred Hodgkinson, Annette Marion Hodgkinson & Oliver Gillie (2000)*
- *Rumsey v Secretary of State for the Environment, Transport & The Regions (2000)*
- *Secretary of State for Trade & Industry v Colin Robert Dyer & Ors (2000)*
- *David Baker (Director of Savings) v Woolf*
- *In re BCCI SA (1996)*
- *Tang Man Sit v Capacious Investments Ltd (1995)*