MAITLAND

+44 (0)20 7406 1200

# NICHOLAS PEACOCK KC

**CALL:** 1989 **KC:** 2009

**npeacock@maitlandchambers.com Email Clerks**



## OVERVIEW

Nicholas's practice centers on advice and litigation concerning financial services - in particular, collective investment schemes, client money and client assets regimes, e-money, payment services, pensions and, more recently, cryptoassets. His practice also includes advice and litigation on banking issues, insolvency issues and fraud claims, quite often arising out of the operations of financial services companies.

He is an experienced advocate in both trials and interim applications in the High Court, and has extensive experience of appellate advocacy, in the Court of Appeal, the Supreme Court and the Privy Council. He also has experience of advocacy before a wide range of disciplinary and regulatory tribunals, as well as in offshore jurisdictions.

Recent work has included:

- Advising as to the scope of regulated arranging activities and the Article 33B RAO exclusion in relation to an insurance intermediary
- Advising in relation to application of, and the holding company exclusion from, the AIFMD
- Advising as to whether a proposed fractionalised bond investment product would constitute a collective investment scheme
- Advising an FCA authorised payments firm in relation to an application to be authoised as an EMI
- Advising various EMIs as to the lawfulness of SD20 issued by the Payments Systems Regulator in relation to APP scams

## EXPERTISE

## BANKING & FINANCIAL SERVICES

Nicholas has been involved in financial services advice and litigation since before the creation of the FSA, at a time when regulation was undertaken by the SIB and the various SROs. He has particular experience in relation to collective investment schemes, covering investments as wide ranging as land banking schemes, airport car parking spaces, storage units, student accommodation, gambling, hotel rooms, peer-to-peer lending, and crowdfunding. He has advised in relation to the scope and application of the client money and client asset regimes in CASS, regulation of insurance and pensions, sale and rentback agreements, OEICs, insider dealing and market abuse and spot forex trading.

Nicholas also has extensive banking litigation experience in areas such as mis-selling (of interest rate hedging products, card protection insurance, derivatives and pensions), breaches of COB and COBS, and negligent discretionary portfolio management.

Recent work has included:

- Advising a global cryptocurrency exchange platform in relation to application of section 235 FSMA 2000 (collective investment schemes) to staking as a service
- Advising in relation to an FX services provider and the potential engagement of the regulated activity of operating an MTF/OTF
- Advising various entities in relation to the extension of the financial promotions regime to cryptoassets
- Advising the FCA in relation to application of section 235 FSMA 2000 (collective investment schemes) to cryptoasset staking
- Advising a global cryptocurrency B2B exchange and services provider as to the permitted scope of brand advertising under the financial promotions regime
- Advising the FCA in relation to the activities within the UK of a global cryptoasset exchange
- Acting for the FCA in a claim arising from advice given to numerous consumers to transfer out of their defined benefit pension schemes
- Acting for the promoter of an airport car park investment scheme in relation to claims made by the FCA that it constituted a collective investment scheme
- Advising on online EV car subscription service in relation to consumer regulated hire agreement issues
- Advising an online creator content subscription service concerning the applicability of the Electronic Money Regs and the Payment Services Regs
- Advising the FCA in relation to the administration of a major SIPP operator
- Advising a payments infrastructure provider in relation to the collapse of Wirecard
- Advising as to whether a limited partnership structure being used as a venture capital vehicle would constitute a collective investment scheme
- Advising as to whether a collective investment scheme was created by arrangements made in the context of a commercial transaction for the acquisition of an international sports and media entertainment group
- Acting for a respondent to regulatory proceedings brought by the Guernsey Financial Services Commission
- Advising in relation to the impact of Brexit on the operation of the Lloyd's insurance market

## INSOLVENCY & ASSET RECOVERY

Insolvency work, particularly relating to financial institutions and solicitors' firms, is an important part of Nicholas' practice.

Recent work has included:

- Advising clearing banks in relation to their insolvency recovery processes for COVID Bounce Back Loans
- Acting for the appointors of joint administrators of a company developing a mass security and privacy programme in opposing an application for the discharge of the administration
- Acting for the directors of a UK group which provided vital cloud-based services to health and defence institutions in seeking an immediate winding up order, with the Official Receiver being appointed as liquidator
- Advising the FCA in relation to the administration of a major SIPP operator
- Advising in relation to CVA proposals arising out of the operation of an airport car park investment scheme
- Acting for the respondents to a public interest winding up petition concerning companies operating a storage unit investment scheme
- Advising the SRA in relation to the insolvency of 3 major firms of solicitors

Notable cases include:

- Chandrasekaran v Fisher [2023] EWHC 522 (Ch)
- Virtual Infrastructure Group Limited and UK Cloud Limited (2022)
- Rayford Homes Ltd v Bank of Scotland Plc & Barclays Wealth Trustees Ltd (2011)
- Lehman Brothers Int (Europe)(In Admin) ( 2010)
- Lehman Brothers International (Europe) (December2009)
- Lehman Brothers International (Europe)(In Administration) (October2009)
- Global Trader Europe Ltd (In Liquidation) v City Facilities Management Ltd
- Kier Regional Ltd v City & General (Holborn) Ltd & Others (2008)

## COMMERCIAL LITIGATION & ARBITRATION

Nicholas has extensive experience of large-scale, multi-party litigation involving international parties, entailing long-running trials with numerous witnesses (both factual and expert) and evidence being given via interpreters.

Recent work has included:

- Acting for a very high net worth US investor in relation to a UK listed special purpose acquisition company
- Acting for a UK property investment fund in relation to a dispute concerning the practical completion of

a development
- Arbitration in relation to competing claims to ownership of an investment vehicle with extensive Russian oil & gas assets

- *Libyan Investment Authority -Dr Ali Mahmoud Hassan -v- Hassan Bouhadi & ors (authority dispute)* (2019)
- *StateBankofIndia&12OrsvVijayMallya&Ors*(2018)
- *UBSAG v Kommunale Wasserwerke Leipzig GMBH*(2017)
- *Virgin Radio v Christopher Evans*(2003)

### CRYPTOASSETS

Nicholas is advising the FCA in relation to the activities within the UK of a global cryptoasset exchange

## DIRECTORY QUOTES

*"He has a very cool, calm head and does an excellent job in the line of fire."*

**Chambers UK Financial Services Regulation (2017)**

*"Experienced in handling cases arising from the insolvency of financial institutions."*

**Legal 500 UK Insolvency (2016)**

## NOTABLE CASES

- *Chandrasekaran v Fisher [2023] EWHC 522 (Ch)*
- *State Bank of India & 12 Ors v (1) Vijay Mallya (2) Ladywalk Llp (3) Rose Capital Ventures Ltd (4) Orange India Holdings Sarl (2018)*
- *UBS AG v Kommunale Wasserwerke Leipzig GMBH (2017)*
- *Asset Land Investment PLC v Financial Conduct Authority (2016)*
- *AB International (HK) Holdings PLC Ltd & AB (Australia) Pty Ltd v AB Clearing Corp Ltd (2015)*
- *UBS AG (London Branch) & Ors v Landesbank Baden-Wurttemberg & Ors (2014)*
- *John Green & Paul Rowley v Royal Bank of Scotland Plc (2013)*
- *Financial Services Authority v European Property Investments (UK) Ltd (2012)*
- *In the Matter of Rayford Homes Ltd v Bank of Scotland Plc & Barclays Wealth Trustees Ltd (2011)*
- *In The Matter Of Lehman Brothers International (Europe) (In Administration) (October 2009)*

- *In the matter of Global Trader Europe Ltd (In Liquidation) v City Facilities Management Ltd & Ors*
- *Kier Regional Ltd v City & General (Holborn) Ltd & Others (2008)*
- *Finlan v Eyton Morris Winfield (a firm) (2007)*
- *In The Matter Of The Inertia Partnership LLP (2007)*
- *Nearfield Ltd v (1) Lincoln Nominees Ltd (2) Lincoln Trust Co (Jersey) Ltd (2006)*
- *Financial Services Authority (A Company Limited by Guarantee) v John Martin & Adrian Sam & Co (2005)*
- *Velmore Estates Ltd & Ors v Roseberry Homes Ltd (2005)*
- *Murugesu Kanapathipillai Sritharan v Law Society (2005)*
- *In The Matter Of Crystal Palace Football Club (1986) Ltd (2005)*
- *Christopher Evans v SMG Television Ltd & Ors (2003)*