

Criminal Law News



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- Chief Editor: **Sally Ramage**, Editor of *The Criminal Lawyer*, *Current Criminal Law* and *Criminal Law News* (Thomson Reuters); Chapter contributor to *Kelly's Legal Precedents* (LexisNexis); Annotator of the 6 UK Statutes (Current Law Statutes Annotated, Thomson Reuters); author of 13 law books; Member of the UK Society of Legal Scholars; American Bar Association; New York State Association of Criminal Defence Lawyers; European Corporate Governance Institute.
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Five solicitors appointed Queens Counsel in 2017

It has been announced that 5 solicitors have been appointed Queen Counsel in 2017.

The five solicitors appointed in 2017 are Mr Philip Clifford of *Latham & Watkins*; Ms Louis Flannery of *Stephenson Harwood*; Mr Imran Khan of *Imran Khan and Partners*; Ms Sophie Lamb of *Latham & Watkins* and Mr Reza Mohtashami of *Freshfields Bruckhaus Deringer*.

The Silk Ceremony will be held on Monday 26 February 2018.

When the 2016 QCs were appointed, the Lord Chancellor stated that:

'More female and black and minority ethnic candidates have been appointed Queen's Counsel than ever before'.

Below is brief information about these new solicitors who have been appointed 2017 QCs:

Philip Clifford

Mr Philip Clifford is a Fellow of the Chartered Institute of Arbitrators and a Solicitor Advocate and partner of the law firm Latham and Watkins LLP. He was global Co-chair of the International Arbitration Practice and later, Chair of the London Litigation & Trial Department; and on the ICC Commission on Arbitration. Philip Clifford is co-author of a leading text on the LCIA Arbitration Rules, citation being, Wade, S., Clifford, P. and Clanchy, J. (2014) *A commentary on the LCIA Arbitration Rules 2014*, London: Sweet & Maxwell- a full assessment of the LCIA Rules, and advice on areas for consideration when choosing London as the venue for arbitration.

Louis Flannery

Mr Louis Flannery is a partner at solicitors Stephenson Harwood LLP and heads the law firm's international arbitration group. He specialises in international commercial arbitration law and litigation under the institutional rules of the AAA,¹ ICC², LCIA³, UNCITRAL⁴, SCC⁵, etc,⁶ in cases of civil fraud and conflict of laws.

¹ The American Arbitration Association (AAA) was established in 1926 and is frequently used for arbitrations in the US or by US-based parties.

² The International Court of Arbitration of the International Chamber of Commerce (ICC) is based in Paris, and was established in 1923. It is one of the most widely known international commercial arbitration institutions. The ICC procedure is the most actively administered, involving two additional steps not found in many other rules (such as those of the LCIA, ICDR, and HKIAC), namely, the preparation of Terms of Reference (a document which defines the scope of the arbitration by setting out the basic claims and defences, the relief

Imran Khan

Imran Khan is a partner in the solicitors firm *Imran Khan and Partners*, situated at Lower Ground Floor, Elm Yard, 13 - 16 Elm Street, London WC1X 0BL. The practice provides legal advice in the areas of public law; criminal defence; regulatory law; civil litigation including confiscation proceedings of the Proceeds of Crime Act 2002; civil actions against the police; and family law.

Sophie Lamb

Sophie Lamb QC is a litigation partner at solicitors *Latham & Watkins* of Bishopsgate, London EC2M 3XF, United Kingdom, and global Co-chair of the firm's International Arbitration Practice. She has experience advising both private and sovereign clients in a wide range of commercial arbitration, investment treaty arbitration and public international law matters. She has acted as adviser and advocate in more than 100 international commercial arbitrations across a range of industries and led complex litigation in the English and overseas courts, including in business and human rights cases.

Reza Mohtashami

Reza Mohtashami is an experienced arbitration law partner (at international law firm Freshfields) in the international arbitration practice. He has represented clients as counsel and advocate in more than 70 arbitrations, conducted under a variety of arbitration rules in many different jurisdictions. He has worked in Paris, New York, Dubai, and London, handling

sought, and the issues to be addressed); and secondly, the formal scrutiny of draft awards, especially regarding issues which might affect their enforceability by the ICC Court before the final awards can be issued to the parties.

³ The London Court of International Arbitration (LCIA) is based in London, and was established in 1892. It is a leading international arbitration institution. The LCIA has affiliated arbitral institutions in Dubai (DIFC-LCIA), and Mauritius (LCIA-MIAC).

⁴ The UNCITRAL Arbitration Rules were developed by the United Nations Commission on International Trade Law, as a neutral alternative to the other major rule systems, which were viewed with scepticism in many capital-importing countries. UNCITRAL Arbitration Rules have been widely used in both general commercial transactions and arbitrations between States and individuals. For example UNCITRAL rules were used as the basis for the Iran-US Claims Tribunal Rules and for a number of Bilateral Investment Treaties.. The UNCITRAL Arbitration Rules have influenced other rule systems.

⁵ Sweden has the Stockholm Chamber of Commerce (SCC). See www.sccinstitute.com.

⁶ The rules of the ICC, LCIA, ICDR, HKIAC, and SIAC are all suitable for use around the world and for arbitrations conducted in various languages and under various governing laws. In each case, the arbitrators must resolve the dispute, with the institutions simply administering the arbitrations.

disputes in emerging markets with a focus on the *energy, infrastructure* and *telecommunications* sectors. He has had published numerous articles on international arbitration, and co-authored one book, namely, Reza Mohtashami and Peter Turner (2009) *A Guide to the LCIA Arbitration Rules*, Oxford: Oxford University Press, which book is the first full length and comprehensive commentary on the arbitration rules. As written, this book describes each rule and its intended meaning; the provenance and history of each rule; the practical effect of the rule with reference to previous case law and jurisprudence and a comparative examination of the conceptual and practical differences between each rule of the London Court of Arbitration (LCIA).

Oscar Pistorius, ex-multi-Olympic Champion Disabled runner, jailed for 13 years-double the last sentence to him

A justice from South Africa's Supreme Court of Appeal took just minutes to more than double Oscar Pistorius' prison sentence to 13 years and five months for the murder of girlfriend Ms Reeva Steenkamp. Justice Willie Seriti said the Supreme Court has upheld an appeal by prosecutors against Pistorius' original six-year sentence for shooting Steenkamp multiple times in his home in 2013. It is unusual for the Supreme Court to change the sentences handed down by trial judges and doubling that prison sentence was an unexpected and dramatic turn of events. However, in South Africa, the minimum prison sentence for a conviction of murder is 15 years.

One can conclude that it is a great shame that South Africa has lost a most important athlete Who has surmounted previously unsurpassable physical obstacles to have become a gold medallist Olympic champion. It is somewhat disconcerting that the South Africa criminal justice system did not for a moment consider mitigating factors in this sad and dreadful death that might have been prevented had steps been taken earlier. The criminal court did not consider Post Traumatic Stress Disorder (PTSD) in Oscar Pistorius especially as it is widely known that the former athlete did suffer trauma in childhood as he had his legs amputated and

suffered prolonged repetitive trauma as he strived to become a winner and remain a winner in his sport. Some have maintained that a model of borderline personality disorder proposed that this disorder arises directly as a result of prolonged repetitive trauma which can severely affect normal personality development and which, in adult life, such a disorder can be linked with repetitive mal-adaptive or violent behaviours which re-enact elements of the trauma experienced in the childhood⁷ of Oscar Leonard Carl Pistorius.⁸

ENDS

Russia and the United States of America and the interception of communications' saga

Special Counsel Robert Mueller announced the first charges in the investigation last month. Paul Manafort, Trump's former campaign chairman, and his associate, Richard Gates, were required to turn themselves into federal authorities as they were indicted on 12 counts – ranging from conspiracy against the U.S., to conspiracy to launder money.

⁷ Gemini, (2010) *Oscar Pistorius: my life story*, UK Amazon Kindle.

See also, Carlin, J. (2014) *Chase your shadow: the trials of Oscar Pistorius*, London: Atlantic Books.

See also, Classe, L.A. (2013) *Pieces of the Puzzle: Oscar Pistorius and Reeva Steenkamp: Part One - The Killing*, London: Amazon.

See also, Ferguson, M. and Taylor, P. (2014) *Oscar: an accident waiting to happen*, South Africa: MF Books Joburg.

See also, Pistorius, O. (2012) *Blade runner*, London: Virgin Books.

See also Strzeminski, B.A. (2014) *Oscar Pistorius. Can a singularity throw him into jail for life?* London: Create Space Independent Platform.

See also Wilson, L. and Van der Lees, N. (2015) *The appeal: Oscar Pistorius (Oscar Pistorius Murder Trial)*, London: True Crime.

See also, Wilson, L. and Van der Lees, N. (2015) *The fugitive: Oscar Pistorius*, London: True Crime.

See also Weiner, M. and Bateman, B. (2014) *Behind the door- the Oscar Pistorius and Reeva Steenkamp story*, London: Macmillan.

⁸ Stone, J.A., Roberts, M., O'Grady, J., Taylor, A.V., with O'Shea, K. (3rd Edn) (2002) *Faulk's Basic Forensic Psychiatry*, Oxford: Blackwell Publishing. See page 156.



US President Donald Trump



Trump, Jr. Source: Google.



Russia's Putin. Source: Google.

George Papadopoulos, a former foreign policy adviser to Trump's campaign, pleaded guilty earlier this month to making false statements to the FBI about his connections with Russian officials. Before Trump ever took office, tens of thousands of emails from the Democratic National Committee and other officials connected to former Democratic presidential nominee Hillary Clinton were leaked. Those emails – released in July 2016 ahead of the Democratic National Convention – purportedly showed the party favouring Clinton over Vermont Sen. Bernie Sanders and led to the resignation of party chair Rep. Debbie Wasserman Schultz. But more than this, [intelligence officials concluded](#) that those responsible for leaking the emails were connected to the Russian government. In its assessment of the hack, the CIA concluded that Russia intervened in the election in order to help Trump secure the presidency. [Former President Barack Obama sanctioned Russia](#) for its alleged involvement in the election – a move that would eventually come back to dismantle one of Trump's senior aides.

Donald Trump's eldest son, Donald Trump Jr., also got the administration into hot water for his own actions during the campaign. Trump Jr. confirmed in July 2017 that he [took a meeting with a Russian lawyer](#) during the campaign as she was supposed to have damaging information about Clinton. Trump Jr. maintained that the lawyer, Natalia Veselnitskaya, did not have any information to share and instead wanted to discuss other matters, such as the [Magnitsky's](#) and other sanctions. Paul Manafort, Trump's former campaign manager, and Jared Kushner, the president's son-in-law, were at the meeting as well. The two are also

being investigated. Michael Flynn's tenure as Trump's national security adviser was short but rife with controversy that still bedevils the administration. But Flynn didn't come without a warning.



Logo: FBI. Source: Google.

However, the eventual analysis has concluded that Russia did indeed take steps to cause upheaval in United States politics and the head of the United States Federal Bureau of Investigation (FBI) have later indicted thirteen Russian citizens for their illegal interference with the United States elections in 2017.

ENDS

International law firm merger and firm clones

Reed Smith, a US based, top 25 international law firm with nearly 1100 lawyers, merged with Richards Butler, a London-based, top-30 UK and international law firm with more than 250 lawyers. This created one of the largest and strongest of all trans-Atlantic firms. This can be ripe for scams in which firms are cloned and the UK Financial Conduct Authority (FCA) has advised on how to protect against such frauds by treating all unexpected calls, emails and text messages with caution; not to assume that such calls are genuine, even if the person seems to know some basic information about you; not to feel pressured into acting quickly because a genuine bank or financial services firm would not mind waiting if you ask for time to think about what they have said; to always double-check FCA advises a check of the URL and contact details of a firm in case it is a 'clone firm' pretending to be a real firm.

FCA know of 2,113 cloned firms for the year 2017

Fraudsters are using the details of firms authorised by the FCA to try to convince people that they work for a genuine, authorised firm. The FCA announces cloned firms they become aware of. Although by no means providing firms with an 'FCA stamp of approval', regulated firms offer more assurance for their customer and client base and therefore attract more attention from the market place. Increased is the number of cloned firms circulating throughout the financial services arena. The nature of cloned firms is to pretend to operate under the umbrella of a regulated firm. The fraudulent companies attempt to increase their illegal business by cold-calling investors to promote various investment platforms that are unable to be traded. Such investments are hugely inflated or are non-existent.





The word *clone* in modern vocabulary-derived from Dolly, the sheep and her “clone”, Source: Google.

Year	Number of New cloned firms
1989	997
1990	1001
1991	997
1992	1001
1993	1023
1994	1000
1995	1003
1996	1001
1997	1004
1998	1023
1999	1007
2000	1407
2001	1039
2002	1048
2003	1074
2004	1093
2005	1163
2006	1162
2007	1246
2008	1495
2009	1432
2010	1550
2011	1654
2012	1738
2013	2038
2014	2137
2015	2112
2016	2155
2017	2133

Source: FCS website accessed 18.02.18.

The FCA list **2,112** cloned firms in the year 2017, of which one hundred of the two thousand plus cloned firms are listed below:

1. DuetInvest (clone)
2. Eduard Steinbach (clone of EEA authorised firm)
3. OneTrade (clone of FCA authorised firm)
4. Wee Loans (clone)
5. We.Insure (clone of FCA authorised firm)
6. Norde Bank (clone)
7. ReLoan UK (clone)
8. Cedar Call (clone)
9. Stratton FX (clone)
10. Swish Loans (clone)
12. Crypto Brain (clone)
13. GalaFX Ltd (clone)
14. My Finance (clone of authorised firm)
15. Epics Loan (clone)
16. Loans Factor (clone)
17. Way to Finance (clone)
18. Funds Point (clone of authorised firm)
19. JW Global (Clone of EEA authorised firm)
20. House of Loans (clone)
21. Merit Loans (clone of FCA authorised firm)
22. Swiss Life (clone)
23. Cash Float: clone of FCA authorised firm
24. Lucky Loans (clone of FCA authorised firm)
25. Dash Loans (clone of FCA authorised firm)
26. Rathbone Brothers (clone)
27. Atom8 Markets (clone of authorised firm)
28. Clever Loans (clone)
29. Loan2Pocket: clone firm
30. Pulse Finance (clone)
31. Loans 2 Go (clone)
32. Guaranteed Loans (clone)
33. Beaufort Securities (clone)
34. Lending Stream (clone of FCA authorised firm)
35. PDL Finance (clone of FCA authorised firm)
36. Get My Loans (clone)
37. Financial Point (clone of authorised firm)
38. Alpha Consulting (clone of previously authorised firm)

39. Positive Lending (clone of authorised firm)
40. Firecrest Limited (clone of FCA authorised firm)
41. Orchestra Finance (clone of authorised firm)
42. The Loan Expert / www.theloan.expert (clone)
43. Ambrosia Capital (clone of FCA authorised firm)
44. Instant Pound (clone)
45. Liffe Exchange (clone of FCA authorised firm)
46. Improvement Loans (clone of authorised firm)
47. Diamond Loans (clone of FCA authorised firm)
48. Essential Loans (clone of a previously authorised firm)
49. Pointfinance Limited (clone)
50. Hume Capital Management
51. MG Finance Consulting (clone)
52. Quick Loans Ltd (clone of authorised firm)
53. FX Jupiter: clone firm
54. Money Solutions UK (clone)
55. Rolls-Royce Bond (clone of FCA authorised firm)
56. PDP / Payday Pixie (clone of FCA authorised firm)
57. Active Funds ICAV (clone)
58. Tide U Over (clone of an authorised firm)
59. Independence Loans (clone of authorised firm)
60. Debt Advice Trust (clone of authorised firm)
61. YF Asset Management (clone)
62. True Blue Loans (clone of authorised firm)
63. Speed Finance UK (clone of authorised firm)
64. GE Money Financing (clone)
65. Mr Instant Cash (clone of an authorised firm)
66. National Debt Help (clone of authorised firm)
67. Gain Capital Ltd (clone of FCA authorised firm)
68. Loan House UK (clone of authorised firm)
69. BvB Advisory Limited (clone)
70. CAL Investments Ltd (clone of authorised firm)
71. iCash Loans, ICashLoans (clone)
72. Affordable Loans (clone of authorised firm)
73. Broad Reach Investments (clone)
74. Blackrock Asset Management (clone)
75. Hansa Capital Partners (clone)
76. Marks & Spencer Bond (clone of FCA authorised firm)
77. Admiral Markets Ltd (clone of FCA authorised firm)
78. Best Connection Finance (clone)

79. Riverside Escrow Ltd (clone of FCA authorised firm)
80. Lolly Loans PVT Ltd (clone)
81. GVQ Investment Funds (clone of FCA authorised firm)
82. Go 4 UK Loans (clone of FCA authorised firm)
83. JP Morgan Courtage: clone firm
84. Little Loans Limited (clone of FCA authorised firm)
85. London Global Markets (clone of FCA authorised firm)
86. Low Rate Loans (clone of FCA authorised firm)
87. Markus Spielmann Inc (Clone of EEA authorised firm)
88. Kleinwort Benson (Ventures) (clone of authorised firm)
89. Loan Oak (clone of authorised firm)
90. Desert Finance Services Limited, t/a Desert Finance (clone of authorised firm)
91. Lazard Asset Management (clone of FCA authorised firm)
92. Landa Asset Management (clone of former FCA appointed representative firm)
93. First Plus Financial Group (clone)
94. Horizon Management Advisors (clone of FCA authorised firm)
95. London Private Finance Ltd (clone)
96. Bizzy Loans (clone of authorised firm)
97. Blackfriars Asset Management (clone of FCA authorised firm)
98. Gem Loans / Jem Loans (clone of an authorised firm)
99. Finance Active UK Limited (clone of genuine firm)
100. Alliance Trust Savings Limited (clone).

Conclusion

The only conclusion that can be drawn from the above information, provided by the FCA is, as the figures show, an entrenched fraud scheme with people determined to carry them through.

The fact that the FCA keeps identifying an almost steady number of cloned firms may be an indication, not of the true amount of clones firms, but of the FCA manpower capability to investigate this scourge.

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