

BENJAMIN MACFARLANE

Ben Macfarlane & Co
4 Lombard Street,
London EC3V 9HD
T: +44 20 7190 2988
F: +44 20 7190 2989
M: +44 77 65 364 043
E: b.macfarlane@bjm-co.com

PROFILE

A pragmatic, solutions-driven international lawyer who delivers results. He was as Partner in leading London law firm Clyde & Co until 31st January 2005. Now he is the director of his own firm. Over twenty five years of experience, specialising in litigation and providing advice on:

- Insurance
- Reinsurance
- Banking & Financial Services
- Insolvency
- Energy
- Transport

These competencies have been developed and deployed in:

- Litigation
- Dispute Resolution
- Arbitration
- Advice on Regulatory Matters

RECENT CASES OF INTEREST

Riva Bella SA v Tamsen Yachts GmbH [2011] EWHC 1434 (Comm) (06 June 2011)

Easybiz Investments v Sinograin Oils Corporation and Anr (The "Biz") - QBD (Comm Ct)(Hamblen J) - 7 September 2010

Nanjing Tianshun Shipbuilding Co Ltd v Orchard Tankers Pte Ltd [2011] EWHC 164 (Comm) (11 February 2011)

QUALIFICATIONS AND EDUCATION

Solicitor of the Senior Courts of England and Wales
Solicitor of the Supreme Court of Hong Kong
B.A. (Hons.) History, Magdalen College, Oxford University
Ampleforth College, York

CAREER HISTORY

2011 – Present **Ben Macfarlane & Co**

Director

Following incorporation of B.J. Macfarlane & Co and a small change in name, Ben became director of Ben Macfarlane & Co in March 2011 continuing to provide high quality and commercially valuable advice to existing and new clients.

2005-2011 **B.J.Macfarlane & Co**

Principal

In addition to administrative and leadership responsibilities, providing assistance and advice and running litigation and arbitration cases for clients including the following:

- Reinsurance dispute in relation to a US Run-Off company
- Reinsurance recovery work involving an Indian Reinsurer
- Advising in relation to a Sugar Commodity Dispute in the Yemen
- Advising Lloyds' Underwriters in relation to numerous hull disputes
- Conducting Litigation in South Africa for a Lloyds' Underwriter
- Advising London Market Insurers in relation to an explosion on the vessel "Hyundai Fortune"
- Assisting German Professional Clients in relation to recoveries on the vessel "MSC Napoli"
- Assisting London Market insurers in relation to an explosion on the vessel "YM Green"

- Assisting a major US insurer in relation to recoveries on its credit risk book
- Advising foreign insurers in relation to cargo recovery claims
- Obtaining worldwide freezing injunctions in relation to various recovery claims
- Advising German Chartering client in relation to Charterparty disputes and Sale and Purchase Dispute

2002 - 04

Clyde & Co., London Office

Partner, Reinsurance Group

In addition to Partnership responsibilities, providing leadership and technical expertise in wide range of cases, including:

- Reinsurance disputes in relation to a Colombian BBB Policy (reported as Brotherton v. Colseguros)
- Reinsurance disputes relating to energy and construction matters in India and the Far East (power plants, submarine cables)
- An insurance dispute in relation to ART-type policy (Residual Value Insurance)
- Sale of damaged turbine rotor in Turkey

1999 - 02

Clyde & Co., Singapore Office

Partner

One of two Partners, heading small team and sharing administrative responsibility for the office. Advising and acting on:

- Credit insurance claims arising out of the restructuring of APP (commencing liquidation proceedings against APP)
- Restructuring insurer/reinsurer claims against AFP/GAR (Asia Food and Properties/ Golden Agri Resources), also part of Indonesia's Sinar Mas group
- Reinsurance policy wording and legal recourse on a policy dispute arising from the construction of a Power Generation Plant in Thailand
- Insurance disputes arising from the construction of the West Natuna Gas Transportation System
- Advising on insurance coverage in the wake of a fire at the Hotel Meurice in Paris
- Claims for an oil major in connection with contamination of bunkers in Singapore
- Two major political risk matters involving Indonesian Government entities
- The 'Hikari II', collision with a chemical tanker and dredger
- The collision of the 'Hual Trinita' and 'Ever Glory' (car carrier with container carrier) including contested jurisdiction between Belgium and Singapore
- Cargo claims in connection with the grounding of the 'CMA-CGM Normandie'

1990 - 99

Clyde & Co., Guildford Office

Partner

Partnership responsibilities included acting as liaison between UK and Paris offices. Examples of cases and activities include:

- Leading large team of lawyers acting for the British Government against financial advisors in connection with multi-million pound claims arising from the collapse of a financial house which purportedly dealt in Gilt Edged Stock. This entailed managing claims for 14,000 individuals
- Resisting reinsurance claim for the French Market on a quota share reinsurance arising from a jewellers' block policy placed in the French Market through Belgium (reported as Allianz & Ors v. Marchant Dwyer and Bain Hogg)
- Acting for Lloyd's Members' Agents and advising in connection with their administration (following the excess of loss spiral claim at Lloyd's) and their claim against French Market Professional Indemnity insurers including regulatory matters
- Recovering reinsurance monies from North African reinsurer
- Resisting and commuting inwards reinsurance claims against Portuguese reinsurer
- Advising in connection with and successfully resisting an attempt to found jurisdiction in England in connection with an allision between the vessel 'Heidelberg' and the Shell Oil jetty on the Gironde River (reported as 'The Heidelberg')
- Resisting Hull policy claim for the French Market involving the sinking of vessel in Piraeus Harbour: 'Argo Carrier' (also reported)
- Resisting claim for the French Market under an aircraft spares policy for heavy lift aircraft, spares destroyed in fire

1987 - 90	Clyde & Co., Hong Kong Office	Partner (from 1989)
Invited to Hong Kong while still Assistant and made a partner in 1989, thereafter sharing responsibility for administration of that office. Examples of activities:		
<ul style="list-style-type: none"> • Acting in one of the first reinsurance cases in Hong Kong involving a possible fraud claim and consideration of 'follow the settlements' • Dealing with collision matter: Pioneer Container (reported House of Lords case) involving the issue of incorporation of jurisdiction clause where feeder Bills of Lading involved • Acting for insurers on a major warehouse fire and policy claim thereunder • Dealing with a high value bullion recovery claim: bullion was stolen while the aeroplane was in transit in Canada • Handling a policy action on a jewellers' block policy involving theft from a jewellery store in Hong Kong. • Acting for cargo insurers in a case where there was condensation on cargo during the course of a container transit 		
1984 - 87	Clyde & Co., Guildford Office	Assistant
1982 - 84	Macfarlanes	Articled Clerk

OTHER INFORMATION

Interests: tennis & golf; fishing; film.
Status: Married with two children
Languages: French (diploma in business French)