

# Andrew Bodnar

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**matrix**  
chambers

Registered name on the Bar Standards Board Register: Andrew Bodnar  
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Year of Call: 1995



## Main Areas of Practice

Commercial law

Crime and regulatory law

Human rights

International law

Public law

*"a "walking encyclopaedia" when it comes to asset forfeiture work"*

*"without a shadow of a doubt a leader in the area"*

*"one of the foremost asset recovery specialists in the country"*

- Chambers and Partners

Andrew's practice encompasses all areas of asset recovery, both criminal and civil. He has extensive experience of proceedings at all levels from first instance to the House of Lords (Supreme Court) concerning the Drug Trafficking Offences Act 1986, the Drug Trafficking Act 1994, the Criminal Justice Act 1988 and the Proceeds of Crime Act 2002. As well as proceedings relating to the making and enforcement of confiscation orders, Andrew regularly appears for and advises third parties, both corporates and individuals, caught up in proceeds of crime-related proceedings, whether due to the imposition of a restraint order or in the context of receiverships, and has appeared in many of the significant cases concerning civil recovery orders under POCA.

He is ranked in tier 1 for POCA and asset recovery work by Chambers and Partners 2012, and is an editor and contributing author to Smith, Owen and Bodnar on Asset Recovery, published by OUP, as well as lecturing both in the UK and internationally.

Andrew also has a significant practice in fraud, both civil and criminal. In the criminal context he regularly deals with cases concerning money laundering, corruption, insider dealing and corporate criminal liability in the regulatory context. He has been ranked as a leading junior in Fraud: Criminal by both Chambers and Partners and the Legal 500 for some years, and in 2009 was appointed to the Serious Fraud Office's A Panel of Junior Counsel. In the civil context he has experience of asset-recovery related proceedings in insolvency and debt recovery, together with applications for freezing orders, search orders and contempt of court in support of such proceedings. He has a good working knowledge of investment funds and other financial services, and their regulation by the FSA.

Andrew is frequently briefed in cases with an international element, including questions of international law and conflict of laws, and cases raising the compatibility of asset forfeiture legislation with fundamental human rights. Over the last year alone he has been involved in cases involving over 20 jurisdictions. He is sometimes briefed to "ghost write" submissions for courts in other jurisdictions, including jurisdictions as distinct from each other as Jersey and Hungary.

Andrew has a working knowledge of French, German and Hungarian.

## Notable Cases

[Stanford International Bank \(2011\)](#) Represented the liquidators of the Antigua-based Stanford International Bank who were permitted access to \$20m of assets frozen in order to recover other assets for victims of the alleged Ponzi scheme.

[R v Woolf and Others \(2011\) Crown Court](#). Leading junior in the "Hampstead safety deposit boxes" case.

[R v Clark \(2011\) EWCA Crim 15](#). Correct principles to be applied in determining benefit in conspiracy cases - "essential facilitation" vs. "equity partnership" in the criminal enterprise.

[R v Anderson \(2010\) EWCA Crim 615](#). Correct application of the principle in *R v May*, *Jennings v CPS*, *R v Green* in circumstances where there was insufficient evidence to establish a defendant's share of the proceeds of a conspiracy.

[R v Piper \(2010\) EWCA Crim 638](#). Whether a breach of article 6 ECHR on the grounds of delay could justify the stay of confiscation proceedings, and whether such a breach had occurred.

[Bluestream Aviation Ltd and anr v Matthews \(2009\)](#) Multi-million dollar fraud claim concerning agency and purchase of aircraft. Involved asset tracing in the UK and Lichtenstein.

[CPS v N, CPS v P, R v D \(2009\) EWCA Crim 1573, \[2009\] Crim LR 811, Times 18th August 2009](#). Abuse of process in confiscation proceedings on the grounds that the proceedings are oppressive.

[R v Allpress, R v Symeou, R v Casal, R v Morris, R v Martin \(2009\) EWCA Crim 8, \[2009\] 2 Cr. App. R. \(S.\) 58, \[2009\] Crim LR 363](#). The appropriate measure of benefit for couriers in money laundering cases.

[Serious Organised Crime Agency v He and Chen \(2009\)](#) Successful mediation of a substantial and long-running civil recovery claim.

[Serious Organised Crime Agency v Pelekanos \(2009\) EWHC 2307 & 3575 \(QB\)](#). Claim for civil recovery raising questions of mode and standard of proof and giving guidance on the proper application of the mixing, tracing and following provisions of Part 5 POCA.

[Sinclair v Glatt \(2009\) EWCA Civ 176, \[2009\] 1 WLR 1845, \[2009\] 4 All ER 724, Times April 16th, 2009](#). Whether a management receiver appointed under the Criminal Justice Act 1988 is entitled to continue to exercise a lien over assets formerly subject to the receivership following the quashing of a confiscation order.

[State of Hungary v Green \(2009\)](#) Very large fraud case brought against an English CEO of a bankrupt Hungarian company brought by the Hungarian prosecution agency. Assisting with tactical advice and drafting submissions.

[Grayson v United Kingdom, Barnham v United Kingdom \(2008\) ECtHR, Appn. 19955/05, Times 2nd October 2008](#). Compatibility with Article 6 ECHR of findings of "hidden assets" in confiscation proceedings.

[R v Green \(2008\) UKHL 30, \[2008\] 1 AC 1053, \[2008\] 2 WLR 1151, \[2008\] 4 All ER 119, \[2008\] 2 Cr. App. R. 30, \[2009\] 1 Cr. App. R. \(S.\) 32, \[2008\] Crim LR 740, Times 19th May, 2008 \(linked to \*R v May\* \[2008\] UKHL 28, \*Jennings v CPS\* \[2008\] UKHL 29](#). Definition of "obtains" in confiscation legislation, apportionment of benefit, proportionality and requirements of Article 1, Protocol 1 ECHR.

[R v Wright \(2008\) EWCA Crim 3207, \[2009\] Cr. App. R. \(S.\) 45, \[2009\] Crim LR 373](#). Considered the appropriate criteria for the making of a Financial Reporting Order.

[\(1\) AP \(2\) U Ltd v \(1\) Crown Prosecution Service, \(2\) Revenue and Customs Prosecution Office \(2007\) EWCA Crim 3128, \[2008\] 1 Cr. App. R. 39, \[2008\] HRLR 16, \(2008\) 105\(2\) LSG 29, \(2008\) 152\(2\) SJLB 29](#). Compatibility of section 41(4) Proceeds of Crime Act 2002 with requirements of Article 1 of the First Protocol and Article 6 ECHR. Question certified for House of Lords.

[Amadeo Hotels Ltd Partnership and Others v Zaman and Others \(2007\) EWHC 295 \(Comm\), \[2007\] All ER \(D\) 260](#). Mareva proceedings in support of substantive litigation in the United States against a UK barrister and his wife, part of the litigation concerning Prince Jefri Bolkiah.

[R v Bewick \(2007\) EWCA Crim 3297, \[2008\] 2 Cr. App. R. \(S.\) 31](#). The jurisdiction of the Crown Court to consider complex issues of fact and law in compensation proceedings where confiscation proceedings had failed.

## Notable Cases

[R v Michel and Gallichan \(2007\) Royal Court of Jersey \(2006-2007\)](#). Largest money laundering prosecution in Jersey history, advisory; including three hearings before Jersey Court of Appeal and appearing as junior before the Privy Council.

[R v Smith \(2007\) ILCC](#). Largest confiscation order ever made (£41m). Reported in business pages of all broadsheets. Concerned off-shore trust and corporate structures, asset tracing, detail of confiscation law.

[Togher v Revenue and Customs Prosecution Office \(2007\) EWCA Civ 686](#), [\[2008\] QB 476](#), [\[2007\] UKHRR 1079](#), [\[2008\] 2 WLR 82](#), [\[2007\] All ER \(D\) 73 \(Jul\)](#). Retrospective application of confiscation enforcement, Article 7 ECHR.

[McKinsley v Crown Prosecution Service \(2006\) EWCA Civ 1092](#), [\[2006\] 1 WLR 3420](#), [Times August 22nd 2006](#), [Independent October 12 2006](#). Jurisdiction of the court to revisit findings of hidden assets on an application for a certificate of inadequacy under Drug Trafficking Act 1994.

[R \(Director of Revenue and Customs Prosecution Office\) v Criminal Cases Review Commission and Others \(2006\) EWHC 3064 \(Admin\)](#), [\[2008\] 1 All ER 383](#), [\[2007\] 1 Cr. App. R. 30](#), [\[2007\] Crim LR 383](#), [\[2007\] ACD 39](#). Whether the CCRC is bound to follow the Court of Appeal practice in change of law cases, particularly references of convictions in money laundering cases post-Saik.

[R v Hashash \(2006\) EWCA Crim 2518](#), [\[2008\] STC 1158](#). Whether MTIC fraud committed without any underlying trading activity constituted VATable economic activity for the purposes of the VAT legislation.

[R v Suchedina and Others \(2006\) EWCA Crim 2543](#), [\[2007\] 1 Cr. App. R. 23](#), [\[2007\] Crim LR 301](#). Elements of actus reus of conspiracy to commit money laundering offences post-Saik.

[Director of the Assets Recovery Agency v Green \(2005\) EWHC 3168 Admin](#), [Times February 27, 2006](#). Leading case on the correct approach to civil recovery proceedings and elements of a claim for a civil recovery order.

[R \(on the application of Leigh\) v Uxbridge Magistrates' Court \(2005\) EWHC 1828 \(Admin\)](#). Procedural requirements in civil cash forfeiture proceedings before the Magistrates' Court.

[Re K and Others \(2005\) EWCA Crim 619](#), [\(2006\) BCC 362](#), [Times 15th March 2005](#). Principles to be applied in the making of management receivership orders under the Proceeds of Crime Act, piercing the corporate veil.

[Re Saggar \(2005\) EWCA Civ 174](#), [\[2005\] 1 WLR 2964](#), [\(2005\) 102 \(17\) LSG 31](#), [\(2005\) 149 SJLB 268](#), [Times 14th March 2005](#). Applicability of Article 6.1 to applications to revisit confiscation orders under the Drug Trafficking Act.

[Symes v Philips and others \(2005\) EWCA Civ 533](#), [\[2005\] 1 WLR 2986](#), [Independent 13th May 2005](#). Various issues concerning sentencing for contempt of court in the context of substantial Chancery action, Article 6.

[R \(P\) v \(1\) Mersey Care NHS Trust \(2\) Dr. Mulligan \(3\) Home Secretary \(2003\) \[2003\] EWHC 994 \(Admin\)](#), [\[2004\] 1 MHLR 107](#). Mental health, continued detention in secure conditions, Article 8 ECHR.

[Berry Trade and Others v Moussavi and Others \(2002\) EWCA Civ 477](#), [\[2002\] 1 WLR 1910](#), [\[2007\] BPIR 881](#), [Times 10th April 2002](#), [Independent 23rd April 2002](#). Right to representation and to seek legal aid in proceedings for contempt of court in the context of a substantial Commercial Court action, Article 6.

[Cummings v Secretary of State for the Home Department \(2001\) EWCA Civ 45](#), [\[2001\] 1 WLR 822](#), [\(2001\) 145 SJLB 27](#), [Times 27th February 2001](#), [Independent 5th March 2001](#). Recall of mandatory life sentence prisoners.

[B \(a minor\) v Director of Public Prosecutions \(2000\) 2 AC 428](#), [\[2000\] 2 WLR 452](#), [\[2000\] 1 All ER 833](#), [\[2000\] 2 Cr. App. R. 65](#), [\[2000\] Crim LR 403](#), [\(2000\) 97\(11\) 36](#), [\(2000\) SJLB 108](#) [Times 25th February 2000](#), [Independent 10th April 2000](#). Honest but mistaken belief as to fact in strict liability offences.

[R v Commissioners of Inland Revenue and Another, ex parte Tamosius & Partners \(a firm\) \(2000\) 1 WLR 453](#), [\[1999\] STC 1077](#), [\[1999\] BTC 404](#), [\(1999\) 96\(45\) LSG 34](#), [\(1999\) 143 SJLB 279](#), [\[2000\] Crim LR 390](#), [Times 10th November 1999](#), [Independent 12th November 1999](#). Judicial review of grant to and execution of search warrant by Inland Revenue, legal professional privilege.

[Stafford and Carter v Trinidad and Tobago \(1999\) 1 WLR 2026 \(Note\)](#), [\[1999\] 1 LRC 91](#). Death row appeal to the Privy Council, consequences of erroneous application of murder/felony rule, joint enterprise in murder.

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## Publications Seminars and Others

Smith Owen and Bodnar on Asset Recovery, published by OUP (editor) (2007), formerly Asset Recovery: Criminal Confiscation and Civil Recovery, published by Lexis Nexis (contributor)

Joint chairman of Asset Recovery, hosted by CLT, 15th October 2009

Speaker at IBA Annual Conference, Madrid, October 2009, on confiscation and asset recovery

Presenter at KPMG proceeds of crime seminar January 2009

Speaker at Asset Recovery, hosted by CLT, October 2008

Presenter at seminar "Proceeds of Crime" hosted by KPMG to an audience of criminal, commercial and other solicitors, accountants, and barristers, 29th January 2008

Session chairman and presenter to plenary session at Asset Recovery: Criminal Confiscation, Civil Recovery and Money Laundering, hosted by CLT, 8th October 2007

Part of a panel considering asset restraint and forfeiture in the context of international corruption at the 10th Transnational Crime Conference, hosted by the International Bar Association, Washington, USA, (7th-9th June 2007)

Junior counsel for the defence in a mock confiscation hearing in CBA seminar on proceeds of crime (November 2006).

Presented a talk entitled The Clash Between Civil Recovery for the Victim and Criminal Confiscation for the State at the Fraud Lawyers Conference, hosted by C5, 27th-28th September 2006, London

Presented a seminar entitled Life, Litigation and Laundry at the Law Society, London, hosted by Charter Chambers (2005)

Contributor to LNTV programme on confiscation proceedings (2005)

Member of CBA team drafting the CBA's response to consultation by the Law Commission on proving criminal charges arising from the non-accidental death of children (2003)

Judicial Review of the Crown Court (2000) JR 5(3) 193-197

## Memberships

Criminal Bar Association

The Constitutional and Administrative Bar Association

International Bar Association (including Human Rights Institute)

South Eastern Circuit

## Education

BA (Hons) Kings College London

CPE University of Westminster

## What the Directories Say

Chambers & Partners 2012 recommend Andrew as a leading junior in Fraud: Criminal ("*a very bright senior junior*", "*an expert on all fraud-related matters*") and POCA Work & Asset Forfeiture ("*outstanding advocate*", "*a fraud and confiscation expert*", "*responsive and easy to work with*", "*brilliant analytical mind and fabulous written work*").

Legal 500 2011 recommend Andrew as a leading junior in Fraud: Crime ("*a remarkable knowledge of confiscation case law*").