

COLLABORATION BETWEEN LAWYERS AND INVESTIGATORS WHEN ACTING FOR ULTRA-HIGH NET WORTH INDIVIDUALS



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Phoebe Waters, Chair of The Female Fraud Forum is joined by Rachael Gregory, Of Counsel at Grosvenor Law, in a discussion on litigating and conducting investigations (particularly asset tracers) when acting for a HNW individual.

In this short interview, Phoebe and Rachael touch upon how lawyers and asset tracers alike experience instructions from, and proceedings supporting, HNW clients.

Phoebe: Rach, to kick off our discussion with a broad perspective, could you please elucidate the key distinction for you between representing HNW individuals and other clients?

Rachael: HNW individuals' disputes typically involve complex structures which traverse across the globe, so if things go wrong it takes much more unravelling. Often my clients have factors which may have originally attracted them to a jurisdiction such as anonymity, intricate corporate structures and trusts – these act as challenges and complexities in the event of a dispute.

What else do you think separates a HNW from your other clients, particularly as an investigator?

Phoebe: HNW clients have the means to frontload costs that other clients perhaps don't - at least often not to the same extent or with as rapid turnaround. This translates into them wanting to be fast, aggressive, leaving no stone unturned - because they can afford to. This is, of course, is positive (for both you as the litigator, me as an asset tracer and most significantly the client) because they are likely to

engage investigators early on, giving the adverse party less time to dissipate and further obfuscate assets. To bring as much value as possible, I think it is key for investigators to partner with the lawyers from the start - naturally we bring different expertise and ideas to the equation. Together we can create a bespoke team which is highly effective.

Rachael: It is certainly my experience that HNW individuals instruct us to 'get the investigators in' as soon as possible, and much earlier than other clients. Most of the HNW individuals I act for are familiar with the use of investigators and are keen to get them involved from

the outset of an instruction. There can be multiple steps to this instruction. Due to the international flavour of disputes involving HNW individuals, first, we are likely to ask investigators to establish the whereabouts of key players for a) the purpose of jurisdiction, b) strategy as to where a dispute should be brought and c) for service of any proceedings. Even if, for example, we are aware that key players spend a lot of time in London, we need to have evidence that they reside here.

Once location is established, wherever that may be, we then need investigators to identify assets as quickly as possible and confirm ultimate beneficial ownership. We will be acting simultaneously across multiple jurisdictions where HNW individuals are involved (as already mentioned!) and the assistance of investigators is invaluable with this.

P, we are both more than aware that the quantum of the fraud, and therefore monies owed, are high when it comes to disputes involving HNWs. As an investigator, what differences do you see in terms of assets and what do you do differently?

Phoebe: Excellent investigators are creative, curious and persistent (did someone say stubborn?!). We want and need to be like this for every client, and on every matter, but there is something about HNW clients and the disputes in which they are involved that we need to particularly think 'outside of the box' for. This is not only because of the (likely offshore and arguably obtuse) jurisdictions involved, the recalcitrant parties that they are up against, and the complex ownership structures – but the asset classes themselves that often pop up in HNW disputes. We need to be adept at identifying, confirming ownership, and tracking the saucier sources of wealth – from vessels, to aircraft, from sexy cars to polished polo ponies and precious paintings – in addition to the more 'traditional' assets that we know we have to hunt like shareholdings, real estate and so on. Each of these groups requires an asset tracer to use her/his/their special set of skills in a specific way, and each class has a particular niche set of breadcrumbs we can follow. As you mentioned Rach, with HNW disputes often come high quanta, which means we need to be on it with knowing who to reach out to with valuations, such

as shipping brokers or art houses. As always for investigators it's crucial to have the right sources in the right places to call on at the right times.

There are many other elements in a HNW dispute of which we are hyper-sensitive, such as reputation, potential political exposure and security. A lot more that we don't have time to cover!

One of the points I am intrigued to know is, as the one directly communicating with the individual who would usually be my ultimate (and not instructing) client, do you find the pressures of working with a HNW any different?

Rachael: In many ways, working with a HNW individual is no different to any other client and there are always the usual challenges of trying to manage expectations. HNW clients often exhibit the strongest desire for comprehensive strategies, based on my experience. Consequently, as you quite rightly said P, it is essential to employ creative problem-solving techniques to identify solutions, even when encountering seemingly insurmountable obstacles.

To this end, many of my HNW individual clients instruct multiple lawyers and potentially multiple investigators in relation to the same dispute. This is a luxury that clients other than HNW individuals cannot generally afford. I am regularly instructed to advise in relation to strategy in relation to proceedings abroad notwithstanding that local lawyers are also instructed in relation to the matter and also to 'quarter back' with other lawyers here. For the client to benefit it requires the entire team to work collaboratively together to maximise the benefits of all the brains in the room.

Rachael is a commercial litigator who specialises in large scale, complex financial disputes and civil fraud claims. Her work usually has an international aspect and often involves working as part of a team of global advisors. Her experience includes asset tracing, forgery and enforcement issues.

Phoebe is Chair of The Female Fraud Forum and a senior investigator. She specialises in disputes and litigation/arbitration support, including high quantum fraud cases and sovereign state asset recovery exercises.

The Female Fraud Forum, a community partner of TL4 FIRE, is a multi-disciplinary not-for-profit organization comprising a network of professionals (of all genders) in the civil and criminal fraud, asset recovery, and investigations sectors. The FFF's aim is to spearhead the fight for change so that gender equality becomes ingrained in the workplace and secure for future generations.

