

Recovering Misappropriated Property or its Proceeds: The Principles of Following and Tracing, and the Liability of Strangers to the Trust



by

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Steven Gallagher was awarded a first class LL.B. He was called to the Bar of England and Wales in 2006. Steven teaches the equity and trusts courses for undergraduate and postgraduate students. Steven also teaches a course on art, antiquities, cultural heritage and the law on the LLM programme. Steven has presented continuing professional development courses for solicitors in Hong Kong on many topics associated with equity. Steven's research interests include equity and the law of trusts, cultural heritage law and legal history.

This 3-hour seminar will examine the development of the evidential rules of tracing at common law and in equity and the potential liability of strangers to the trust or other fiduciary relationships.

The seminar will consider the process of tracing at common law and in equity and developments in this area since the case of *Foskett v McKeown* [2001] 1 AC 102 including the debate whether tracing is a process or remedy and whether the equitable rules of tracing should be available to trace assets misappropriated without breach of a fiduciary relationship.

The second part of the seminar will consider the potential liabilities of those who are not officially appointed as trustee but whose actions may make them liable in equity for any loss their actions may have caused the trust whether as trustee de son tort, their knowing receipt of trust property or by their assistance in a breach of trust.

The seminar will consider recent developments in recipient liability and accessory liability including the test for dishonesty in dishonest assistance, and the status of dishonest assisters and those in knowing receipt as trustees after the cases of *Peconic Industrial Development Ltd v Lau Kwok Fai* [2009] 2 HKLRD 537 and *Williams v Central Bank of Nigeria* [2014] UKSC 10.

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Some of the topics considered in this seminar will be:

- The processes of following and tracing at common law
- The limitations of tracing at common law
- The processes of following and tracing in equity
- The requirements for tracing in equity
- The 5 principles for tracing in equity
- The 5 limits to tracing in equity
- The benefits of tracing in equity
- Potential liabilities of third parties who intermeddle with the trust
- The equitable rules on recipient liability (knowing receipt) and accessory liability (knowing or dishonest assistance)
- Some of the problems for solicitors, bankers, accountants etc.
- Some of the disputed issues in this area

Scan to Calendar



Code:	EVT000000334	Level:	Intermediate
Date:	24 June 2021 (Thursday) (Amended)	Language:	English
Time:	14:30 - 17:45 (Reception starts at 14:00)	Accreditation(s):	LSHK 3.0 CPD Points
Venue:	<i>Option of:</i> (1) Online via Zoom; <i>or</i> (2) Kornerstone Institute 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	Please Contact Us for Details



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