

GARY HUGHES

BARRISTER



SUMMARY

An independent barrister with 25 years' post-admission experience - providing advocacy, representation, dispute resolution and strategic risk advice services:

- specialising in all types of regulatory investigations and cases
- deep expertise in dealings with NZ's 3 AML-CFT Supervisors, the NZ Police FIU, Commerce Commission, Financial Markets Authority, and Serious Fraud Office
- maintains strong sector independence, taking briefs for and against regulators
- working across private and public sector clients, applying blended skills from experience in both litigation and commercial (non-contentious) legal settings.

Prior to establishing Akarana Chambers in Auckland as a founding member in 2016, Gary was equity partner at leading NZ boutique firm Wilson Harle. Before 2009, he was a principal (salaried partner equivalent) at Chapman Tripp, and worked at leading law firms global (Clyde & Co) and trans-Tasman (Phillips Fox), and for a time in the in-house counsel team at Aon (UK) insurance brokers.

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Ranked in lawyer guides:
Global Investigations
Review, Who's Who Legal,
Best Lawyers, Legal 500
Asia, Chambers Asia-
Pacific, Asia Law Profiles,
Benchmark Litigation,
Global Competition Review

SPECIALIST AREAS OF EXPERTISE

AML, Fraud & Financial Conduct – anti-money laundering (AML) & anti-bribery/corruption (ABC), FSP Register or Financial Markets Conduct cases, fraud, financial services conduct investigations, prosecutions, judicial reviews and civil disputes (e.g. banking, securities, fin-tech, derivatives and white-collar crime).

Competition (Antitrust) and Consumer law – all areas of Commerce Commission work: cartel cases, merger clearance, restrictive contracts, abuse of market power, joint ventures, consumer credit finance, utilities sector price control, fair trading and unfair contract terms.

Regulatory investigations and inquiries – informal inquiries or formal commissions, investigation process, licensing approvals, official information processes, judicial reviews, disciplinary tribunals, civil disputes or appeals - across a wide range of government agencies and areas of regulatory law.

Along with: Insurance law, Public Law, and Privacy/Data protection, Media, Technology, Transport and Infrastructure case expertise.

In the specialist field of Anti-Money Laundering & Countering Financing of Terrorism since 2007 Gary has worked as a pioneering lawyer when the NZ government was first shaping new legislation, going on to advise or represent over 200 reporting entities ranging from multi-national banks to credit card issuers, life insurers, property syndicates, fin-tech payments or app providers, casino, forex or derivatives brokers, law firms, accountants and real estate agents, across the spectrum down to tiny finance company lenders or money remitter firms.

INDEPENDENT ROLES OR APPOINTMENTS

- Expert financial crime witness to the NZ Immigration Protection Tribunal on a deportation case involving fraud/ponzi scheme issues.
- Appointed by TRACE International Inc. as local NZ expert anti-corruption partner.
- Appointed to panel of independent referee/arbitrators, Centre for Online Dispute Resolution (CODR) established by former Solicitor-General, Mike Heron QC.

- Expert training sessions/speaker to government agencies: AUSTRAC (on NZ visit), the DIA, the FMA, Overseas Investment Office, and Inland Revenue Department.
- Supervising Solicitor to the High Court for over-seeing execution of Anton Piller (seizure) orders in a breach of confidence/fraud case.

RELEVANT CASE EXAMPLES AND PARTY REPRESENTATION

- Acting for several derivatives/forex firms investigated for AML/CFT breach - two parties avoided public sanction; one (Tiger Brokers) publicly warned by the FMA.
 - Representing the Cook Islands Solicitor-General and FIU in an international Mutual Legal Assistance and proceeds of crime case.
 - Advising on impact of law reforms such as Commerce Act criminalisation of cartels, new Privacy Act (and overlaps with EU GDPR), or the Hayne Royal Commission (Australia) and local RBNZ/FMA financial misconduct inquiries.
 - Confidential client engagements on NZ aspects arising from the 1MDB Malaysia corruption case, Panama Papers/Mossack Fonseca foreign trusts & shell company investigations (US Department of Justice), and Operation Fox Hunt/Skynet (China).
 - Acting for core participant in public Inquiry for the State Services Commission inquiry into government agencies' use of private security consultant services.
 - Representing affected individuals under investigation by the Commerce Commission in cartel cases (property buyers, and logistics sectors).
 - Representing a defendant in an early AML/CFT test case by the Department of Internal Affairs seeking a pecuniary penalty.
 - Representing Tower Insurance in a portfolio of litigation claims against the EQC involving interpretation of its statutory earthquake insurance obligations.
 - Advising Uber BV in Land Transport Act policy reform, competition or public law regulatory cases, with NZ Transport Agency Ministry, or taxi industry incumbents.
 - Successfully resolving FMA investigation for a global fin-tech wrap platform entity.
 - Representing a firm dealing with investigation/overlaps in Commerce Commission (consumer credit contracts/unfair contract terms) and AML/CFT regulations.
 - Advising a derivatives/forex broker-dealer firm on liquidity, liability and market turbulence issues arising from the collapse of its counterparty Alpari (UK).
 - Acting in injunction cases over bank account terminations (de-risking), and allegations of anti-competitive behaviour.
 - Advising law firms on complex matters of, suspicious activity reports, and legal professional privilege or ethical obligations in implementing AML/CFT rules.
 - Acting for the Financial Markets Authority in its first major AML/CFT investigation, leading to settlement by way of an enforceable undertaking and public warning.
 - Representing a mobile retail trader (not prosecuted) in the Commerce Commission's sector inquiry, and subsequent disclosure investigations.
 - Acting for a director in the FMA investigation into alleged securities market non-disclosure involving a listed company (Abano/Archer Capital case).
 - Representing a finance sector firm in private litigation over wrongful contract termination and Commerce Act s27/36 breaches by a major trans-Tasman bank.
 - Representing a witness/whistleblower in SFO case (South Canterbury Finance).
 - Assisting a trans-Tasman insurance company with audit/internal investigations into its Financial Advisor legislation compliance and conduct.
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PRO BONO AND PROFESSIONAL ROLES:

- Co-chair (with the NZ Police Financial Intelligence Unit) for 7 years of NZ's largest cross-agency AML/CFT conference held annually in Wellington - in 2019, attracting 450 people attending a 3-day conference; in 2020 a hybrid virtual/in person event.
- Invited expert onto Department of Internal Affairs' AML Industry Advisory Group.
- Board Member of ACAMS Australasia chapter (Association of Certified Anti-Money Laundering Specialists) (2010-19), then technical advisory director to the Board.
- International Bar Association: Regulation of Lawyers Compliance committee (communications officer); and Anti-Corruption division (NZ country officer).
- Board Member (2004-15), then subsequently elected honorary Life Member of the Law & Economics Association of New Zealand (LEANZ).
- Guest lecturer at AUT University, *Commercial Criminal Law* intensive paper.
- Invited member of NZ Law Society pro bono "Friends Panel" for confidential practitioner queries about regulatory and ethical difficulties.
- NZ Law Society delegate (2017) to Ministry of Justice AML/CFT Phase 2 law reform expert working group.
- Leader of Auckland District Law Society committee on AML/CFT Amendment Bill, including presenting ADLS submissions to Parliamentary Select Committee.
- Part of International Bar Association author committee for submissions to Australian Parliamentary Senate Committees on Review of Whistleblower law reforms, and on review of Foreign Bribery laws (2017-18).
- NZ Law Society delegate (2013) to the OECD Phase III review of New Zealand's compliance with Foreign Anti-Bribery Convention; International Bar Association delegate to OECD Phase IV review (commenced 2020, Covid-interrupted).

BACKGROUND/QUALIFICATIONS

Bachelor of Commerce (Economics), Laws (with Honours), 1995 University of Auckland

- with Senior Prize (top 5% student) awarded in each degree (1995).
- awarded AG Davis Scholarship and Freemason Bursary in final year (1994).

NZI Insurance award 1997 - top student, Insurance Institute of NZ Associateship exams

Professional: admitted Feb. 1996 in New Zealand (barrister & solicitor), authorised to practice on own account since 2011; Sept 2000 in England & Wales (solicitor).

SELECTED PUBLICATIONS OR PRESENTATIONS (since 2017)

Author of the online textbook *AML/CFT Workflows - Guidance for Lawyers* (2018) published on the Thomson Reuters Westlaw NZ platform, updated twice annually.

Author of New Zealand Chapter for international textbook *Anti-Corruption Laws and Regulations* (2018) published by Globe Law & Business Ltd.

- Auckland District Law Society, 2021, *Cartels and Collusion - the Commerce Act turns criminal*, series of 5 articles for ADLS LawNews journal
 - International Bar Association, 2020, *Comparative approaches to beneficial ownership registers*
 - ACAMS & NZ Police FIU, annual conference 2020: *Security, Sanctions & Cyber* (with Tom Keatinge); and *Trusts & Corporate Trustees* (with Overseas Investment Office)
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- TRACE International, 2020 (virtual), *NZ anti-corruption and whistleblower update*
 - Thomson Reuters Regulatory Insight, 2020, *NZ Central Bank takes on first major money laundering investigations*
 - Interview by Radio New Zealand *Morning Report* show, 2020, *What is the ideal regulatory design? (for AML/CFT)*
 - NZ Law Society LawTalk journal, 2020, *AML/CFT remains a balancing act*
 - Thomson Reuters Legal Insight, 2020, *NZ DIA's 5th AML court case sharpens the knife for individuals*
 - ACAMS 24+ financial crime virtual summit, 2020, *Widening the Community – AML for professions and gatekeepers*
 - NZ Insurance Law Association and Insurance Council NZ, 2019, *Update on the commercial and financial regulators* (with Mike Heron QC)
 - ACAMS & NZ Police FIU, annual conference 2019, *1MDB Malaysia and J Low* (with investigative journalist Clare Rewcastle-Brown of The Sarawak Report); and panel on *VASPS and Crypto-currency issues*
 - NZ International Fraud Film Festival, 2019, panel discussion after screening of Alex Winters film *The Panama Papers*
 - Auckland District Law Society, 2019, *The Panama and Paradise Papers, International Commercial Structures and the Role of Lawyers* (with Robert Wyld)
 - Cambridge International Symposium on Economic Crime, Cambridge England, 2019, *Effect of the FATF – 30 years on*; and also panel on *De-risking approaches*
 - Australian & NZ Institute of Insurance and Finance, conference 2018, *Privacy and cyber risk management*
 - Trace International podcast interview, 2018, *NZ financial crime issues* (with Alexandra Wrage)
 - Society of Trust & Estate Practitioners (STEP), Aust/NZ conference, 2018, *Understanding financial crime authorities' hostility to trusts*
 - ACAMS NZ, 2018, *Data protection issues and new Privacy Bill* (with Privacy Commissioner, John Edwards)
 - Chartered Accountants of Australia & NZ, 2018, Sydney biennial fraud & forensics conference, *Cyber enabled fraud – follow the virtual money*
 - Thomson Reuters, Land & Property Law Conference, 2018, *AML/CFT for property lawyers*
 - Australasian Retail Credit Association, 2018, Brisbane annual conference, *RegTalk, the year in review*
 - Interview by Australian Financial Review newspaper, 2017, *on AUSTRAC action against CBA Bank*
 - Interview by Huffington Post Australia, 2017, *on cuckoo smurfing money laundering allegations in AUSTRAC case against CBA*
 - NZ Law Society, cover story for LawTalk journal, July 2017 *AML looms nearer – 5 things to prepare*
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