



Dr. Thomas Bauer

Attorney at Law, Counsel, Dr. iur.

The economy faces multiple economic and regulatory challenges: this calls for long-term strategic thinking combined with practical solutions. I put my many years of experience in financial market, commercial, and insolvency law as well as in the judiciary at the service of preventing and solving legal problems.

Thomas Bauer has spent most of his working life outside the legal profession per se. He gained his first experience in business in the banking sector (banking law, contract drafting, tax law, litigation) between 1986 and 1994. He participated in technical committees of the Swiss Bankers Association and the Association of Foreign Banks in Switzerland for several years. After joining EY (formerly Ernst & Young) in 1994 and as a long-standing member of the specialist staff law of the Swiss Chamber of Trustees (now Expertsuisse), he dealt with accounting law and regulatory issues pertaining to all commercial law. At EY, he headed the “Dormant Accounts” project on behalf of the Swiss Bankers Association (1998–2010) and, for 15 years, the “restructuring and insolvencies” practice group. Thomas Bauer headed several insolvency proceedings involving international corporations (construction, sports marketing, and industry) and was a member of creditors’ committees. He conducted a number of forensic investigations on behalf of the financial industry and FINMA.

His publications on commercial, banking and insolvency law have attracted national and international attention, leading to multiple invitations as a guest speaker and lecturing assignments at the universities of Zurich and Basel. Thomas Bauer is co-publisher of the “Basler Kommentare” on the Debt Enforcement and Bankruptcy Act (SchKG) (3rd edition in 2021) and on the Swiss Banking Act (3rd edition planned for 2022).

Keen to promote an efficient, citizen-oriented judicial system, Thomas Bauer was President on a part-time basis of the Basel-Landschaft Cantonal Court of Appeals (Civil and Criminal Law Division) for a large part of his professional life (1991–2016). In doing so, he attached importance to forward-looking decisions and dispute settlements. In the field of criminal law, he led several large and complex proceedings in the field of economic crime.

From 2016 to 2020, he served full-time as chairman of the board of directors of the Swiss Financial Market Supervisory Authority FINMA. In addition to this, he took a close interest in issues surrounding strategy, governance and financial market law. He was a keen advocate of dialog between the financial sector and the authorities.

During his time as a student in Basel, he attended lectures on economics, history and philosophy, areas he still works in today. He obtained his license to practice in 1984 (magna cum laude). His dissertation on international stock exchange law (summa cum laude) was awarded the Cooperative Prize in 1987.

Dr. Thomas Bauer — Kellerhals Carrard

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Languages

- German
- English
- French
- Italian

Expertise

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Banking, Finance and Fintech

Insolvency and Restructuring

Dispute Resolution and Litigation

Criminal law, legal assistance, internal investigations, crisis management and compliance

Sectors

Financial Services and Insurance

Industry and Trade

Ranking & Awards

- Cooperative Prize 1987 (dissertation)

Career

- 2015–2020: Chairman of the Board of Directors, Swiss Financial Market Supervisory Authority FINMA (from 2016)
- 1994–2014: EY (Partner from 1997)
- 1987–1994: Legal and Tax Consultant, BfG Bank (Switzerland) Ltd.
- 1986–1987: UBS Zurich, central tax service

Memberships

- Insol Europe
- Insol International
- Swiss Association for Debt Enforcement and Bankruptcy (Chairman 2012–2019)
- Swiss Judges Association

Education

- 1987: Dr. iur.
- 1984: Admitted to the bar
- 1980: lic. iur.

Further Activities

- 1991–2016: Cantonal Court BL, Divisional President – Civil and Criminal Law (part-time)

Commentaries

- Kommentierung der Art. 884-894 und Art. 899-917 ZGB

Further publications

- Governance-Aufsicht durch die Finma – Einordnung und Grundzüge
- Revision des aufsichtsrechtlichen Prüfwesens
- Governance im Fokus der Bankenaufsicht – Neue Wegleitung der Finma betreffend Mutation von Gewährsträgern
- Kommentar zum Schweizerischen Zivilgesetzbuch, Art 884-994 (das Fahrnispfand); Art. 899-906 (das Pfandrecht an Forderungen und anderen Rechten); Art. 907-915 (das Versatzpfand)
- Kommentar zum Schweizerischen Obligationenrecht, Art. 513-515 (Spiel und Wette), Art. 516-529 (Leibrenten- und Verpfändungsvertrag)
- Behörde-Aufsicht-Regulierung: Gedanken anlässlich 10 Jahre FINMAG-Botschaft
- Sanierungsrecht im Umbruch
- Das Bankkündengeheimnis in der Insolvenz
- Country Report Switzerland
- Kommentar zum Bankengesetz, Art. 25 (Massnahmen bei Insolvenzgefahr – Voraussetzungen, zusammen mit Christian Haas), Art. 28 (Sanierungsverfahren), Art. 29 (Sanierung der Bank, zusammen mit Brigitte Umbach-Spahn und Brigitte Isler), Art. 30 (Weiterführung von Bankdienstleistungen), Art. 31 (Genehmigung des Sanierungsplans), Art. 31a (Ablehnung des Sanierungsplans), Art. 31b (Wertausgleich), Art. 32 (Geltendmachung von Ansprüchen), Art. 33 (Anordnung der Konkursliquidation, zusammen mit Vincent Jeanneret und Olivier Hari), Art. 34 (Wirkungen und Ablauf des Bankenkurses, zusammen mit Christian Haas);

Art. 37e (Verteilung und Schluss des Verfahrens, zusammen mit Karl Wüthrich und Stefan Kesselbach)

- Die Verrechnung durch den Konkursverwalter
- Kommentar zum Schweizerischen Obligationenrecht, Art. 1033-1052 OR (der Wechselregress) und Art. 1028-1031 OR (der Checkregress)
- Kommentar zu Art. 36 a BEHG (Konkursverfahren)
- Die Möglichkeiten zur Sanierung verbessern
- Nachhaltige Unternehmenssanierung – Ein Diskussionsbeitrag zur Revision des Obligationenrechts
- Der ausseramtliche Konkursverwalter – Totengräber oder Geburtshelfer?
- Bankengesetzliche Zwangsliquidation von Nichtbanken
- Fatale Verwirkung – Zur Rechtsnatur der Anfechtungsfrist (Art. 292 SchKG)
- Unternehmenskrise: Konkursaufschub oder Nachlassstundung?
- Börsenmässige Termingeschäfte und Differenzeinwand im schweizerischen und deutschen IPR, publiziert in der Schriftenreihe des Instituts für Internationales Recht und Internationale Beziehungen der juristischen Fakultät der Universität Basel
- Basler Kommentar zum Bundesgesetz über Banken und Sparkassen
- Basler Kommentar zum Bundesgesetz über Schuldbetreibung und Konkurs

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