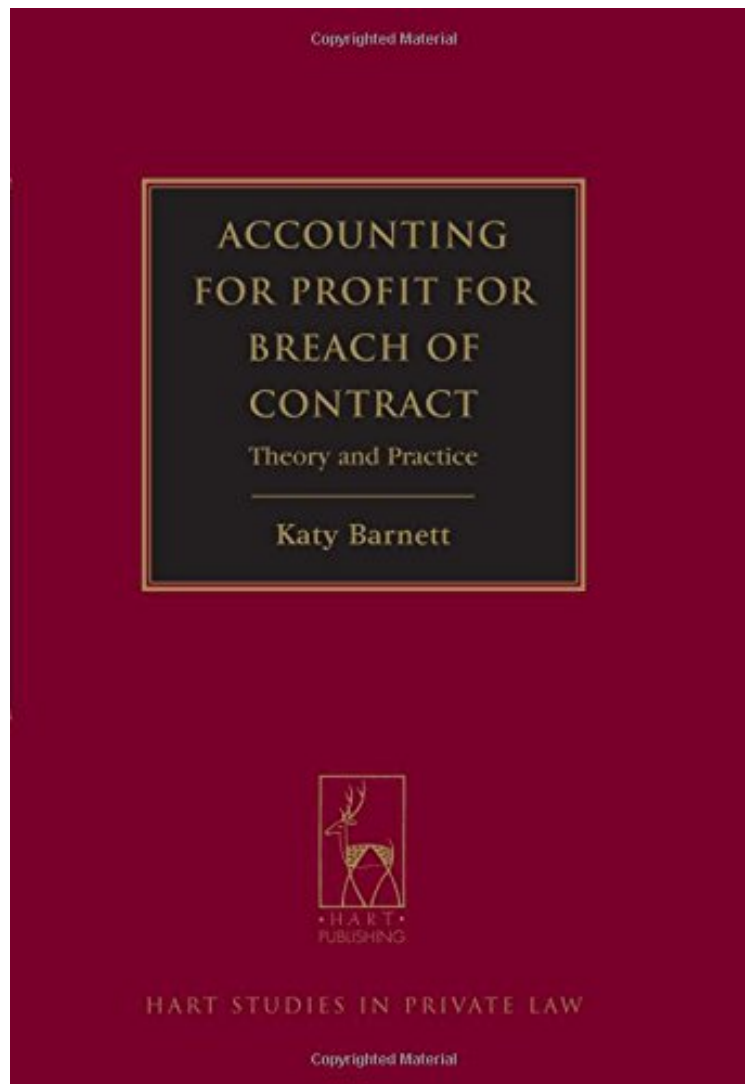


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## Accounting for Profit for Breach of Contract: Theory and Practice (Hart Studies in Private Law)

*Katy Barnett*

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**Katy Barnett : Accounting for Profit for Breach of Contract: Theory and Practice (Hart Studies in Private Law)** before purchasing it in order to gauge whether or not it would be worth my time, and all praised Accounting for Profit for Breach of Contract: Theory and Practice (Hart Studies in Private Law):

This book defends the view that an award of an account of profits (or 'disgorgement damages') for breach of contract will sometimes be justifiable, and it fits within the orthodox principles and cases in contract law. However, there is some confusion as to when such an award should be made. The moral bases for disgorgement damages are deterrence and punishment, which shape the remedy in important ways. Courts are also concerned with vindication of the claimant's performance interest, and it is pivotal that the claimant can procure a substitute performance via an award of damages or specific relief. The book argues that disgorgement damages should be available in two categories of case: 'second sale' cases, where the defendant breaches his contract with the claimant to make a more profitable contract with a third party; and 'agency problem' cases, where the defendant promises the claimant he will not do a certain thing, and the claimant finds it difficult to supervise the performance. Moreover, disgorgement may be full or partial, and 'reasonable fee damages' for breach of contract are best understood as partial disgorgement rather than 'restitutionary damages.' Equitable bars to relief should also be adopted in relation to disgorgement damages, as should allowances for skill and effort. *Accounting for Profit for Breach of Contract* will be of interest to contract and commercial lawyers, and it will be especially valuable to anyone with an interest in contract remedies and restitution. The book draws on case law in a number of common law jurisdictions, primarily England, Wales, and Australia. (Series: Hart Studies in Private Law)

In her engaging and useful book...Katy Barnett presents a theory of disgorgement damages for breach of contract. This is a welcome publication, as disgorgement damages continue to present both theoretical and practical puzzles for the law of contract, and Barnett makes a valuable contribution to this important topic. There is so much to admire in Barnett's book. It is thoughtful, comprehensive, and clearly written, displays a good grasp of the relevant literature, and presents interesting arguments in support of the deterrence and punishment perspectives on disgorgement damages. The book will be of interest to legal academics working in contract law and the law of remedies more generally, and legal practitioners who wish to learn more about the doctrinal and theoretical dimensions of disgorgement damages. [The book is] engaging, challenging, and comprehensive...As an account of the positive law of disgorgement, Barnett's book is extremely useful and anyone interested in the nature of disgorgement damages for breach of contract will surely benefit from reading it. (Andrew Botterell *Canadian Business Law Journal*, Volume 54)...a well-argued and thought provoking study of the question of gain-based relief for breaches of contract. It provides an exemplary survey of the case law throughout the common law world and an analysis of the copious secondary literature. It is sure to become an indispensable point of reference for those interested in this subject. (Craig Rotheram *Lloyd's Maritime and Commercial Law Quarterly*)...though Barnett's review of the disgorgement literature deserves attention in itself, the principal merit of her book is her second sales argument. Leaving aside the special case of *Friendmann*, this is the best argument for wider recognition of the performance interest made in the recent academic literature. (David Campbell *Law Quarterly*, Volume 129) This book, deriving from Dr Barnett's PhD thesis, is a thoughtful exploration of an area of contract remedies involving the stripping of profits made by a defendant in breach of contract. This is an area which has excited great academic debate over the last decade, especially since the decisions of the Court of Appeal, and the House of Lords, in *Attorney General v Blake*. Dr Barnett's novel thesis also considers the important remedy which she describes as 'reasonable fee damages' for a breach of contract and seeks to justify those as 'partial disgorgement' for a breach of contract. (Justice James Edelman, Judge of the Supreme Court of Western Australia) About the Author Katy Barnett is a Lecturer in Law at the University of Melbourne.