



## ELIZABETH Y CHEUNG 張怡大律師

Call: 2007 (HK)

Accredited as a mediator by CEDR (2009) and HKMAAL

### PROFILE

Elizabeth has a broad civil practice with an emphasis on commercial and insolvency matters. She advises and appears regularly in shareholder disputes, disqualification of directors and the appointment of provisional liquidators.

Elizabeth also acts and advises in general commercial disputes, company matters, tax matters (both for the Revenue and taxpayers), contractual disputes, judicial reviews, banking and finance, probate and administration, professional negligence, conflicts of laws and jurisdiction and vendor-purchaser summons.

Elizabeth has extensive experience in urgent matters including obtaining and resisting injunctive relief in commercial disputes and in aid of arbitration and the appointment of provisional liquidators.

Elizabeth is regularly appointed as a mediator in a wide range of commercial disputes.

### CONTACT

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### PRACTICE AREAS

- Insolvency
- Commercial
- Tax / Revenue
- Injunction / Contempt
- Company
- Public Law / Judicial Review
- Conflict of Laws
- Commission of Inquiry / Inquest
- Equity / Trust
- Civil Fraud / Asset Recovery
- Restitution / Unjust Enrichment
- Admiralty
- Banking / Finance
- Insurance
- Professional Liability
- Probate / Succession
- Property & Conveyancing
- Mental Health

- Family / Matrimonial
- Securities & Regulation
- Disciplinary
- Employment
- Mediation
- Arbitration

## APPOINTMENTS AND PUBLIC OFFICE

- Member of the Standing Committee on Barristers Qualification Examination (from 2019)
- HKU PCLL Civil Advocacy tutor (2013 – present)

## EDUCATION

- 2004 LLB, London School of Economics.
- 2005 LLM, Specialising in Corporate Insolvency Law, London School of Economics.

## PUBLICATIONS AND ARTICLES

- Hong Kong Civil Procedure White Book: Contributing Editor (2009-2013)
- Securities and Future Ordinance (Cap. 571): Commentary and Annotations (Sweet & Maxwell) contributor
- LexisNexis Practice Note contributor

## LANGUAGES

Mandarin – fluent; French – reasonable

## SELECTED CASES

### INSOLVENCY

- *Re China Fisheries Group Limited* – [2019] HKCFI 174 – Successfully resisted an application by Chapter 11 trustees seeking leave from the Hong Kong Court to use a sealed judgment involving the discharge of provisional liquidators; discussion as to circumstances where the Hong Kong Court may assist foreign insolvency proceedings (led by Mr. Eugene Fung S.C.)
- *Joint and Several Liquidators of AGI Logistics v Commissioner of Inland Revenue* [2015] 4 HKLRD 300 - A case involving whether a payment by the CIR to a third party on the company's instruction after a winding-up petition was presented was void under section 182 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)
- *In the Matter of Super Speed Limited (In Liquidation)* [2015] 2 HKLRD 965 – A decision of the Court of Appeal that in respect of a bank making loans to a company post petition where the company's accounts were overdrawn, this was not a disposition of the company's property avoided by section 182 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)
- *Re Cai Sui Xin* - [2019] HKCFI 330 – Successfully obtained a bankruptcy order where the debtor disputed all grounds of jurisdiction
- *Re: Winston Chung* [2013] 2 HKLRD 649: Obtained a bankruptcy order – judgment dealt with what constitutes a *bona fide* dispute as to debt where there were allegations there has been a judgment obtained by fraud (led by Mr. Clifford Smith S.C.)

- *Re: To Cho Ping* [2012] 1 HKLRD 125: Resisting the setting aside of a bankruptcy order
- *Re: DSC Holdings Limited*: Appointment of Provisional Liquidators
- *Re: Asia Aluminium Group - HCCW 140-142, 165 & 237/2009*: Appointment of Provisional Liquidators to various companies within Asia Aluminium Group of companies and the subsequent winding-up of the companies (led by Ms. Linda Chan S.C. and alone)
- *Re: The Grande Holdings* (HKEX Code: 0186) – HCCW 177/2011: Appointment of Provisional Liquidators
- *Re: China Packaging Group* (HKEX Code: 0572): Appointment of Provisional Liquidators
- *Re: Hawkins Development Limited - HCCW 215/2007*: Successful dismissal of a Winding-Up Petition (led by Mr. Russell Coleman S.C) and the subsequent successful paying out of security for costs under the inherent jurisdiction of the Court post-CJR ([2010] 1 HKLRD 535)
- *Lo Yan Wah v Pacific Building Material Supplies (HK) Ltd – HCCW 551/2009*: Successful striking out of Petition (led by Ms. Linda Chan S.C.)

#### COMMERCIAL

- *廈門新景地集團有限公司 formerly known as 廈門市鑫新景地房地產有限公司 v. Eton Properties Limited (裕景興業有限公司)* [2016] 2 HKLRD 1106 (and other judgments): Appeal involving a common law action on an arbitral award involving allegations of economic torts (led by Mr. Paul Shieh S.C.)
- *Sinoearn International Limited v Hyundai-CCECC Joint Venture (a firm)*, (2013) 16 HKCFAR 632: Successful hearing in the CFA involving considerations of the role of business common sense in interpretation of contracts, arising from a dumping of mud contract in respect of dredged mud from Container Terminal No. 9 (led by Mr. Charlie Manzoni S.C.)
- *Herbert Smith Freehills (a firm) v Chris Au* [2018] 5 HKLRD 207: Successfully obtained a charging order absolute over funds paid into Court as security for costs of another action
- *Urban Renewal Authority v Agrila Ltd*, HCA 1582/2002: Trial involving the joint-venture between the URA and Cheung Kong (Holdings) Limited in respect of building known as “The Centre” (led by Mr. Benjamin Yu S.C.)
- *Qiyang Limited v Mei Li New Energy Limited* [2016] 4 HKLRD 790: Successfully challenged solicitors’ authority to act for a party being an asset of a bankrupt after the making of a bankruptcy order
- *Jose Miranda Da Costa Junior v Lorenzo Yih*, HCA 156/2010: Successfully obtained final judgment on liability upon the Defendant’s breach of an unless order for specific discovery (led by Ms. Lisa Wong S.C.). Judgment on costs: [2014] 2 HKLRD 246
- *Gao Haiyan v CL Chow & Mackision Chan* [2018] HKCFI 2832: Successfully obtained leave to tax a solicitors’ bill several years out of time
- *Shih Ching Yang v Tsoi On Pong*, [2011] 3 HKLRD 271: Successful application for payment out of funds in Court under charging orders obtained by a bank in light of, inter alia, competing interests of equitable lien holders
- *Billion Wealth Group Ltd v Strategic Media International Ltd – HCMP 2586/2009*: Successful enforcement of a Share Charge through originating summons procedure (led by Mr. Peter Ng S.C.)

#### TAX / REVENUE

- *Koo Ming Kown v The Commissioner of Inland Revenue – [2018] HKCFI 2593*: acted for the CIR in a case involving additional tax assessments and the liability of directors for incorrect returns of a company and the effect of finality of assessments on a corporate taxpayer (led by Mr. Stewart Wong S.C.)
- *Dairyfarm Establishment v The Commissioner of Inland Revenue – [2018] 5 HKLRD 179*: acted for the taxpayer in a judicial review against multiple tax assessments and the use of tax reserve certificates for multiple assessments (led by Mr. Stewart Wong S.C.)

#### EQUITY / TRUST

- *Tao Soh Ngun v HSBC International Trustee Limited*, HCA 3246/2016; *Lo Kai Shui v HSBC International Trustee Ltd*, HCA 404/2018 – representing Dr. KS Lo in the dispute involving the Lo Ying-shek Family Trust
- *Cheuk Shu Yin v Yip So Wan*, (2012) 15 HKCFAR 344: Successful hearing in the CFA in respect of whether a resulting trust was caught by the restriction on alienation in the context of Home Ownership Scheme flats (led by Mr. Anderson Chow S.C. and with Ms. Eva Sit)

#### PROFESSIONAL LIABILITY

- *Asia-Pac Infrastructure Development Limited v Shearman & Sterling* [2018] 1 HKLRD 113: representing a multinational law firm; defending an application for documents belonging to former clients that were non-parties and/or deregistered companies; discussion on the law of privilege in the context of joint retainers and former clients and dissolved companies

## INJUNCTION / CONTEMPT

- *China Medical Technologies, Inc., (In Liquidation) v Wu Xiaodong* – HCA 3391/2016: Successfully set aside an *ex parte* injunction obtained by the liquidators for abuse of process and lack of evidence of risk of dissipation of assets (led by Mr Stewart Wong S.C.)
- *SCC Venture VI Holdco G, Ltd v Zhao Chanpeng* – [2018] HKCFI 819: Successfully set aside an *ex parte* injunction obtained in aid of intended arbitration proceedings involving an investment into a cryptocurrency exchange business
- *Barclay Pharmaceuticals Limited v Antoine Mekni* [2018] HKCFI 436: Successfully appointed receivers in aid of foreign proceedings following the obtaining of freezing orders and an Anton Piller Order in Hong Kong under sections 21M and 21N
- *Grande Cache Coal LP v Marubeni Corporation* – HCA 2136/2015: Successfully set aside an *ex parte* injunction on the grounds of material non-disclosure and abuse of process of the *ex parte* procedure (led by Ms Roxanne Ismail S.C.)
- *XY, LLC v Jesse Zhu* – HCA 869/2014: Application for *mareva* injunction in aid of foreign proceedings under sections 21M and 21N

## COMPANY

- *Xu Liu Chun v Wu Chang Jiang & Another* [2018] HKCFI 1575 – Successful unfair prejudice petition (with Mr. Thomas Wong)
- *Re Shanell Limited*, HCMP 173/2017: Scheme of arrangement
- *Re: The Hong Kong Football Association* – HCMP 3286/2013: Successful application under section 122 of Cap 32 for an order extending time for laying of the companies' accounts
- *Re: Greatbo Investment Limited*, HCMP 1676/2010: Application under section 290(1) for a declaration that the dissolution of a company is void and to restore the company to the Register

## PUBLIC LAW / JUDICIAL REVIEW

- *Dr. Q v The Health Committee of the Medical Council of Hong Kong*, [2014] 2 HKLRD 57: Successful dismissal of an action against the Health Committee seeking an order of contempt for alleged breach of an order of mandamus (led by Mr. Stewart Wong S.C.)
- *Dr. Li Wang Pong Franklin v Medical Council of Hong Kong* [2009] 1 HKC 352: Represented the applicant doctor in a judicial review involving a decision of the Medical Council (led by Mr. Russell Coleman S.C.)
- *Wise Union Industries Limited v Hong Kong Science and Technology Parks Corporation* [2005] 5 HKLRD 620: Represented the applicant in a judicial review (led by Mr. John Bleach S.C. and Mr. Stewart Wong)

## CONFLICT OF LAWS

- *廈門新景地集團有限公司 formerly known as 廈門市鑫新景地房地產有限公司 v. Eton Properties Limited (裕景興業有限公司)* – HCA 961/2008, FAMV 5/2011: [2011] 1 HKLRD 781: Application for stay for arbitration and striking out of pleadings in a case involving PRC laws (led by Mr. Winston Poon S.C.) Related judgments: [2011] 1 HKLRD 781, HCCL 13/2011, CACV 158/2012
- *Liaoyang Shunfeng Iron and Steel Company Limited v Hawkins Development Limited* – CACV 234/2011: Successfully obtained an “anti-suit injunction” (led by Mr. Anthony Chan S.C.)
- *Shenzhen Futaihong Precision Industry Co., Ltd. v BYD Company Limited* – HCA 2114/2007: Successfully resisted an application for stay on the grounds of *forum non conveniens* in a case involving breach of confidence (led by Mr. Winston Poon S.C. and Mr. Godfrey Lam S.C.). Related judgment: [2012] 3 HKLRD 736
- *Pacific Aerosupplies Ltd v Dakota Air Parts Intl Inc* – HCA1233/2010: Successfully set aside an order for service out of jurisdiction despite an exclusive jurisdiction clause in favour of Hong Kong (led by Mr. Stewart Wong S.C.)

## COMMISSION OF INQUIRY / INQUEST

- *Commission of Inquiry into the Construction Works at and near the Hung Hom Station Extension under the Shatin to Central Link Project* (2018-2019): appeared in public inquiry on behalf of PYPUN-KD & Associates Limited, the Government's Monitoring & Verification Consultant (led by Mr. Russell Coleman S.C.)

## SECURITIES & REGULATION

- Advising a joint sponsor in an IPO on disciplinary matters involving a fine and revocation of its Type 6 licence