

Nicholas G. Tam

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PROFESSIONAL HISTORY

2018 – present

Ogier, Hong Kong

Legal Manager | Commercial & Financial Disputes, Insolvency

- Acting for global financial institutions and listed companies in relation to commercial and financial disputes litigated in the Financial Services Division of the Grand Court of the Cayman Islands and the Commercial Court of the Eastern Caribbean Supreme Court.

2014 – present

Ince & Co, Hong Kong

Associate | Commercial Disputes, Insolvency, Regulatory

Commercial Disputes

- Advised the trade finance department of a Swiss bank defrauded of US\$33 million under letters of credit, culminating in HK criminal proceedings, multi-jurisdictional litigation, the arrest of multiple company directors and settlement at a level substantially greater than the recoveries obtained by other creditors.
- Acted for a Chinese SOE in the shipbuilding sector to advance its US\$14 million claim against the parent company guarantor in LMAA arbitration and ancillary Hong Kong proceedings, successfully obtaining a worldwide Mareva injunction.
- Acted for Dutch shipowners to bring an unsafe port claim in HKIAC arbitration to achieve award of full principal claim, including 90%+ of legal costs, and enforced the awards successfully against a Chinese SOE in Shanghai.
- Achieved a 7-figure GBP recovery for the CEO of a major HK company against an international investment group via claims for misrepresentation and regulatory investigations for anti-money laundering contraventions.

Insolvency

- Acted for Swiss bank concerning the wrongful rejection of proof of debt, achieving full settlement of claims after court action to overturn the results of the first creditors' meeting and for removal of the liquidators.
- Obtained winding-up order for unregistered foreign company in HK.
- Advising in relation to various corporate creditors' claims against insolvent debtor companies, including the US\$100m collapse of Shagang Shipping. Drafted expert HK law opinion on whether service of multiple statutory demands an abuse of process for a successful US\$10m LMAA arbitration claim.
- Resolved a 15-year-long shareholder dispute regarding a family manufacturing business and deceased patriarch's estate within 1 year after being instructed, achieving multi-million dollar settlement after petitioning for winding-up on the just and equitable ground.
- Acting for noteholders in relation to the implosion of CEFC Group including appointment of provisional liquidators in HK, enforcement of share charges and restructuring of Czech assets.

Regulatory

- Regional leader for Ince's Asian sanctions group. Drafted sanctions compliance policies and advised on sanctions issues for banks, shipowners, P&I clubs, and commodities traders. Defended UN investigation into Chinese oil major. Presented sanctions training seminars to industry groups and corporations.
- Advised regional freight forwarder in relation to cybersecurity issues arising out of email payment frauds; obtained Mareva and garnishee relief to recover funds.
- Successfully defended HKMA investigation against a major Chinese bank.
- Advised an Australian mining company in relation to HKICPA professional misconduct proceedings against a major international audit firm.

VACATION SCHEMES

2011-2012	Blake Dawson / Ashurst Australia , Melbourne <i>Paralegal</i> Tax, Litigation
February 2012	Latham & Watkins , Hong Kong <i>Winter Associate</i> Dispute Resolution
January 2012	Cleary Gottlieb Steen & Hamilton , Hong Kong <i>Winter Associate</i> Corporate
February 2011	Hogan Lovells , Hong Kong <i>Winter Intern</i> Banking; Insolvency
January 2011	Norton Rose , Singapore <i>Vacation Clerk</i> International Arbitration
Jan-Mar 2009	United States Senate , Washington DC <i>Research Fellow (Senator Mike Crapo)</i> Communications; Legislation
January 2008	Littleton Hackford & D'Alessandro , Morwell, Australia <i>Summer Clerk</i>

EDUCATION

2013-2014	PCLL , <i>The University of Hong Kong</i> <ul style="list-style-type: none">• Sir Po-shing Woo Gold Medal in Law;• Jarvis & Kensington Prize; John Griffiths QC Prize
2007 – 2011	LLB (Hons) / BCom (Economics & Finance) , <i>The University of Melbourne</i> <ul style="list-style-type: none">• Deputy Dean of Law's Mooting Bursary (2010, 2011)• Dean of Law's Foreign Legal Research Scholarship (2009)• The Vice-Chancellor's Congressional Scholarship (2009)
2003 - 2006	VCE (ENTER: 99.55) , <i>Scotch College, Melbourne</i> <ul style="list-style-type: none">• Sir Douglas Little Memorial Scholar & Dux of Arthur Robinson House• Dux of Economics, English, History, International Studies

PUBLICATIONS

1. N Tam, 'Infrastructure Procurement after the Credit Crunch: A Guaranteed Future for PPPs in Australia?' [2012] 7(1) *European Procurement and Public Private Partnership Law Review* 30
2. S Anand and N Tam, 'Admiralty' in *Atkin's Court Forms: Hong Kong* (LexisNexis, 2015)
3. D Beaves and N Tam, 'Hong Kong' in *Aircraft Finance: Regulation, Security and Enforcement* (Sweet & Maxwell, 2015 & 2018)
4. S Anand and N Tam, 'Carriage of Goods' in Lexis Practical Guidance HK – Commercial (2017)
5. S Anand and N Tam, 'Cross-Border Trading' in Lexis Practical Guidance HK – Commercial (2017)
6. N Tam, 'Hong Kong' in *Aircraft Liens and Detention Rights* (Sweet & Maxwell, 2019)

BAR ADMISSIONS / PROFESSIONAL QUALIFICATIONS

- Supreme Court of Victoria, Australia (2015)
- High Court of Hong Kong (2017)
- Astana International Finance Court (2019)
- High Court of Australia (2019)
- Supreme Court of Norfolk Island (2019)
- Member, Chartered Institute of Arbitrators (2019)
- Associate, Hong Kong Institute of Arbitrators (2016)
- Member, Hong Kong Securities and Investment Institute (2020)

MOOTING AND DEBATING ACHIEVEMENTS

2011	National Champion, Sir Harry Gibbs National Constitutional Law Moot Champion, Melbourne Law School Senior Moot Champion, Melbourne Law School Paper & Oral Competition
2010	Grand Finalist & Best Oralist, Victorian Mooting Championship Quarter Finalist & 2 nd Best Oralist, Australian Mooting Championship Semi Finalist & Best Oralist, Red Cross International Law Moot
2011	Champion & Best Speaker, Freehills Melbourne University Debate Cup
2007	Quarter Finalist, Australian Interschool Debating Championship
2006	DAV State Swannie Award for Best Debater in Victoria
2005-2006	Victorian Schools Debating Team
2005	State Champion, DAV British Parliamentary Debating Championship

SELECTED CASES

Arbitration

1. A CIETAC arbitration concerning non-payment of the balance owing under a contract for the sale and purchase of steel cargoes and payments due under letters of credit
2. A HKIAC arbitration between Dutch shipowners and Chinese state-owned charterers concerning breach of the unsafe port warranty under a voyage charterparty on the Heavycon 2007 form
3. An ICC arbitration in relation to claims for an account of profits and breach of a shareholders' agreement pertaining to a retail franchising joint venture agreement
4. An LMAA arbitration concerning demurrage claims under a charterparty and the jurisdiction of the tribunal to determine the existence of a purported settlement agreement
5. An LMAA arbitration regarding the contractual validity of vessel nominations under back-to-back voyage charterparties
6. A series of LMAA arbitrations concerning claims for payment under on-demand corporate guarantees in respect of shipbuilding contracts and associated counterclaims for termination of the shipbuilding contracts on the grounds of design defects
7. A SIAC arbitration in relation to claims for payment under a contract for the sale and purchase of oil cargoes, including disputes as to jurisdiction and whether the contract was void for illegality.

British Virgin Islands

8. *China Life Insurance (Overseas) Co., Ltd v Li Xiaoming* (BVIHC(COM) 115/2019)
(enforcement of foreign judgment at common law; worldwide freezing injunction and stay of proceedings)
9. *China Luoyang Float Glass (Group) Co. Ltd v Pacific Garden Inc.* (BVIHC(COM) 60/2018)
(replacement of deceased trustee under the Trustees Act; resolution of adverse claims over trust property by a non-party to proceedings)
10. *Shenzhen Zhongke Growth Equity Investment Fund Partnership (LP) v Launcher International Holding Co., Ltd* (BVIHC(COM) 115/2019)
(Worldwide freezing injunction in support of claim for transfer of shares and rectification of the register of members on the basis of constructive or resulting trust)
11. *SSG v Castleman Management Ltd* (BVIHC(COM) 172/2019)
(winding-up on grounds of presumed insolvency; appointment of liquidators)

12. *Surapanthavanij Co. Ltd v Chen Bin* (BVIHC(COM) 120/2015)
(statutory basis of jurisdiction to impose a charging order over shares in a BVI company)
13. *Tang v Registrar of Corporate Affairs* (BVIHC(COM) 49/2019)
(restoration of dissolved company; beneficial purpose test where company does not own assets with monetary value)

Cayman Islands

14. *Adamas Global Alternative Investment Management Inc. v The Public Institution for Social Security for the State of Kuwait* (CICA 17, 26 & 27 of 2019)
(conversion of voluntary liquidation into supervised liquidation under s.131(b) of the Companies Law; extent of duty to give reasons for judgment)
15. *In re Asia Private Credit Fund Ltd (in voluntary liquidation)* [2019] 1 CILR Note 9
(conversion of voluntary liquidation into supervised liquidation where doing so will be more effective, economic or expeditious in the interests of the contributories and creditors)
16. *In re China CVS (Cayman Islands) Holding Corporation* [2019] 1 CILR 266
(arbitrability of shareholder dispute where minority shareholder petitions for winding-up on just and equitable ground)
17. *In re Greka Drilling Ltd* (FSD 222/218)
(interaction of *ex debito justiae* entitlement to winding-up order and court's discretion to adjourn petition to afford an opportunity for restructuring and settlement)
18. *In re Pacific Harbor Asia Fund I, Ltd (in official liquidation)* (FSD 139/2017, 6 May 2020)
(refusal of court sanction for sale of company assets by liquidators where majority of creditors object to the transaction and the preceding bidding process)
19. *Re Saad Investments Co. Ltd (in official liquidation)* (FSD 15/2010, 1 October 2019)
(court sanction of interim distribution notwithstanding competing and unsubstantiated proprietary claims to the liquidation estate)
20. *Tianrui (International) Holding Co. Ltd v China Shanshui Cement Group Ltd* [2019] 1 CILR 481
(just and equitable winding-up of solvent listed company on ground of loss of confidence in management; whether petition ought be struck-out where alternative remedy available)
21. *Wei v I-Mab* (FSD 109/2020)
(claim for specific performance or damages under employee stock option plan)

Hong Kong

22. *CSSC Huangpu Wenchong Shipbuilding Co., Ltd v Dry Bulk Services Ltd* [[2016\] HKCFI 2162](#)
(Worldwide *Mareva* injunction in aid of foreign arbitration concerning claims under a corporate guarantee in respect of a shipbuilding contract)
23. *Elite Dragon Ltd v Bel Global Resources Holdings Ltd* [[2017\] HKCFI 718](#); [[2017\] HKCFI 1247](#)
(rescission of convertible bonds issued by listed company on the fraudulent misrepresentation ground; damages for breach of fiduciary duty; variation of costs order)
24. *Mighty Palace Ltd v Tsing Yi North Coast Yacht Services Ltd* (HCA 920/2017)
(damage to a luxury yacht; damages claim in bailment; negligence; breach of contract; dispute as to incorporation of standard terms and enforceability of limitation of liability clause)
25. *Mohan Selvaraj v GMT Industrial Ltd* (HCCW 108/2017)
(just and equitable winding-up of solvent company on the loss of substratum ground)

26. *Mohan Selvaraj v Grace Ka Man O'Brien* [\[2019\] HKDC 387](#)
(summary judgment in respect of contractual and nuisance claims regarding water seepage in multi-storey building; mandatory injunction for remediation to remove the nuisance)
27. *Mohan Selvaraj v Registrar of Companies* (HCMP 2068/2018)
(rectification of the register of members; injunction to restrain minority shareholder from holding herself out as a director or authorised representative of the company)
28. *P Gopaldas Ltd v A S Watson Group (HK) Ltd t/a Fortress* [\[2015\] HKCFI 285](#)
(fire damage case concerning whether goods were negligently sold and/or of merchantable quality under the Sale of Goods Ordinance)
29. *Re Shanghai Huaxin Group (Hongkong) Ltd* (HCCW 126/2018)
(winding-up on grounds of presumed insolvency; appointment of provisional liquidators; adjournment of petition)
30. *Re Union Containership S.A.* (HCCW 246/2017, Master Lai)
(winding-up of unregistered foreign company)
31. *Ruland Manufacturing Co., Inc v Hinhinghang Trading Co., Ltd and Xiading Industrial Ltd* (HCA 1103/2018)
(proprietary claim in respect of international cyberfraud; proprietary injunction over recipient bank accounts; resolution of multiple garnishee orders with competing claims to the same fund)
32. *The MCC Jakarta and The Xin Nan Tai 77* [\[2017\] HKCFI 979](#); [\[2017\] HKCFI 2160](#); [\[2018\] HKCA 299](#)
(admiralty collision action between container ships in Chinese waters; award of indemnity costs and enhanced interest under sanctioned offer regime under RHC O.22)
33. *Tongli Samoa Shipping Co., Ltd v The Owners and/or Demise Charterers of the ship of vessel "V Gannet"* (HCAJ 58/2017, Master S. Lo)
(claim for charterparty debts; striking out of indorsement of writ on grounds of improper party)