

# Maw Shen Foo

## Senior Partner



Senior Partner

Singapore

D +65 6885 3607

mawshen.foo@dentons.com

## Overview

Foo Maw Shen is a Senior Partner in Dentons Rodyk's Litigation and Dispute Resolution and Arbitration practices.

Maw Shen is effectively bilingual in English and Chinese, and has over 20 years of extensive experience in commercial litigation, with particular emphasis on restructuring, insolvency litigation, shareholders' disputes, commercial fraud, trust laws and litigation involving gaming issues. His clients include banks, accounting firms, listed companies, venture capitalists and gaming operators among others.

Maw Shen's core practice areas complement that of the firm's corporate advisory teams - the collaboration of which ensures that legal solutions that best accord with the clients' commercial objectives and requirements are offered. Maw Shen has been extensively involved in the restructuring of various listed entities over the years. These include: Hua Kok International Ltd, Econ International Ltd, Wee Poh Holdings Ltd, Enzer Corporation Ltd, Ho Wah Genting International Ltd and Penton International Ltd.

Maw Shen has been involved in a number of high profile cases, including a recent case where the Singapore Court of Appeal adjudicated on issues concerning a company listed on the SGX, of financially assisting a purchaser's acquisition of its own shares. He was also involved in the successful defence of a US\$75 million claim for fraudulent conspiracy and acted for a liquidator in a successful claim (in excess of S\$50 million) for fraudulent/insolvent trading against the company's former directors.

## Experience

- **Confidential client:** Acting for a fund management company in proceedings brought by the Monetary Authority of Singapore for contravening Section 197(1) of the Securities and Futures Act - the first case of its nature in Singapore, whereby this provision was invoked by the Monetary Authority of Singapore, by way of civil proceedings.
- **Confidential client:** Successfully acting for a Las Vegas Casino and obtained an order from the High Court of Singapore to recognise and enforce a foreign judgment against a debtor in Singapore - the first case in Singapore whereby a foreign judgment founded on a gaming debt has been successfully recognised and enforced by Singapore Courts, based on common law. Issues that were adjudicated in the case included the

question of the limitation period applicable to foreign judgments which are sought to be recognised and enforced in Singapore. Reported at *Desert Palace Inc (doing business as Caesars Palace) v Poh Soon Kiat* [2008] SGHC 144.

- **Confidential client:** Successfully winding up a debtor company, for debts exceeding US\$4 million owed to the creditors. Issues considered by the High Court and the Court of Appeal included the governing law of contractual obligations (and the effect of illegality under foreign laws) and the requisite burden to be discharged by a creditor in seeking to wind up a debtor company without any judgment. Reported at *Re SY Technology Inc* [2007] 2 SLR 756 & [2008] SGCA 1.
- **Confidential client:** Acting for the first case to be decided by the High Court of Singapore on the scope and ambit of the defence afforded to a bankrupt under section 133 of the Bankruptcy Act, i.e. the defence of innocent intention to defraud. Reported at *Re Low Kok Heng* [2007] 4 SLR 183.
- **Confidential client:** Successfully acting for a company listed on the SGX against an allegation of financially assisting a purchaser's acquisition of its own shares under section 76 of the Companies Act. The Court of Appeal upheld the first instance decision - the first case decided by the Court of Appeal on the scope and ambit of section 76 of the Companies Act in recent years. Reported at *Re Wu Yang Construction Group* [2006] 4 SLR 451 & [2007] SGCA 55.
- **Confidential client:** Successfully resisting the appeal brought by OCBC to the Court of Appeal against the trial judge's finding that OCBC had breached an assets sale agreement. Principal issue considered by the Court of Appeal was the scope of a party's contractual duty to use reasonable endeavours to procure an outcome. Reported at *OCBC v Justlogin* [2007] 2 SLR 675.
- **Confidential client:** Acting for certain parties in resisting claims for a sum of US\$75 million brought by Mitco against various defendants for fraudulent conspiracy. Issues relating to fraudulent conspiracy, constructive trust and tracing (including the application for the first time in Singapore of the Twinsectra test, i.e. knowingly assisting a breach of trust) were considered. Reported at *Re Malaysian International Trading Corp Sdn Bhd (Mitco)* [2002] 4 SLR 537.
- **Confidential client:** Acting for the liquidator of a G8 construction company in the claim against its former directors for fraudulent and insolvent trading, in the sum of S\$53 million. Issues relating to the liquidator's right to trace the proceeds of the directors' wrongdoing were considered in detail by the Court of Appeal. Reported at *Re Tong Tien See Construction Pte Ltd (in liquidation)* [2002] 3 SLR 76; [2002] 3 SLR 241.
- **Sydney Casino:** Acting in the recovery of loans granted to a patron. The issues adjudicated by the High Court and the Court of Appeal included the novel issue of whether section 5(2) of the Civil Law Act precludes the Casino from successfully recovering on loans granted to the patron in Sydney. Reported at *Re Star City Pty Ltd* [2001] 3 SLR 206; [2002] 2 SLR 22.
- **Confidential client:** Successfully acting for the vendors in a litigation arising from the en bloc sale of properties valued at S\$25 million. The issues considered by the Court of Appeal included the novel issue of the power vested in the Commissioner of Charities to sanction a sale and purchase, under the terms of the Charities Act. Reported at *Re Chileon Pte Ltd* [2001] 2 SLR 223.
- **Various clients:** Acting in the restructuring of various listed entities including: Hua Kok International Ltd, Econ International Ltd, Wee Poh Holdings Ltd, Enzer Corporation Ltd, Ho Wah Genting International Ltd and Penton International Ltd.

## Recognition

- "Rodyk & Davidson LLP wins praise for its 'excellent grasp of law and commercial realities'. Foo Maw Shen is defending Pheim Asset Management against the Monetary Authority of Singapore in Singapore's first civil suit for alleged false trading."

# Insights

- Co-Author, "Emergency Reliefs In International Arbitration - A SIAC Perspective", *Rodyk Reporter - Arbitration Review* June 2012
- Co-Author, "Riddick And Harman: How Far Do They Go?", *Rodyk Reporter - Litigation Brief*, December 2010
- Co-Author, "Landmark High Court Ruling On US Judgment Against Singapore Gambler", *Rodyk Reporter - Litigation Brief*, December 2008

## Activities and Affiliations

### Appointments

- Fellow, Insolvency Practitioners Association of Singapore

### Presentations

- Concepts and Practices in International Arbitration, July 11, 2014
- SSBA 25th Anniversary & Spring Dinner cum Business Forum, February 21, 2014
- Legal Issues and Challenges for Chinese Investments into ASEAN, December 7, 2013
- A Comparison Of Arbitration Regimes: Singapore, Hong Kong SAR And Mainland China, August 14, 2013
- Tips For China Chengdu Companies To Conduct Arbitration In Singapore, August 14, 2013
- Tips For Chongqing Companies To Conduct Arbitration In Singapore, August 13, 2013
- Tips For Chongqing Companies To Conduct Arbitration In Singapore, August 12, 2013
- Talk On Personal Data Protection Act, January 25, 2013
- Doing Business In Overseas Forum 2012, November 22, 2012
- Seminar on Offshore Dispute Resolution By International Arbitration, June 1, 2012
- Present and Future Trends of CAFTA Trade In Goods, Services and Investment, September 26, 2011
- Latest Developments In International Arbitration - A Singapore Perspective, June 29, 2011
- The Legal Aspects And Tips Of Being Engineering Expert Witnesses, October 28, 2009
- Payments/Transactions Of An Insolvent Company That May Be Attacked, May 7, 2009
- Court Of Appeal Clarifies The Meaning And Scope Of 'Financial Assistance' Under s76, Companies Act, April 17, 2008

### Prior and Present Employment

- Senior Partner, Dentons Rodyk & Davidson LLP (formerly Rodyk & Davidson LLP), 2007 – present
- Yeo Wee Kiong Law Corporation, 2003 - 2007
- M/s Ang & Partners, 1999 - 2003
- Yeo Wee Kiong & Partners, 1998 - 1999

- Allen & Gledhill, 1992 - 1998

## Areas of focus

### Practices

- Arbitration
- Commercial Litigation
- Intellectual Property Litigation
- Litigation and Dispute Resolution
- Restructuring, Insolvency and Bankruptcy
- Securities and Shareholder Litigation

## Education

- National University of Singapore, 1991, LLB (Hons)

## Admissions and qualifications

- Advocate & Solicitor, Singapore, 1992

## Languages

- Chinese
- English