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Profession : Law



Academic & Professional Qualification(s) :

- LLB (Hons), National University of Singapore, 2nd Class Honours (Upper Division), 1990
- Advocate & Solicitor, Supreme Court of Singapore, 1991

Professional Membership(s):

- Vice-President, Maritime Law of Association of Singapore
- Principal Mediator, Singapore Mediation Centre
- Fellow, Chartered Institute of Arbitrators (FCIArb)
- Fellow, Singapore Institute of Arbitrators (FSIArb)
- Principal Lecturer and Subject Co-ordinator, Admiralty Practice, Singapore Institute of Legal Education
- Member, Promotions Committee, Singapore Chamber of Maritime Arbitration
- Member, Income Tax Board of Review
- Member, Advisory Board, Centre for Maritime Law, National University of Singapore
- Trainer, Law Society Advocacy Committee
- Counsel, Law Society of Singapore (disciplinary matters)

Career & Professional Experience:

- Head, Dispute Resolution, Rajah & Tann Singapore LLP
- Active arbitration practitioner with 25 years' experience as counsel

Legal Knowledge relating to Shipping, Arbitration Practice and Procedure:

- Please refer to **Annex A** for recent arbitration experience

Publications:

- Nil

Snapshot of Recent Arbitration Experience – Private & Confidential

1. Acted as counsel for the Claimants, sellers of a cargo of liquefied petroleum gas, in an international arbitration dispute governed by the Hong Kong International Arbitration Centre, which dispute arose out of a sale contract with the Respondents as buyers. The issues in dispute were whether the Respondents were in repudiatory breach for their failure to open a letter of credit; whether the Claimants were entitled to terminate the contract; whether the Respondents could rescind the contract as they said that the Claimants made actionable misrepresentations; and also, the quantum of damages because the Claimants claimed the compensation paid in settlement to their contractual sellers up the chain. This matter proceeded to an oral hearing in Hong Kong and a Final Award in the Claimants' favour was issued by the tribunal. The tribunal comprised Mr Alan Thambiyah (Chairman), Dr Michael Moser and Mr Anselmo Reyes.
2. Acted as counsel for the Respondents, a monorail system and train developer, in an international arbitration dispute governed by the SIAC Rules. The Claimants were designers appointed by the Respondents for 3 projects, making a claim for their outstanding fees and expenses. The Respondents made a substantial counter-claim and the issues included the design schematics provided by the Claimants were substantially unfit for their intended purpose, amounting to a total failure of consideration; whether the outstanding fees and expenses were incurred in accordance with the contract because there were significant overlaps and the work covered by these fees/ expenses was not authorised; and the quantum of damages of the Respondents' counter-claim because a substantial amount of rectification work was done in-house, and also, the Claimants alleged that the delay caused to the projects was due to other causes, not their deficient design. The tribunal comprised Professor Doug Jones (Chairman), Professor Sundar Rajoo and Mr Herman Jeremiah. I discharged myself from acting just prior to the oral hearing, after attending the exchange of all factual witness and expert witness statements.
3. Acted as counsel for the Respondents, owners of a fleet of bulk carriers, in an international arbitration dispute governed by the SCMA Rules. The dispute arose out of 40 separate shipments of the Claimants' sand cargo carried by the Respondents' vessels under a contract of affreightment. The Claimants made a despatch claim, whereas the Respondents made a demurrage claim as a counter-claim. The issues in dispute included the validity of the notices of readiness because the Claimants said that there were failures to give 24 hour ETA notices prior to arrival; whether a consequent 24 hours should be added to the laytime; whether there bad weather, crane breakdowns and vessel shifting interrupted laytime; and whether the quantum of the demurrage claimed by the Respondents was justified. This matter proceeded to an oral hearing and a Final Award in the Respondents' favour was issued by the tribunal. The tribunal comprised Mr Lawrence Boo (sole arbitrator).
4. Acted as counsel for the Respondents, owners and sellers of a tanker, in an international arbitration dispute with the Claimants, buyers of the tanker pursuant to a memorandum of agreement (MOA) governed by the SCMA Rules. The dispute arose because the Respondents cancelled the MOA due to the Claimants' failure to pay the purchase price in accordance with the MOA. The Claimants said that the Respondents were in breach of the MOA because they failed to tender a letter of non-encumbrance, which was a condition precedent to payment of the purchase price. The issues included the Claimants' right to insist on the letter of non-encumbrance; whether the Respondents waived their rights of cancellation; whether there was a valid legal assignment to the proper Claimant with title to sue; and whether the Respondents were entitled to their damages claimed or limited to the deposit. This matter proceeded to a hearing and a Final Award in the Respondents' favour

was issued by the tribunal. The tribunal comprised Mr Anselmo Reyes (Chairman), Mr Patrick O'Donovan and Mr Alan Thambiayah. I understand this was the only MOA dispute so far under the SCMA Rules.

5. Acted as counsel for the Respondents, who are owners of a tanker, in an international arbitration dispute governed by the SCMA Rules, which dispute arose out of a contamination of the Claimants' cargo, carried onboard the tanker pursuant to bills of lading issued under the charterparty. The issues in dispute included the Claimants' title to sue, as they were neither the shippers nor consignees; the cause of contamination, a technical issue because the Respondents maintained that the tanker was seaworthy in every respect and the source was due to the inherent condition of the cargo shipped; and also, the quantum of damages, because the Claimants could very well have refined the cargo instead of an outright rejection. This matter was settled amicably at a mediation just before exchange of witness statements. The tribunal comprised Mr GP Selvam and Mr Simon Davidson.
6. Acted as co-counsel alongside Mr Andrew Moran QC, for the Claimants who were salvors in an international arbitration dispute over the salvage remuneration due for the salvage of the Respondents' vessel, with cargo onboard. The dispute involved a common law salvage remuneration claim for the salvage of the Respondents' vessel in the Philippines. After a successful salvage, the Respondents refused to provide security and forcibly took re-delivery of the vessel without providing security and the Respondents breached a domestic court order for the detention of the salvaged vessel and cargo. The issues included whether the Claimants were entitled to their salvage claim and if so, what is the quantum of salvage remuneration; and whether the additional services' claim is justified under the Salvage Convention, and if so, what is the quantum due. This was a rare instance of a salvage arbitration being conducted outside of London. This matter was settled just before the hearing, after the exchange of Opening Statements. The tribunal comprised Mr Tony Goldsmith (Chairman), Mr Jaya Prakash and Mr GP Selvam.
7. Acted as counsel for the Respondents, sellers of natural gas condensate, in an international arbitration dispute governed by the Rules of the Kuala Lumpur Regional Centre of Arbitration. The dispute involved a sale contract on FOB terms between the Claimants as buyers and the Respondents, and the central issue was the rejection of the vessel when she called at the FSO for loading. It was a technical issue because the mooring equipment of the vessel was incompatible with the FSO's mooring chain. The issues included the compliance of the vessel's mooring equipment with industry standards set by OCIMF; whether the Respondents have waived any incompatibility because of their acceptance of the nomination of the vessel; whether the risk of rejection, due to an operational or safety reason imposed by the FSO operators, fell on the Claimants or Respondents; whether the Claimants suffered any recoverable losses as an alternative vessel was fixed to load the cargo. The tribunal comprised Sir Simon Tuckey (Chairman), Mr Stephen Males QC, and Mr Dominic Kendrick QC. This matter was settled after factual witness and expert witness statements were exchanged.
8. Acted as counsel for the Respondents, buyers, from Indonesia, of a cargo of US yellow soybeans in a trade arbitration conducted under the Rules of the Grain and Feed Trade Association (GAFTA). The Claimants, sellers gave notice of arbitration but failed to progress the arbitration and under the GAFTA Rules, unless claim submissions are served within 12 months of the notice of arbitration, the claim is deemed to have lapsed. At the same time, there were parallel Indonesian Court proceedings where the Respondents obtained a favourable judgment on jurisdiction to hear the dispute, and it was then that the Claimants decided to serve their claim submissions. The main issue before the GAFTA tribunal, comprising Mrs E Thomas (Chairperson), Mr B Leach, and Mr JS Smid, was whether the arbitration has lapsed, and if so, whether there was any justification to exercise its discretion to nevertheless permit the arbitration to continue. A Final Award in the Respondents' favour was obtained and the claim was dismissed.

9. Acted as counsel for the Claimants, owners of a vessel (a car carrier), in an international arbitration dispute governed by the SIAC Rules. The Respondents were a shipyard who effected repairs to the vessel and the nature of the dispute involved the work done by the shipyard. After completion, the vessel sailed to a load port, loaded a full cargo of cars, and then sailed for the discharge port. Whilst enroute, there was an explosion on the vessel and the vessel was disabled and had to be towed to Singapore. The issues included whether the Respondents were liable for negligent repairs in their failure to properly re-assemble an engine part, resulting in the dislodgement of the said part and causing an explosion when it impacted the crankshaft whilst in full operation; whether the conflicting expert opinion may be reconciled in support of the respective cases; whether the supervision of repairs, and eventual acceptance of the same by the Claimants' servants amounted to either an intervening act, or waiver of the Respondents' negligence; whether the Respondents' standard terms and conditions applied, either to exclude or limit their liability; whether there was contributory negligence; and lastly, the quantum of recoverable damages. A Final Award in the Claimants' favour was obtained after a hearing before the sole arbitrator, Mr Chelva Rajah.
10. Acted as counsel for the Respondents, buyers of a cargo of Indian yellow maize, in an international arbitration dispute governed by the SIAC Rules. The Claimants, sellers of the cargo, provided trading certificates in support of their contention that the cargo was on specifications, whereas the Respondents offered other evidence, as well as evidence of analysis done at the discharge port, to show that the cargo was off specifications. The issues included whether there was an agreement to terminate the contract due to the dispute over specifications; whether the Claimants' continued performance of the contract was in fulfilment of their independent decision to re-sell the cargo, and whether there should be recourse to the Respondents when the re-sale was aborted; whether the Respondents may challenge the findings of the surveyors who produced the trading certificates; and whether the Claimants suffered any recoverable damages. A Final Award in the Claimants' favour was obtained after a hearing before the sole arbitrator, Mr Jaya Prakash.
11. Acted as counsel for the Claimants, time charterers of the vessel, in an international arbitration dispute governed by the SCMA Rules, with the Respondents, owners of the vessel. The dispute was a speed and consumption claim which involved 26 voyages performed under the charterparty where the Claimants suffered losses as a result of the vessel's failure to achieve the stated speed of 11 knots. The main issue was whether there was an undertaking that the vessel would achieve the speed of 11 knots, and if so, whether the undertaking would apply throughout the period of the charter. It was decided as a preliminary issue by the sole arbitrator, Mr Vangat Ramayah that although there was such an undertaking, it was applicable at the commencement of the charter. The Respondents complied and the claim was dismissed.
12. Acted as counsel for the Claimants, owners of the vessel, in an international arbitration dispute governed by the SIAC Rules, with the Respondents, charterers of the vessel. The dispute was over the carriage of the Respondents' cargo of iron ore, and at the discharge port, the Respondents refused to pay the balance freight and also, the Claimants' exercise of their lien over the cargo at the discharge port. The issues included whether there was a concluded charter, and if so, what were the terms; whether the Claimants were entitled to exercise a lien over the cargo and if so, whether the lien was properly exercised; whether the Respondents were entitled to their counter-claim for losses due to cancellation of their sale contract, which losses arose out of the Claimants' lien over the cargo; whether the Respondents may claim additional charges due to crane breakdown and despatch earned at the load and discharge ports. A Final Award was obtained in the Claimants' favour after a hearing before the sole arbitrator, Mr Alan Thambiayah.