

Insolvency Litigation and Asset Recovery

Investigating, tracing and recovering assets, and pursuing claims that arise out of major corporate collapses and corporate fraud is LK's core area of expertise.

Working closely with liquidators and other experts, we investigate the causes of a company's loss, seek to protect assets and identify potential claims to enable the maximum return to creditors. Our experience includes investigations and actions around the world, and dealing with the often complex legal and logistical issues that arise in this context. Our core capabilities include obtaining urgent asset-freezing orders.

LK also has extensive experience acting for liquidators and receivers personally in various aspects of restructuring and insolvency law, including validity of appointment, international recognition of appointments, contentious creditors' meetings, disputes as to proofs of debt, and obtaining sanction and directions from the Court and/or creditor committees.

We bring highly developed forensic and financial skills to each project and use advanced litigation technology to maximise prospects of success.

Current Projects

Bell Group NV Litigation and Asset Recovery

Representing the Australian liquidator of Bell Group NV, a Netherlands Antilles incorporated company within the Bell Group, which collapsed with a deficit of more than AU\$1 billion, in claims against several banks. Conducted an appeal by Bell Group NV in the Western Australia Court of Appeal, increasing the compensation payable to the Bell Group from AU\$1.7 billion to AU\$2.8 billion. Litigation involving the proceeds of settlement between the creditors followed and in 2016 LK ran a successful challenge in the High Court to legislation introduced by the Western Australian Government (a creditor) purporting to confiscate all of the property of Bell Group. In September 2020 the outstanding litigation between creditors resolved following a successful global scheme of arrangement.

Al Gosaibi Family & Group ('AHAB')

Represented AHAB, a large group of companies run by the Al Gosaibi family, in their claims against Mr Maan Al Sanea and his Saad Group concerning his role in an alleged fraud resulting in losses exceeding US\$9 billion. Coordinated an international team of lawyers and forensic accountants to investigate the fraud and trace misappropriated assets. This involved working with local lawyers in Saudi Arabia, United Arab Emirates, Switzerland and the Cayman Islands, and liaising with foreign prosecutors and authorities in an effort to pursue criminal charges and use criminal powers of attachment and enforcement to recover assets. In addition, following the recent assent of Saudi Arabia's bankruptcy law, AHAB petitioned to enter into a Financial Restructuring Process (FRP) with its creditors. LK assisted with that application – one of the first successful petitions under the new law.

China Medical Technologies, Inc

Representing the Hong Kong and Cayman Island liquidators of China Medical Technologies, a NASDAQ listed medical technology company, which collapsed following the alleged theft of US\$500 million by senior management. A number of claims are being pursued or investigated by the liquidators, including claims for breach of fiduciary duty, negligence against directors, auditors and other advisors, and claims in dishonest assistance of those breaches of duty against two investment banks.

Western Desert Resources Liquidation

Represented the liquidators of ASX listed Western Desert Resources Ltd, a failed Roper Bar (Northern Territory) iron ore mining operation with creditors in the order of \$200 million and subsequent liquidator's avoidance actions including preference and insolvent trading claims exceeding \$100 million in total value.

Galleria

Representing the court-appointed liquidators of Galleria (Hong Kong) Limited, an international importer/exporter of home furnishing products, which collapsed with losses of at least US\$240 million following revelations of fraud committed by its directors. Conducted investigations, examinations and depositions in Hong Kong, the United States and Macau, and proceedings in Hong Kong against Galleria's former bankers alleging that they knowingly assisted the fraud.

Sino-Forest Corporation

Representing the litigation trustee of Sino Forest Corporation, which prior to its collapse was listed on the Toronto Stock Exchange and had reported plantation assets of US\$3 billion. The Company collapsed following the publication of a report by a short-seller alleging a multi-billion dollar fraud. LK is assisting with investigations into the alleged frauds, resulting in multi-jurisdictional claims against the former CEO and his associates, former auditors and a multinational firm responsible for valuing the purported timber holdings. Obtained Mareva injunctions against the former CEO in Ontario and Hong Kong.

China Forestry Holdings Co Limited

Representing the liquidators of China Forestry Holdings Co Limited and its subsidiaries, a multi-billion RMB forestry business listed on the Hong Kong stock exchange which was the subject of a massive fraud. LK is leading claims against the company's former auditor and the former CEO.

Completed Projects

Bond Corporation

Represented the liquidators of Southern Equities Corporation Limited, formerly Bond Corporation Holdings Limited, in investigations and litigation around the world, including actions against former auditors, directors and advisers, in Australia, England, the United States, Canada, Jersey, the Bahamas and Switzerland. The English Court of Appeal decision in this case (*England v Smith* [2001] Ch 419) remains one of the leading authorities on cross-border mutual assistance under the UK Insolvency Act.

The Kingate Funds

Represented the court-appointed liquidators of the Kingate Funds, the second-largest of the "feeder funds" to Bernard Madoff's Ponzi Scheme, which collapsed with losses of over US\$550 million. Conducted investigations in Bermuda, British Virgin Islands and the United States, culminating in proceedings in Bermuda against Kingate's auditors and promoters.

Great Southern Group

Represented the liquidators of Great Southern Group, which was Australia's largest publicly listed agricultural managed investment scheme prior to its collapse. Conducted comprehensive investigations into the claims available to the liquidators, including examinations of the group's former auditors and directors, which culminated in multiple proceedings, ultimately the subject of a successful mediation.

Akai Holdings

Represented the liquidators of Akai Holdings in multiple actions arising from one of Asia's largest corporate collapses. Brought actions for breach of fiduciary duty and misappropriation involving the former Chairman and CEO in Hong Kong, Bermuda and England. This litigation included a successful appeal to the Privy Council from the Court of Appeal of Bermuda, which is the leading Commonwealth decision on unconscionability and economic duress in a commercial context. At the trial the Defendant was held liable for numerous breaches of fiduciary duty, with the judgment sum exceeding US\$1.2 billion.

LK represented the liquidator in a successfully settled US\$500 million fiduciary duty and equitable fraud claim against a Hong Kong listed company and its directors over the stripping of Akai's assets and a US\$50 million banker liability claim for knowing receipt of trust assets in breach of fiduciary duty, succeeding on appeal in the Hong Kong Court of Appeal, which was the first time in Hong Kong a bank had been held liable to make equitable compensation in such circumstances.