



 House Williams Bowers

Employment Practice

June 2017

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Howse Williams Bowers is an independent Hong Kong law firm which combines the in-depth experience of its lawyers with a creative, forward-thinking approach.

About Us

Our key practice areas are corporate/commercial and corporate finance; commercial and maritime dispute resolution; clinical negligence and healthcare; insurance, personal injury and professional indemnity insurance; employment; family and matrimonial; property and building management; banking; financial services/corporate regulatory and compliance.

As an independent law firm we are able to minimise legal and commercial conflicts of interest and act for clients in every industry sector. The partners have spent the majority of their careers in Hong Kong and have a detailed understanding of international business and business in Asia.

The HWB partners and their teams have an excellent reputation for delivering high quality legal advice with a practical and commercial approach to solving legal issues in line with clients' commercial objectives.

We advise upon all aspects of the fast-changing contractual, common law and statutory law employment framework in Hong Kong which regularly include:

- Compromise agreements
- Confidential information and trade secrets
- Corruption
- Discrimination (marital status, disability, race and sex)
- Employee incentive schemes
- Executive bonus, share option and pension schemes
- Health and safety
- Hiring
- Industrial espionage
- Immigration
- Internal disciplinary proceedings
- Internal staff handbooks, policies and procedures
- Investigations
- Leave rights and entitlements
- Mandatory provident fund
- Minimum Wage Ordinance
- Personal data
- Post-termination restrictions (e.g. non-compete, non-solicitation, non-dealing, restrictive covenants etc.)
- Prevention of Bribery Ordinance
- Privacy
- Regulatory
- Reference letters
- Retirement schemes
- Springboard injunctions
- Termination and redundancies
- Transfer of business
- Union activity

Investigations

HWB employment lawyers are often involved in conducting external investigations into areas of suspected misconduct by employees and are skilled at extracting relevant information during the investigation process before devising practical, innovative and effective solutions.

Employment Dispute Resolution

HWB's team of experienced employment lawyers has a track record of success in conducting employment related claims on behalf of both employers and employees in both mediation and litigation. We strive to keep our clients out of court if at all possible by achieving practical, commercial and cost-effective solutions to often complicated and sensitive disputes in the employment arena. If however litigation is inevitable, we advise our clients behind the scenes in the conduct of proceedings in the Labour Tribunal (in which lawyers have no rights of audience) and before the District and High Courts in Hong Kong. We have particular experience in the conduct of applications for springboard injunctions.

Non-contentious Employment

HWB advises both employer and employee clients upon all aspects of drafting employment-related documentation and advising them upon the meaning and effect of contractual, common law and statutory employment issues in Hong Kong.

Training

HWB recognizes that having internal policies and procedures is only half of the battle for employers and that for those policies and procedures to provide maximum protection to employers, they must be implemented within the workforce. We therefore offer bespoke training courses to our employer clients in order to ensure that the implementation process is carried out as effectively as possible.

HR professionals should also benefit from our free quarterly lunchtime employment seminar series.

Awards

In 2013 HWB was awarded International Employment Law Firm of the Year in Hong Kong by Global Law Experts.



Kevin Bowers

Partner / Solicitor Advocate

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Kevin specialises in commercial, insurance and employment litigation and dispute resolution both in Hong Kong and internationally. He handles complex multi-jurisdictional commercial cases involving debt recovery, sale of goods, trade finance, media law, fraud, shareholder, joint venture, employment, property (including land rights disputes and building management / tenancy issues) and franchise disputes, contentions probate/trusts, asset tracing, injunction proceedings, jurisdictional challenges, public inquiries and judicial reviews.

He acts for both employers and employees in a wide range of contentious and advisory employment matters, and is experienced in advising upon and handling internal disciplinary investigations and proceedings.

Kevin acts for a wide range of commercial and residential landlords and tenants, as well as asset / building managers in high value property rights disputes and has successfully defended a claim for HK\$300 million arising from the competing uses of commercial properties in Hong Kong.

He is also experienced in professional indemnity, D&O liability and other general insurance and reinsurance-related claims.

His experience extends to defamation-related litigation and pre/post-publication advice to both printed and new media-based publications in Hong Kong and abroad.

Kevin is seasoned in conducting U.S. overseas depositions and is an advocate of alternative dispute resolution as well as an Accredited Mediator.

Kevin has represented major clients on important, high-value matters. He acted on behalf of Hong Kong's main cargo handler in *The Commission of Inquiry into the Opening of the Hong Kong International Airport* and for appellant insurers to the Privy Council in England. Kevin was also successful in obtaining one of the most far-reaching restraining orders worldwide from the Court of First Instance in Hong Kong and in representing a professional regulatory body before the Court of Final Appeal in Hong Kong in judicial review proceedings.

▼ Experience

2012 Howse Williams Bowers
2011 Reed Smith Richards Butler
2008 Richards Butler in Association with Reed Smith LLP
2006 Richards Butler, Hong Kong
1997 Deacons, Hong Kong
1995 Masons, Hong Kong

1990 Masons, London

▼ *Professional Qualifications*

1997 Hong Kong

1992 England and Wales

▼ *Professional Affiliations*

Solicitor Advocate

Accredited Mediator, Hong Kong International Arbitration Centre (HKIAC)

Member, HKIAC Mediation Council

Accredited Mediator, Law Society of Hong Kong

Accredited Mediator, Hong Kong Mediation Accreditation Association Ltd. (HKMAAL)

Associate Member, Association of Certified Fraud Examiners (ACFE)

Examiner, University of Hong Kong (1998)

Member, Professional Indemnity Advisory Committee, Law Society of Hong Kong

Member, Law Society of England and Wales

Member, Law Society of Hong Kong

Member, Hong Kong Insurers Club

Member, Hong Kong Insurance Law Association

▼ *Education*

1990 Guildford College of Law, CPE

1989 University of Bristol, LLB (Hons)

▼ *Reported Decisions*

- Red Sea Insurance Co. Ltd. v. Bouygues S.A. & 22 Others [Privy Council Appeal No.32/1993]
- The Law Society of Hong Kong v. Robert James Brook [FACV20/1998]
- Park Kit Investment Limited v. Tsang Kwok Fun t/a Dickie Tsang & Co. [HCA 4757/1998]
- Yeung Sai Ying by his lawful attorney Chan Mei Ching v. Kan Chung Nin Tony & Ho Chi Keung Raymond all formerly t/a Tony Kan & Ho [HCA 5963/2000]
- Benefit Charter Ltd. v. Kevin L.H. Kwong & Co. & Hung Chun Leung [HCA 4775/2000]
- Ray Chen v. Wan Ching Lam & Johnson Stokes & Master [2002] HKEC 704
- Great Honour Investments Ltd. & Wall International Investments Ltd. v. Ko Yin, Sino Global International Ltd. & Li Wong & Lam [HCA 298/2002]
- Kensland Realty Ltd. v. Whale View Investment Ltd. & Tam, Pun & Yipp [2002] 1 HCA 243
- Lee Shing Hong Ltd. v. Leon Ko & James Towliss (representative members or associates of the organization known as Greenpeace) [HCA 1741/2002]
- China United Holdings Ltd. & Large Investments Ltd. v. Johnson Stokes & Master [2005] HKEC 394
- All Link International Ltd. v. Ha kai Cheong & Another [2005] HKEC 881
- Wonderyouth Industries Ltd. v. China Great Wall Finance Co. [FACV 9/2005]

- Jae Hoon Oh v. Richdale [2005] 2 HKLRD / Chin & Another v Richdale & Another [HCPI 1887/2000]
- Chua Ming Yuen v. Hentron Investments Ltd. & Kwan Lai Hung and Kwan Lai Hung t/a L.H. Kwan & Co. v. Rowland, Chow, Chan & Co. & Hentron Investments Ltd. [2006] HKEC 263
- John Jude Monteiro v. Incorporated Owners of Block Nos. 41-44 Baguio Villa [2008] HKEC 1722
- Kwok Ping Sheung Walter v. Sun Hung Kai Properties Ltd & Others [HCA 857/2008 & CACV 145/2008]
- Nicholas Hill v. Alvarez & Marsal Asia Ltd. [HCA 56/2008 & HCMP 2461/2006]
- Cityability Ltd. v. Treasure Spot Investments Ltd. [2010] HKEC 148
- Re Wing Fai Construction Co. Ltd. [2010] HKEC 644
- Peter De Krassel v. Chu & Ors [HCA 1151/2005]
- Lehman & Co. Management Ltd. v Effiscient Ltd. & Another [2011] HKLRD 237
- Grant David Vincent Williams v Jefferies (Hong Kong) Ltd. [2013] HKEC 981
- Commissioner of Police v. i-CABLE Communications Ltd. [HCMP 119/2016]

▼ *Publications*

- Contributing Editor, Hong Kong Civil Procedure: "*Hong Kong White Book*" (2004-2018)
- Contributing Editor, *Hong Kong Insurance Law* (2003 & 2009)
- Contributing Editor, *Halsbury's Laws of Hong Kong: Volume 15(1) Insurance* (2007)
- Exclusive Contributor (Hong Kong), *International Law Office: Insurance* (2006 - 2017)

▼ *Professional Recognition*

Firm

- Hong Kong Law Firm of the Year - 2014 Chambers Asia Pacific
- HWB's commercial dispute resolution, insurance and employment practice groups are consistently ranked by Asia Pacific Legal 500 and Chambers Asia Pacific

Self

- Kevin is consistently recognised as a leading commercial dispute resolution, insurance and employment lawyer by Asia Pacific Legal 500, Chambers Asia Pacific, Global Law Experts, Asialaw Leading Lawyers and Euromoney's Legal Who's Who Hong Kong



Michael Withington

Partner

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Michael is experienced in a wide range of commercial litigation, including shareholder disputes involving both listed companies and high-profile private companies (many of which involve a cross-border element). He has also acted in litigation involving financial services institutions (including mis-selling claims and negligence claims), claims involving directors, and disputes over asset acquisitions.

A large part of Michael's practice at Howse Williams Bowers involves contentious employment matters (acting for both employers and employees), including claims over termination and remuneration, enforcement of post-termination restrictions, discrimination claims and partnership disputes. He advises employers and statutory bodies on internal investigations and disciplinary proceedings, and has represented a number of individuals in SFC investigations. He also has significant experience in conducting and defending judicial review proceedings.

Michael also has extensive insurance experience, particularly in relation to the defence of professional negligence claims and advising on coverage issues. He has been a panel solicitor for the Hong Kong Solicitors Indemnity Scheme since 1998, and has represented both local and international law firms in connection with a broad range of claims.

▼ *Experience*

2015 Howse Williams Bowers
2012 Gall
2002 Herbert Smith Freehills
1998 Wilkinson & Grist
1994 Haldanes

▼ *Education*

1987 The University of Sydney, LLB

▼ *Professional Qualifications*

1994 Hong Kong
1994 England and Wales
1987 New South Wales, Australia

▼ *Professional Affiliations*

Member, Law Society of Hong Kong

▼ *Reported Decisions*

- Philippe Delhaise v Ng & Co & Erving Brettell [HCA 10165/2000; CACV 386/2003]
- Mimi Monica Wong v Mirko Sacconi [HCA 2061/2004]
- Pat Bobby Ying Ho v Hong Kong Solicitors Indemnity Fund Ltd [HCCT 40/2004]
- Michael John Treloar Rowse v The Secretary for the Civil Service, The Chief Executive & The Chief Secretary for Administration [HCAL 41/2007]
- GFI (HK) Securities LLC v Kang Gyong Hee & ICAP Equities Asia Ltd [HCA 451/2015]

▼ *Professional Recognition*

Michael is currently ranked by Chambers Asia as a Band 2 employment lawyer and a Band 3 insurance lawyer. Comments include:

2017: "He has a cool, calm demeanour. We use him during a crisis."

2015: "a seasoned operator"
"a very good litigator - very experienced and steady"

2014: "is an experienced litigator who certainly knows his stuff; gives clients sensible and considerate advice."
"He is particularly adept in restrictive covenants, partnership disputes and investigations by local regulators"

2013: "very quick and very clear on providing advice" ... "his immediate response and technical support are always available"

2012: "good judgement and great technical skills"... "is a seasoned practitioner for commercial litigious matters on labour issues"

2011: "has deep rooted experience in employment litigation"



Patricia Yeung

Senior Associate

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Patricia has focused on employment law since qualifying as a solicitor in 2011, and her experience in employment matters is now widely recognised in Hong Kong. Since joining HWB from another independent firm in 2015, Patricia has headed HWB's employment team under the overall supervision of Kevin Bowers and Michael Withington.

Patricia regularly advises employers and senior executives on both contentious and non-contentious employment matters. Her practice covers a wide range of work, including drafting employment contracts, handbooks and policies, terminations and advising upon the enforcement of post-termination restrictions and confidentiality obligations. She and her team frequently advise on the employment aspects of M&A deals and business transfers. Many of her clients operate in the financial services sector, and she frequently negotiates exit packages in relation to high-level employees of banks, brokerages and insurance companies. Patricia also advises upon the employment issues arising from discrimination and harassment, personal data related matters and immigration issues (including prosecutions). She also has experience in assisting employers and employees during the conduct of internal investigations and discrimination/harassment complaints.

Patricia has an in-depth knowledge of the Labour Tribunal, having assisted parties involved in Labour Tribunal proceedings for several years. She has also represented both plaintiffs and defendants in High Court actions involving substantial claims for unpaid bonuses, enforcement of restrictive covenants and claims for injunctive relief in Hong Kong, including applications for injunctive relief. She also advises clients on licencing issues and regulatory investigations involving the SFC and the HKMA.

▾ *Professional Recognition*

Patricia has been ranked by Legal 500 as a Next Generation Lawyer in 2017 and by Chambers Asia as an Associate to Watch from 2015-2017. Comments include:

2017: "She's very impressive and practical"

2015: "She's great; she knows what the situation with the case is all the time. She's very on the ball, really tough and really smart."

Patricia has also been listed in the Labour and Employment section of the 2017 edition of Who's Who Legal.

▼ *Experience*

2015 Howse Williams Bowers

2008 Gall Solicitors

▼ *Education*

2008 The University of Hong Kong, Postgraduate Certificate in Laws

2007 Cardiff University, Master of Laws in Commercial Law

2006 BPP Law School, Legal Practice Course

▼ *Professional Admissions/Qualifications*

2011 Hong Kong



Betty Lee

Associate

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Betty focuses on advising international corporations, small and medium companies and individuals upon contentious and non-contentious employment-related matters.

Betty's practice covers a wide range of work, including compensation and benefits, employment protection, payment on completion and termination of contracts of employment and preparing employment agreements, handbooks, policies, consultancy agreements and secondment agreements. She also regularly advises on the employment aspects of corporate restructuring including share and business transfers and amalgamations. She also advises on immigration and data privacy matters.

Betty is experienced in handling employment disputes, particularly claims involving discrimination or deferred compensation. She often assists parties who are involved in Labour Department investigations, Labour Tribunal proceedings, and complaints to the Equal Opportunities Commission and to the Office of the Commissioner for Personal Data Privacy. She also represents parties engaged in employment disputes in the courts.

▼ *Experience*

2014 Howse Williams Bowers
2011 Ribeiro Hui

▼ *Professional Admissions\Qualifications*

2013 Hong Kong

▼ *Education*

2011 The University of Hong Kong, Postgraduate Certificate in Laws
2010 The University of Hong Kong, Master of Laws in Chinese Law
2009 London School of Economics and Political Science, Bachelor of Laws



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