

FLEUR O'DRISCOLL

S O L I C I T O R / A T T O R N E Y



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Hong Kong and the Cayman Islands



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EDUCATION

1999 - 2002

Bachelor of Civil Law (BCL)
University College Dublin
(2.1 Honours Degree)

2004

Masters of Law
Trinity College Dublin
(1st Class Honours)

2008

Solicitor, Law Society of Ireland Professional
Practice Course (Qualified on 26 December
2007 with admission on 2 April 2008)

2010

Solicitor, England and Wales
(Admitted on 15 September 2010)

2011 / 2019

Attorney, Cayman Islands
(Admitted on 12 May 2011 and 8 August
2019)

2013

Solicitor, British Virgin Islands
(Admitted on 13 March 2013)

2019

Attorney, New York
(Admitted on 20 November 2019)

PROFILE

- ❖ Cayman Islands, BVI, England & Wales, Ireland and New York qualified attorney with over 16 years' post-qualification experience.
- ❖ Specialist in (i) offshore contentious insolvency and (ii) commercial litigation with an emphasis on complex cross-border disputes and listed company/shareholder disputes.
- ❖ Substantial offshore experience working for top tier offshore firms in the Cayman Islands, Hong Kong and BVI.
- ❖ Ranked in Legal 500 (offshore Hong Kong) as a Next Generation Partner.
- ❖ Accomplished presenter – frequently delivering continuous professional development lectures to Hong Kong solicitors covering topics such as (i) the Cayman Islands restructuring officer regime and (ii) recognition of and assistance to foreign liquidators and receivers in the BVI and Cayman Islands.

EXPERIENCE

June 2019 – Present

Forbes Hare (Cayman)/Forbes Hare (Hong Kong) LLP

Partner – Litigation and Insolvency (Senior Associate between June 2019 and December 2021)

I am a partner in Forbes Hare's Cayman Islands and Hong Kong offices where I specialize in Cayman Islands cross-border insolvency and complex commercial disputes. Having assisted in the establishment of Forbes Hare's Hong Kong office in 2022, I am responsible for managing all Cayman Islands insolvency matters and Cayman Islands disputes work in Asia. This involves liaising with colleagues in London, Singapore and the Cayman Islands, managing a team of associates across multiple time zones and coordinating cross-border proceedings in multiple jurisdictions.

Examples of matters:

- Acting on behalf of and advising the joint and several liquidators of China Evergrande Group (a Cayman Islands incorporated company listed on the Stock Exchange of Hong Kong Limited) regarding issues of Cayman Islands law that have arisen in the context of the ongoing Hong Kong liquidation of that company.
- Acting on behalf of and advising the interim liquidator of a Labuan bank regarding a dispute as to the identities of the proposed liquidators of a Cayman Islands subsidiary of the bank and successfully securing the appointment of the liquidators proposed by the interim liquidator of the Labuan bank.
- Advising parties impacted by the recent Crypto winter, including (i) Kelly Chen, the wife of one of the co-founders of Three Arrows Capital (in Liquidation) and (ii) the project management of litigation in Antigua on behalf of a creditor client against Sam Bankman-Fried and an Antiguan company, Emergent Fidelity Technologies Limited.
- Advising a shareholder in respect of a just and equitable winding up petition presented against a Cayman Islands incorporated company listed on NYSE, including an application for the appointment of provisional liquidators on the grounds of mismanagement/dissipation of assets.
- Advising a shareholder in respect of a just and equitable winding up petition presented against a Cayman Islands incorporated company listed on NASDAQ involving a multi-billion dollar fraud claim and the appointment of provisional liquidators.
- Advising a Cayman Islands hedge fund in a claim against its former investment manager for breach of fiduciary duty and a related damages inquiry claim following the dismissal of a winding up petition against the hedge fund and the discharge of provisional liquidators from office. The value of the claim is in excess of US\$1 billion.

January 2017 to March 2019

Harney Westwood & Riegels, Hong Kong (“Harneys”)

Associate/Senior Associate – Litigation, Insolvency and Restructuring

At Harneys, I had conduct of, and was involved in, a wide range of contentious insolvency proceedings and high value commercial disputes.

Examples of matters:

- Advising the Cayman Islands subsidiary of a Thai listed company regarding efforts by a vulture fund to wind it up, including obtaining expert evidence of Swiss law regarding the limitation period applicable to Swiss notes dating from the 1997 Asian debt crisis.
- Advising the four joint liquidators of a BVI company with indirect shipping interests in Hong Kong and China regarding their powers and duties generally, funding issues and dealing with a contentious directions application issued by a disgruntled stakeholder seeking to compel the liquidators to pursue a particular course of action.
- Advising a Chinese bank regarding enforcement of a US share pledge over shares in a Cayman Islands company in circumstances where the original security pertained to shares in a Californian company which merged with the Cayman Islands company, and thereafter ceased to exist, including steps to join rectification proceedings in the Cayman Islands.
- Advising Chinese companies regarding fair value appraisal litigation following take-privates and de-listing from NASDAQ/NYSE, including discovery, litigation strategy, steps to enter fresh evidence post-trial and appeal options.
- Advising shareholder activists seeking to take control of Hong Kong listed companies and advising companies trying to resist such steps, including advising on proxy battles generally, procedural issues at general meetings and attending contentious AGMs and EGMs on a regular basis.
- Advising the special committee of a US listed, Cayman Islands company regarding potential injunctive proceedings from shareholder activists seeking to prevent a spin-off of subsidiaries.
- Advising creditors of BVI companies regarding enforcement options, including the service of a statutory demand, applications to set aside such demands and applications to appoint a liquidator.

May 2011 to March 2015

Mourant Ozannes

Associate, Commercial Litigation and Insolvency

I moved offshore (to the Cayman Islands) in 2011, joining the commercial litigation and insolvency department at Mourant Ozannes.

Examples of matters:

- Advising a Middle Eastern bank and its Cayman Islands subsidiary with indebtedness in excess of US\$2.5 billion regarding restructuring options including acting on the subsidiary's behalf in presenting a winding up petition and obtaining the appointment of joint provisional liquidators simultaneously with the filing of parallel Chapter 11 proceedings in the US.
- Advising and acting on behalf of the Cayman Islands subsidiary throughout the provisional liquidation/Chapter 11 proceedings including seeking court approval for the disposition of assets, the agreement of a joint protocol governing the parallel proceedings, the provision of debtor-in-possession financing/re-financing and obtaining Cayman Islands Court approval for the US plan of reorganization.
- Advising the joint official liquidators of two Madoff feeder funds and, in particular, dealing with proceedings issued by the US Trustee, Irving Picard, against one of the funds, restatement of NAV issues and the enforceability of redemption claims against the funds.
- Advising the joint official liquidators of a number of Cayman Islands funds generally and, in particular, in respect of directions hearings to determine the priority as between redemption creditors and members and the requirement to restate NAV.
- Advising the joint receivers appointed to a number of companies which owned a luxury Cayman Islands hotel and resort. The advice covered the validity of their appointment and the impact of the appointment on existing contracts, claims against directors, litigation with related parties, the sale of the property and legal advice regarding the management of the companies on a daily basis.
- Assisting a foreign regulatory commission in obtaining evidence from a witness in the Cayman Islands by way of letter of request for use in US proceedings and advising on the extent to which this constituted the enforcement of foreign penal or revenue laws.

April 2005 to September 2010

Mason Hayes and Curran

Trainee Solicitor (April 2005 to December 2007)

Solicitor, Commercial Litigation and Insolvency Department (January 2008 to September 2010)

Mason Hayes and Curran is a leading commercial law firm in Ireland with 120 partners and in excess of 600 members of staff. I trained there between April 2005 and December 2007, qualifying into the Commercial Litigation and Insolvency Department at the start of the Great Financial Crisis.

A substantial part of my work involved advising debenture holders regarding the appointment of a receiver to companies holding diverse assets including hotels, a private members club, property developments and commercial and residential property portfolios with values between €10 million and €100 million. As part of this work, I then advised the receivers regarding the realization of those charged assets and ancillary advice.