

RUNDELL, John Warwick 尹約翰

BE, B Ec, MBA, LL.M, DipICarb, FHKICPA, FCPA, FCA, FCIArb, FRIArb2, AdvMed, NMAS, FAICD, PCI-QSA (Qualified Security Assessor), PCI-FI (Forensic Investigator), ISO27000 Series Lead Auditor

Professional Qualifications:

Chartered Accountant, Member of the Institute of Chartered Accountants in Australia and New Zealand

Certified Practising Accountant, Fellow Australian Society of Certified Practising Accountants
Qualified Security Assessor (QSA) and Payments Forensic Investigator

Registered Tax Agent, Australia

Registered Accountant Hong Kong

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Fellow of the Hong Kong Institute of Certified Public Accountants

Fellow of the Chartered Institute of Arbitrators

Fellow of the Resolution Institute (formerly Institute of Arbitrators and Mediators Australia "IAMA")

Fellow of the Australian Centre for International Arbitration

Professional Engineer, Australia

AUSTRALIAN ADDRESS:

John Rundell & Co./Stratica Asia

PO Box 18327

Collins Street

Melbourne Victoria 8003

Australia

Phone: +613 9660 5701

Mobile: +61 419 568 506

HONG KONG OFFICES:

Stratica Asia Limited

Room 1611, 16/F., Phase 1, Austin Tower,

22-26 Austin Avenue,

Tsim Sha Tsui, Kowloon, Hong Kong

香港九龍尖沙咀柯士甸路22-26號好兆年行16樓
1611室

Phone: +852 36158645

Fax: +852 3598 2951

Email: john@johnrundell.com

Website:

www.johnrundell.com:

www.stratica.asia

Australian Passport Holder and permanent resident of Hong Kong

Date of Birth: 24 April 1958

Academic Qualifications:

Bachelor of Engineering, the University of Adelaide

Bachelor of Economics, the University of Adelaide

Master of Business Administration, the University of Melbourne

Master of Laws – Global Business Law, La Trobe University

Professional Certificate in Arbitration, University of Adelaide Law School

Diploma in International Commercial Arbitration, The Chartered Institute of Arbitrators/Oxford University

Professional ADR body engagement

Chartered Institute of Arbitrators – Audit Committee since 2017

Former Councillor and Treasurer Institute of Arbitrators and Mediators (now Resolution Institute)

Committee member of the Arbitration and Determinative Dispute Resolution Professional Development Group of the Resolution Institute. Since inception 2015.

Dispute Resolution Training and Experience:

Training

- Professional Certificate in Arbitration Advanced (with Distinction)
University of Adelaide Law School
- Diploma in International Commercial Arbitration
Oxford University with the Chartered Institute of Arbitrators
- Professional Mediator Training Parts 1 and 11
- Accord Group in HK meeting the training requirements of Hong Kong International Arbitration Centre (HKIAC)
- The Institute of Arbitrators and Mediators Australia (IAMA) - Workplace Relations Alternative Dispute Resolution (ADR) Training April 2006
- Master Class in Arbitration, every 2 years since graded including 2019 - IAMA/Resolution Institute
- ICC Masterclass for Arbitrator's March 2013 Hong Kong

Arbitration. Mediation. Expert Determination and Court Expert Experience:

NOTE: Mr Rundell is a senior chartered accountant in public practice with multi-jurisdictional experience across Asia and globally with extensive expertise experience in ADR. On occasion, legal qualifications alone may not be sufficient for selecting a dispute resolver when financial and accounting matters form an integral element of the dispute. An accountant with ADR expertise can apply a principles-based approach with professional judgment to apply relevant accounting standards and policies to the accounting and finance matters in dispute.

ADR Panels

- Graded Arbitrator, Resolution Institute (formerly IAMA)
- Accredited Experienced Mediator, Resolution Institute (formerly IAMA)
- Hong Kong International Arbitration Centre Mediation Panel (since 2006)
- Hong Kong International Arbitration Centre, accepted to Panel of Arbitrators (November 2006 to 2013) with application to re-join pending as at June 2020
- Australian Centre for International Commercial Arbitration - Arbitration and Mediation panels (ACICA Fellow)
- Australian Disputes Centre – Panel of Arbitrators, Panel of Mediators, Panel of Expert Determiners
- Resolution Institute – Panel of graded Arbitrators, Panel of Experienced Mediators, Panel of Expert Determiners
- IP Australia panel of Mediators (Patents and trademarks office)
- Panel of Arbitrators Asian International Arbitration Centre (formerly Kuala Lumpur Regional Centre for Arbitration)
- Cairo Regional Centre of International Arbitration
- CIETAC Beijing (until 2018)
- Shenzhen International Arbitration Centre
- Kigali International Arbitration Centre (Africa)
- IAMA Workplace Relations Panel of ADR Providers for Arbitration of Workplace Disputes
- IAMA Workplace Relations Panel of ADR Providers for Mediation and Conciliation of Workplace Disputes
- Accelerated Dispute Panel: Partnerships Victoria Correctional Facilities (Victorian Correctional Infrastructure Partnership) and the Department of Justice
- Panel Mediator, Australian Industrial Relations Commission.

Relevant Arbitral Experience (Examples of the type and scale of Arbitrations conducted)

- AAA (ICDR) International arbitration on a 3-member panel involving a major international chemical and agricultural company (NYSE 50 company) and major Australian listed company importing, distribution and international manufacture of Agricultural chemicals. The arbitration was conducted over 18 months. Nominated by ICDR through ACICA.

Role: Member of 3-person Tribunal **Value of Claim:** \$120 million

- Arbitration involving the partnership dissolution of a major second-tier Chartered Accounting firm. Multiparty 3 equity (partners) dispute involving over 30 points of claim. The dispute related to transfer of clients, tax matters, trust distributions, property, and the amount in dispute exceeded \$1 million. Duration to completion 12 months with multiple directions hearings and subsequent consent orders. Nominated by the Resolution Institute.

Role: Sole Arbitrator **Value of Claim:** \$1 million

- Arbitration of a dispute over an exiting shareholder of an IT company. The dispute related to arbitrability under the shareholders deed; value of the company; payment and obligations under shareholders deed; and timing of exit of a director and significant shareholder. Nominated by Chartered Accountants ANZ.

Role: Sole Arbitrator **Value of Claim:** Dispute value in excess of \$1 million.

- An Arbitration as to the value of the shares in a software distribution and development company subject to ongoing patent disputes and litigation in the US. Ad-hoc Arbitration appointed jointly by the parties.

Role: Sole Arbitrator **Value of Claim:** Dispute value in excess of \$10 million.

- An arbitration relating to traded iron ore from India to China. Nominated by HKIAC. The dispute related to the reliability of supply and variation in quality and consistency of bulk shipments.

Role: Sole Arbitrator **Value of Claim:** \$10M

- Tax Assessor Arbitration of a GST payments liability under a long term non-reviewable contract (Long-Term Non-Reviewable Contracts Act 2005 Cth). The amount of rent payable annually was in dispute under a long-term lease between a major Australian retailer and Shopping Centre group, with the retailer being the major tenant in a significant suburban shopping complex.

Role: Sole Assessor Arbitrator **Value of Claim:** Contract in dispute with annual rental exceeding \$5 million per annum.

- Arbitration over the disputed value of shares in an IT training and accreditation company with the majority shareholder seeking to buy out a minority shareholder with around 30% of the shares.

Role: Sole Arbitrator **Value of Claim:** \$3 million

- Technical Expert to 6 major Arbitrations known as the “Casualties of Telecom Cases”, one of Australia’s most protracted arbitration processes over 3 years in which I ran an Expert Resource Unit which carried out all technical evaluations for The Telecommunications Industry Ombudsman and presented findings in a suitable form for their use by the Arbitrators in their deliberations.

Relevant Mediation Experience (Examples of the type and scale of Mediations conducted)

- Mediation of a Financial Planning practice tied to a major Financial Institution under a Buyer of Last Resort buyback arrangement. Appointed by Australian Dispute Centre
Role: Sole Mediator **Value of Claim:** Confidential

- A multiparty dispute over property in Hong Kong. The matter had not been resolved after four years of Court proceedings despite two High Court cases (subsequently consolidated). The matter was resolved with an intense two-day mediation session. Conducted under Practice Direction PD31
Role: Sole Mediator **Value of Claim:** Approximately \$200MHKD

- Mediation of a dispute as to scope, variations and interface responsibilities for an IT software development covering a Core Systems Replacement and upgrade. The project involved a major Government Department and an International listed Systems Development and Consulting Group. Development costs exceeding \$50 million Australian over 3 years. Successfully mediated and resolved with project continuing to completion.

Role: Sole Mediator **Value of Claim:** Approximately \$2 million of variations and issues, as to scope of deliverables.

- Mediation of a Construction dispute involving a multistorey residential Tower building close to the city of Melbourne. There were three aspects to the dispute being: risk allocation on contaminated soil discovered on site; latent conditions – both the discovery and foreseeability of the discovery and mitigations costs, authority compliance and whether this precluded a valid variation. The dispute was settled with an innovative use of a binding private judgment within the mediation from a chosen expert who provided a reasoned opinion that allowed the mediation to recommence and be resolved in a further half day hearing.

Role: Sole Mediator **Value of Claim:** Approximately \$2 million

- An international multiparty mediation held in Hong Kong at HKIAC over three days between parties based in London, Singapore, and Hong Kong in relation to investment-linked insurance policies purchased through a broker/financial adviser. There were two separate HK High Court cases associated with this dispute. A successful resolution was achieved by Mediation.

Role: Sole Mediator **Value of Claim:** Approximately US\$5 Million.

- Mediation of a shareholder dispute as to value and exit of a 50% shareholder in a long- established family owned Plumbing and Construction Group. The matter involved disputes as to the value of the Company having regard to (Work in Progress, future prospects, litigation and construction disputes pending, and method of valuation), trust distributions, sale of shares in associated companies, settlement and repayment of shareholder loans. The matter was resolved with a comprehensive mediation. Settlement Agreement signed by the parties.

Role: Sole Mediator **Value of Claim:** Under \$2 million

- A significant mediation between two major International Banks. The mediation was associated with the sale of a major Asian/Indian bank and the ongoing requirements for use of the selling Bank's core banking applications and IT infrastructure.

Role: Sole Mediator **Value of Claim:** \$100 million, being \$35 million per annum over a three-year contract and as part of a \$1,800 million USD bank acquisition. Successful resolution achieved.

- A Mediation involving the delivery of HR training services by an external service provider to a major bank, and a dispute as to the selection, operation, and performance of the services across a number of divisions of the bank.

Role: Sole Mediator **Value of Claim:** approximately \$2 million.

- Other mediations in the Banking sector associated with Outsourced and Services Agreements between Banking divisions and External Service Providers.
- A Mediation in relation to relief regarding termination of employment under S.17O CE (1) of *The Workplace Relations Act 1996* (Commonwealth). Successfully Mediated with a Deed of Resolution signed.

Role: Mediator (Industrial Relations Employment Related) Sole Mediator Nominated by Australian Government - Australian Industrial Registry **Value of Claim:** Not applicable as Employment Related Issues.

Expert Determinations (Examples of the type and scale of Determinations conducted)

Over twenty Expert Determinations conducted relating to diverse matters from remuneration of executives, airport aircraft handling, Sale and Purchase of Shares Agreements, systems development disputes, partnership valuation disputes, shareholder valuations including for minority shareholdings including appointments as sole court expert and party appointed expert in Supreme Court cases in both NSW and Victoria. (Examples in following section)

- Binding Expert Determination for medical practice to value the goodwill in a partnership with a retiring partner and four continuing partners. Valuation of practice exceeded \$5M excluding land and buildings. The urgent binding determination was made within six weeks and completed immediately prior to the end of financial year allowing the change in ownership within the partnership to be completed.
- Determination under an Executive Short-Term Incentive Plan (STIP) for a major Financial Institution and Funds Manager and an executive director in relation to a \$1 million bonus and redundancy payment. The matter was resolved by a binding determination made within four months of appointment.
- Binding Determination of a Dispute relating to the completion accounts of a Sale and Purchase of Shares Agreement for airport ground handling operations at two major international airports and involving the divisions of two major international companies, both listed on the London Stock Exchange.
- Binding Determination in relation to the working capital requirements and implication on the consideration under a share sale and purchase agreement for a mining equipment manufacture operating in Australia and New Zealand. The determination was made within five months of commencing.

- A Binding Determination on the adjustments needed to the completion accounts for a specialist importer distributor and machinist of engineering plastics and heavy engineering equipment including brakes and clutches. The dispute was under share sale and purchase agreement and the completion accounts established the final consideration for the sale of the business.

Court appointed Expert Witness and Court Expert Reports (Examples of the type and scale of appointments)

- Single Court appointed expert to value the shares in a large private company providing dealership software and hosting services to motor vehicle, marine and motorbike distributors and dealerships, Value of shares exceeded \$6M. Supreme Court of New South Wales
- Party appointed accounting expert to determine the income and expenditure of a portfolio of leased commercial properties forming part of a disputed family estate. Assessment over a period of 8 years with multiple properties. Supreme Court of Victoria
- Party appointed Expert in a case in the Supreme Court of Victoria to ascertain the validity of Contract tender documents provided for an IT Outsourcing Contract valued at around \$10 million per annum. The case was IPEX Ltd V Melbourne Water. VSC 383. The judge relied upon the Expert report in issuing his Judgment.

Career:

2003 to present	<p>Managing Partner, John Rundell & Co. - Chartered Accountants and ADR specialists</p> <p>Managing Director, Stratica Australia Pty Limited, and Stratica Asia Limited – Cybersecurity and Qualified Security Assessors and Payment Fraud Investigators</p> <p>Former Chair Audit and Risk Committee Department of Environment and Primary Industries, (until October 2016).</p> <p>Board member Film Victoria</p> <p>Member ICC Banking techniques and standards committee</p> <p>Former director for multiple terms of Victorian Water Authority.</p> <p>Former Director Film Victoria</p> <p>Chair of the Risk and Audit Committees of Victorian Government Departments including: Department of Sustainability and Environment, Environment Land Water and Planning, and Primary Industries.</p> <p>Former Councillor of IAMA and Treasurer.</p> <p>Member Audit Committee of the Chartered Institute of Arbitrators (London)</p>
2001 to 2002	Vice President Gartner, Consulting Practice Leader Asia and Pacific Solution Executive Strategic Sourcing
1995 to 2001	Joined KPMG becoming a Partner and Practice Leader globally for Strategic Sourcing Advice. Managing Director Consulting, Director KPMG Information Solutions
1990 to 1995	Associate Director Ferrier Hodgson and Co Chartered Accountants and Corporate Advisers
1987 to 1990	Capel Court Investment bank/Dominion Securities a joint venture of Royal Bank of Canada and National Mutual (now AXA)
1985 to 1987	Assistant to CEO, Burnham Merchant Bank and completed MBA at the University of Melbourne
1980 to 1985	Various roles with head office Johns Perry Limited (now Boral Ltd)

Areas of professional Expertise:

Banking and Finance sector, risk reviews, Information Technology and Systems Integration, Major Infrastructure and Outsourcing Services Agreements, Business Process Outsourcing, and Shared Services in both the public and private sector.
Member ICC Banking techniques and standards committee

Other

Permanent Resident of Hong Kong SAR

Australian passport holder

APEC card holder allowing visa free access to most countries in Asia including China

Fluent written and spoken English, Some French and German.

Prepared June 2020

Filename: John Rundell ADR CV V1.1 2020.docx