

JOSEPH Y. MERLING
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DATE OF BIRTH: 13/01/1974

NATIONALITY: Israeli

EDUCATION

Law Society of England & Wales - Admitted 2005.

Israeli Bar Association - Admitted 2003.

L.L.B. Law and B.A. in Business Administration (1st Class) Keele University, England, 2001
Graduated top of my class for which I was awarded the Maxwell Law Prize. All core subjects covered as well as additional modules in order to satisfy the requirements set by the Israeli Bar (extended **22 law modules program** instead of the standard requirement of 11 modules).

RECENT ACCOLADES

Asia Pacific Legal 500, 2014
Corporate - Recommended Lawyer

IFLR1000, 2014
Banking & Finance - Leading Lawyer
Corporate - Expertise in corporate matters

Asialaw Leading Lawyer, 2014
Project Finance - Leading Lawyer

WORK EXPERIENCE

Senior Legal Consultant at Myanmar Legal Services Limited, Myanmar (February 2015 – May 2015)

Main areas of Expertise: Corporate and M&A, Banking & Finance and Project Finance.

Partner at Weerawong, Chinnavat and Peangpanor (previously White & Case Thailand) Thailand (July 2010 – May 2014)

- Main areas of Expertise: Corporate and M&A, Banking & Finance and Project Finance. Additional areas of capabilities & experience include Real Estate, Hotel & Tourism, Dispute Resolution and Labor & Employment.
- Main Jurisdictions: transactions throughout all South East Asia, in particular Thailand and Myanmar.

J.Y. Merling & Co, Malawi (Oct 2009 – April 2010), **Managing Partner**

Project Finance – Drafting and negotiating various transaction documents, prepared memos to clients and various related research tasks.

Corporate/M&A – Drafting of various constitutional and corporate documents prepared memos to clients and various related research tasks.

Pro-bono – Advised developers on various transportation projects and ministerial entities re desirability of green energy projects and legislative framework.

White & Case, London (Aug 2003 – May 2009)

Project Finance – Drafting and negotiating various transaction documents, prepared memos to clients and various related research tasks.

Corporate/M&A - Acted for both buyer and vendor on: due diligence activities, drafting SPAs, ASPAs, private equity transactions, loan notes, M&A deals (including listing issues and an AIM listing), disclosure, warranties and data protection & confidentiality process, analysis of financial statements, prepared memos to clients and various research tasks.

Banking & Insolvency – acquisition finance and loan finance representing lenders, sponsors and borrowers:

- Syndicated/Bilateral Inv. Grade/Leveraged, PIK, Mezzanine, Second Lien, High Yield financing, bullet payment/tranches, revolving/non-revolving, secured/unsecured, parallel obligations and trustee provisions.
- Commitment Papers (fundable/none-fundable, complex mathematical equations, spread sheets, 'equity kicker' mechanisms, certain funds provisions, price/structure/fees flex, reversed flex, etc.).
- Security documents and foreign security documents (including release of security preparation of security checklists and security analysis reports, EBITDA/Asset threshold analysis and negotiations of security packages, group structure and security charts & tables).
- Ancillary documents: reliance/waiver/amendment letters, formalities certificates, preparation of internal memos and know-hows and legal opinions. board and shareholders resolutions, due-diligence reports and executive summaries, analysis of financial statements and various related research tasks.

Secondment to the China Practice (W&C Hong Kong office) (Mar – Sept 2005)

Various non-contentious work subsisting of capital markets, bank finance and corporate work. Main client work included advice to pharmaceutical companies on entering into the Chinese market for manufacturing and distribution purposes, setting up companies in Hong Kong including drafting constitutional documents, drafting circulars and information memorandums for listing on various stock exchanges (Singapore, Hong Kong, India, etc.) and advising clients on various restrictions and compliance with financial regulatory authorities.

Pro-bono - Advised and prepared constitutional documents for two mental health associations.

I. Gornitzky & Co., Israel (Feb 2002 - Mar 2003)

Project Finance – Drafting transaction documents, conducting negotiations: with the State of Israel various governmental authorities, lenders, underwriters and institutional investors, shareholders and other various connected parties to the transaction. Transaction documents included: concession agreement, facilities agreements, security documents, guarantees, EPC and O & M agreements, information memorandum, and offering circular, trust agreement, corporate documents, and various other related documents. Tasks included all a cross the board responsibilities for project finance, bank lending, corporate, tax and capital markets type of work.

Corporate & Tax - Prepared documentation and advised Investec Investment Fund on their Share Options Scheme, employment issues and tax related matters.

Telecommunication - Advised one of the largest satellite T.V. channel providers preparing and negotiating distribution contracts and licences with foreign channels to be inserted on the broadcasting platform, researched media, broadcast and telecoms laws.

Hotels - Represented the Hilton and the Sheraton chain of hotels in their participation in the RCI time-sharing scheme.

Litigation - Court Clerking: corporate law and commercial litigation experience representing clients at all levels of court: retrieving documents from courts archives, conducting searches, opening and closing of proceedings (including appeals), appearing in court proceedings, drafting correspondence, petitions and submission, assisting on research into the admissibility and disclosure of evidence procedures in relation to litigation concerning tax evasion and drafting correspondence in view of possible future arbitration or settlement.

Avi Goldhammer & Co. Advocate & Notary, Israel (Nov 2001)

Performed due diligence, legal suits, prepared documents for Court sessions and advised on a property purchase of an office building in Los-Angeles.

POSITIONS OF RESPONSIBILITY

Keele University Students Union

- Security Supervisor - the position required high level of responsibility, presentation skills and representation abilities. Under my supervision there were approximately 40 staff members and as a supervisor I was often responsible for managing the safety of areas containing up to 2000 people.
- Awarded the OSCA - 'Outstanding Staff Contribution Award' for long and exceptional contribution to Keele Student Union.
- Member of Keele Students Union Constitutional Affairs Committee - conducted talks and debates, disciplinary procedures and actions in upholding the constitutional articles.
- Research Assistant, member of a research team on the behalf of Keele University Law Department.
- Awarded the Sweet & Maxwell Law Prize for achieving the highest marks in my year class.

Retzef Bashomron Construction Ltd (Aug 1995 - Mar 1997)

Civil Engineer's Assistant working on the construction of major highways and Small Project Manager managing construction sites. Duties included: head of crew, scheduling and planning, meeting deadlines, supply and inventory, participation in board meetings.

Lead Instrumentalist & Martial Art Instructor (1984 - 1990)

Lead Instrumentalist for the local community philharmonic, played with some of the best known instrumentalists in the country and beginner instructor in the Chinese martial art of Pa-Kua where I was awarded 7th Grade.

LANGUAGES

English, Hebrew, Thai (basic).

INTERESTS & ACTIVITIES

I enjoy reading and I play the mandolin and drums, play football, cycling, gym, martial arts and pool as well as cooking in my free time. Have travelled extensively throughout the Middle East, Africa, South East Asia, America and Europe.

REFERENCES

References are available on request.

REPRESENTATIVE TRANSACTIONS

Project Finance & Energy

- Representation of an international solar company constructing and developing solar power projects with regard to entry into the Thai market for IPP, SPP and VSPP projects (including advising on regulatory matters, liaising with the authorities, tender and bidding process, FDI issues relating to investments in Thailand, and undertaking all due diligence and corporate work and preparation of relevant documentation such as lease agreements, MOUs, JV arrangements, etc.).
- Representation of a wholly-owned subsidiary of Sun Edison Energy Thailand Co., Ltd. for the proposed financing of approx. US\$250 million for the construction and development of solar power projects in Thailand and providing an overview of all regulatory matters relating to the Thai energy sector and FDI issues relating to investments in Thailand.
- Representation of EDF SEA Ltd, a subsidiary of the EDF Group energy conglomerate, on renewable energy projects in Thailand and related regulatory and FDI issues.
- Acting for a new venture bus company for inner-city transportation in connection with the raising of US\$15,000,000, business strategy and legal advice, preparation, negotiation and drafting of corporate documents (including confidentiality agreements and MOUs, JV arrangements, shareholders agreement, etc).
- Acting for EBRD, Concord Power Gas AG, Nigeria LNG, SIPC (Methanol Project), QGPC (QatarGas), EAIF AES SONEL, Deutsche Bank (Peak Petroleum), Saudi Aramco (Cogen Projects) on LNG, oil, methanol and aluminum projects.
- Acting for the State of Israel in Tel Aviv Light Rail BOT tender, a 22 km light rail line in Metropolitan Tel Aviv (US\$1.2 Billion Project), including drafting part of the concession agreement.
- Acting for V.I.D. Consortium (comprising of Veolia Water S.A.(Vivendi Water subsidiary), I.D.E Technologies Ltd., and Elran (D.D.) Infrastructures Ltd.) who was awarded the tender for the largest desalination facility in the world, in 30 million and 100 million m³/annum BOO and BOT Water Desalination tenders.
- Acting for the above Consortium 80MW CCGT Independent power plant tender (and project subsequently), in connection with the water desalination plants including an Excess Electricity Sale Agreement with the State of Israel and regulatory issues.
- Acting for various consortiums in four other BOO and BOT projects who were awarded tenders for the extraction of underground water reserves for approximately 15-30 million m³/annum each.

Corporate / M&A

- Representation of a beverage conglomerate on the entry into the industry sector in Myanmar with a local partner. This highly complex and multi-phased transaction included domestic and international jurisdictional issues, production of investment and equity injection structure, key documentation of ASPA, SPAs and JV agreements, liaising with governmental and regional authorities, and production of ancillary documents including asset and personnel transfer documents, IP related documents and escrow and security documents.
- Representation of Real Estate Capital Asia Partners, L.P. (RECAP), a private real-estate fund, on a multi-phased transaction initially resulting in execution of a sale and purchase agreement between RECAP and Outrigger Global Holdings (Outrigger) following which RECAP sold Laguna Beach Resort in Phuket to Outrigger through an 'entire business transfer' transaction. The deal value was approx. US\$118 million.
- Representation of Charoen Pokphand Foods Public Company Limited (CPF), Thailand's leading agribusiness and food conglomerate, in respect of its acquisition of 74% of the shares of CP Pokphand Company Limited (CPP), a company listed on the Hong Kong Stock Exchange. Funding of the transaction occurred in two stages for a total investment of approximately US\$ 2.17 billion.

WC&P also advised CPF on financing of the transaction with a US\$740 million syndicated loan led by Bangkok Bank as arranger, which included Bangkok Bank, Krung Thai Bank, CIMB Bank and ICBC (Thailand) as lenders. The acquisition aimed at consolidating the structure of CPF group and involved business entities across Asia, particularly in China and Vietnam.

- Representation of a leading international manufacturer of pressure vessels for the containment of propane, compressed air, and chemicals on its potential acquisition of one of the largest gas cylinder and tank producers in Thailand.
- Representation of and advising Siam Commercial Bank Public Company Limited on its acquisition of the insurance business of Siam Commercial New York Life Insurance Public Company Limited from its shareholders.
- Representation of Berli Jucker Company (BJC) on the potential acquisition of the Carrefour (Thailand) hyper-market chain of supermarkets in which BJC was one of the front-runners.
- Representation of BJC, one of Bangkok's 50 largest SET listed companies, on various technical assistance agreements with a Malaysian glass manufacturer.
- Representation of GMM Grammy Public Company Limited, a leading Thai media company, on its entry into a broadcasting rights agreement with UEFA.
- Representation of RRB Group Private Co., Ltd., the owner of the 'Lebua' brand chain of hotels, and preparation of a Hotel Management Agreement with another entity for the management of a chain of hotels in India.
- Institute for Policy Interaction. Drafting constitutional documents and ancillary documents, conducting research and generally advising the client regarding the sustainable management of natural resources.
- Clients included: banks, companies from the health food, energy, IT & Telecommunications, property, shipping and Formula 1 motor racing industry sectors. Also, provided Israeli law advice regarding the legal position concerning securitisation involving Israeli debtors.

Bank Finance

- Representation of TAEL One Partners on a phased transaction to, (i) provide financing on a secured funding basis to acquire shares in BTS Group Public Co. Ltd., one of Bangkok's 50 largest SET listed companies, and (through subsidiary Bangkok Mass Transit System Plc), the sole concessionaire of the city's Sky Train core network, and (ii) structure a loan from UOB-Kay Hian Private Limited, a major Singapore brokerage, on sub-participating, on a secured funding basis, a portion of TAEL's original financing in BTS Group. Deal value: US\$125 million (approx.).
- Representation of TMB Bank Public Company Limited, as Facility Agent and Lender, on its participation in financing by way of a syndicated loan from a group of Thai banks for one of the largest acquisitions ever made in Thailand valued at THB 38.5 billion for the BIG C Supercenter Public Company Limited acquisition of the Carrefour (Thailand) hyper-market chain of supermarkets.
- Acting for Goldman Sachs, Citibank, HSBC, Commerzbank, Credit Suisse, Société Générale, Caja de Ahorros y Monte De Piedad de Madrid, The Royal Bank of Scotland plc and Lloyds TSB Bank plc as Mandated Lead Arrangers and Rabobank as Issuing Bank in the €10.8 billion financing for the cash portion of Mittal Steel N.V.'s €25.8 billion bid to acquire French rival, Arcelor SA.
- Arcelor SA. Acting for Goldman Sachs, Citibank, HSBC, Commerzbank, Credit Suisse, Société Générale, Caja de Ahorros y Monte De Piedad de Madrid, The Royal Bank of Scotland plc and Lloyds TSB Bank plc as Mandated Lead Arrangers and Rabobank as Issuing Bank in the €10.8 billion financing for the cash portion of Mittal Steel N.V.'s €25.8 billion bid to acquire French rival, Arcelor SA.
- Hild. Acting for Deutsche Bank as Initial Lender, Mandated Lead Arranger, Underwriter and

Bookrunner in connection with the €12 million mezzanine property financing for the purchase of real estate assets and the establishment of a business relating to the annuities/mortgage markets in Eastern Europe (including drafting of ancillary documents such as: subscription agreement, shareholders agreement, equity investors side letters, warrant agreement and warrant certificates, and various security documents)

- JVH Gaming Group. Acting for the mandated lead arrangers, CIBC World Markets plc and The Governor and Company of the Bank of Ireland in connection with the €172.5 million senior and €32.5 million mezzanine facilities provided to Waterland Private Equity Investment B.V. for the acquisition of gaming company, JVH Gaming B.V. from ABN AMRO and NPM Capital.
- Richmond Foods plc. Acting for Deutsche Bank AG London as Initial Lender, Mandated Lead Arranger, Underwriter and Bookrunner in connection with the €355 million senior and €50 million second lien financing for the acquisition by Oaktree Capital Management LLC, via a newly incorporated company, of Richmond Foods plc (a UK-listed company and the largest ice cream manufacturer in the UK by volume) by way of a scheme of arrangement and the subsequent combination of the Richmond Group with the Roncadin Group (an existing portfolio of Oaktree with ice cream operations in Germany, France and Poland) for a total deal value of €530 million (which includes €123.5 million of equity).
- CSM N.V. Acting for sponsors CVC and Nordic Capital in the acquisition of CSM N.V.'s sugar confectionary division, involving a guaranteed and secured senior bilateral loan of €695 million provided by a Swedish bank, representing one of the largest European bilateral loans ever made in the leveraged market. The transaction involved acquisitions of assets and shares in 14 jurisdictions.
- NTL/Telewest/Virgin Mobile. Acting for the senior banks, Deutsche Bank AG, London Branch, Goldman Sachs International, J.P. Morgan plc and The Royal Bank of Scotland plc in connection with the £5.1 billion financing for the merger of UK cable operators NTL Incorporated, acting through a wholly owned subsidiary and Telewest Global, Inc. The total consideration was valued at approximately US\$6 billion and included the refinancing of existing indebtedness following the NTL/Telewest merger and facilities for the subsequent acquisition of the Virgin Mobile Group in 2006 (for which the team won the Banking Team of the Year Award for 2004).
- ATF Bank JSC. Acting for Standard Bank plc in connection with the US\$30,000,000 credit facilities provided to ATF Bank JSC.
- JSC Kazkommertsbank. Acting for Standard Bank plc in connection with a US\$25,000,000 unsecured term loan provided to JSC Kazkommertsbank.
- JSC Alliance Bank. Acting for the mandated lead arrangers and the Bank of Tokyo-Mitsubishi UFJ Ltd. (London Branch) as agent in a US\$400,000,000 trade finance facility with an extension option to JSC Alliance Bank of Kazakhstan. Bank of Tokyo-Mitsubishi UFJ Ltd., Citibank, N.A. London Branch, Raiffeisen Zentralbank Osterreich AG and Standard Chartered Bank were mandated lead arrangers and a syndicate of numerous banks served as lenders (including a global sub-participation agreement).
- JSC Halyk Bank. Acting for Standard Bank plc as arranger in connection with the US\$50,000,000 unsecured facility to JSC Halyk Bank.
- Nurbank. Acting for ING Bank as Agent in connection with a US\$100,000,000 term loan facility provided to Nurbank Joint-Stock Company with ING Bank and Citibank as mandated lead arrangers (including an amendment and restatement agreement).
- Nordea. Advised Citigroup and Nordea Bank on the financing of the US\$1.65 billion capital restructuring of Frontline Limited. The financing involved a senior debt facility and a high yield bond issue used to purchase a fleet of ships from the existing Frontline Group by a newly restructured Bermuda-held group.
- Ahlsell. Acting for the sponsors Cinven and Goldman Sachs in the refinancing, restructuring and recapitalisation of the Ahlsell Group (a Nordic distribution business with operations in Sweden,

Norway, Finland, Denmark and Russia), involving a secured senior, second lien, mezzanine and PIK syndicated facilities of SEK2,836 billion provided by Morgan Stanley and Nordea bank as arrangers.

- Eco Spa. Acting for Nordic Capital as sponsor in connection with the financing of the €905 million acquisition of Eco SPA (a leading global copper business) from Lybra.
- Thule. Acting for Nordic Capital as sponsor in connection with the €1.35 billion financing of the acquisition of Thule AB (a leading global company in sports utility transportation) from Candover.

Structured Finance

- Key Capital CLO. Acting for Duetsche Bank as arranger in connection with the €51,000,000 secured notes issuance under a Global Master Securities Lending Agreement (including ancillary documents such as the Confirmation, custodian agreement and security documents), relating to the securitisation and purchase of CLO securities by a fund held by the borrower.
- Consul and Peermont. Advising a hedge fund interested investing in risky debt products in South Africa.
- Aurelius Static CDO. Acting for BNP Paribas as arranger in connection with the issuance of Senior Floating Rate Loans, Class B, C and D Notes and Subordinated Notes by the Issuer.
- CRC Fund. Advising HVB as arranger and as a Senior Lender on a €300,000,000 senior and junior facilities to the CRC Fund, an spv incorporated in Jersey, for the purpose of purchasing Bonds. This deal was hybrid of practices and included elements from banking, securitisation, CDOs and ISDA.
- DB Bold. Advising Duetsche Bank as arranger in connection with its micro-financing arrangements.
- CLO Loan Due Diligence. Running various loan DD transactions and drafting transfer documentation for Goldman Sachs, CVC, HVB and others.
- Derivatives. Running various derivatives transactions and drafting and negotiating ISDA documents for Calyon, ABN Amro, Credit Suisse, Fortis and others.

Litigation

- Representing a lessor of aircrafts to Thai Lessor in repossession and deregistration of the said aircrafts following payments default by the lessee.
- Representing company executives in a cross-border investigations relating to suspicion of 'white color' crimes vis-à-vis local and foreign governmental agencies.