

## BENJAMIN MIAO

Partner

Fangda Partners

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### PRACTICE AREAS

MR. MIAO SPECIALISES IN CHINA - RELATED COMMERCIAL DISPUTE RESOLUTION.

## REPRESENTATIVE MATTERS AND CASES

### Commerical Arbitration and Litigation

- Represented a European luxury goods company in a major commercial litigation before a high court and in the related consumer protection inquiries from the authorities in China
- Advised a US oil & gas company on a potential ICC arbitration against a Chinese state-owned oil company in a dispute arising from a gas exploitation contract governed by Chinese law
- Advised a major US financial services company in its ICC arbitration in Hong Kong in a dispute arising from a share transfer agreement and escrow agreement
- Represented a Korean industrial gas company in an SIAC arbitration in a dispute arising from the termination of a long-term gas supply contract
- Represented a major European industrial gas company in a CIETAC arbitration in a dispute arising from the termination of a long-term gas supply contract
- Represented a US industrial gas company in its recovery of payment under MTOP clauses through a CIETAC arbitration
- Represented a major Chinese state-owned construction company in its arbitration under UNCITRAL rules against the Tanzanian government in a USD 100 million dispute over the termination of a road construction contract in Tanzania

- Represented a Chinese business celebrity in an ad hoc arbitration under UNCITRAL rules in Hong Kong in a USD 50 million claim for breach of warranty under a share purchase agreement
- Represented a Russian automobile company on PRC law issues in an HKIAC arbitration over a claim for approximately USD 100 million arising from a dispute in CKD/CBU supply contracts
- Represented a major European industrial company in its CIETAC arbitration against a general contractor in a dispute over construction pricing and delay
- Represented a German industrial company in its defense and counterclaim in a SHIAC (formerly CIETAC Shanghai Sub-Committee) arbitration against a Chinese buyer in a dispute over a sales contract
- Represented a multinational hotel chain in arbitration proceedings before CIETAC and in related court actions concerning the termination of a joint venture agreement in China
- Represented an overseas private equity fund on the rescission of a share purchase agreement based on the counterparty misrepresenting the target company's assets and advised on CIETAC arbitration strategy
- Represented a European industrial company in CIETAC arbitration in recovering equipment supply price in an equipment supply contract
- Represented a major European industrial company in a CIETAC arbitration against a Chinese company over supply contract disputes arising from quality issues
- Represented a US real estate development company in a CIETAC arbitration over the repayment of shareholders loans
- Represented a Hong Kong investment company in arbitration proceedings before CIETAC and HKIAC in its dispute with several state-owned companies in Guangdong over an infrastructure joint venture project
- Represented a foreign-invested leasing company in its SHIAC (formerly CIETAC Shanghai Sub-Committee) arbitration against a lessee in an approximately RMB 200 million dispute arising from a financial leasing contract
- Represented an international aircraft leasing company in litigation on the termination of its lease contract with two Chinese airlines and on the repossession of aircraft
- Represented a European shipping company against its Chinese joint venture partner in a joint venture termination dispute before the higher court in Hubei Province

- Advised the liquidators appointed for a BVI insolvency proceeding on the control and transfer of assets in China
- Represented a French trading company before the higher court of Fujian Province in a supply contract dispute with a Chinese supplier

#### Regulatory and investigation

- Acted for a US industrial company in its internal investigation into fraud in construction project procurement
- Represented a major US investment fund in a criminal investigation against a senior executive at several portfolio companies in China
- Represented a European manufacturing company in a police investigation into embezzlement by former employees
- Acted for an international telecom company in its internal investigation into contract fraud
- Acted for a UK food company in its investigation into self-dealing by senior executives in construction projects
- Acted for a German industrial company in the prosecution of an employee for embezzlement
- Acted for a US investment bank in a police investigation into commercial bribery by employees
- Represented an international bank in CSRC and CFFEX investigations into the bank's futures trading
- Represented numerous major multinational pharmaceutical and medical device companies in AIC investigations into bribery and unfair competition
- Acted for multiple US pharmaceutical companies in their internal investigations into fraudulent expense claims and in the related legal actions
- Advised a European industrial company in its handling of an employee's fraudulent expense claims and in the related criminal proceedings
- Represented a European industrial company in the investigation by the Anhui tax authority into VAT-related fraud
- Advised numerous multinational companies on anti-bribery law matters and government investigation procedures
- Advised numerous multinational companies on data protection issues, including under Chinese state secrecy laws and data privacy laws
- Advised a major US industrial company on its defense in Tianjin courts against employee allegations of defamation and physical and verbal abuse

- Represented a multinational industrial company in the dismissal of senior executives and the implementation of mass layoffs in Chinese subsidiaries and in the related labor arbitration and litigation
- Acted for a UK industrial company in its internal investigation into self-dealing and represented the company in the related employment disputes
- Acted for a UK industrial company in its internal investigation into collusion between employees and distributors to infringe upon the company's intellectual property and advised the company on solutions
- Advised a major European property management company on employee fraud in the breach of non-competition covenants and on the related litigation
- Advised a US luxury product group on the investigation into its employees taking bribes from suppliers and on the related disciplinary and legal actions
- Represented a major US real estate investment group in its joint venture dispute with a Chinese state-owned company and represented senior joint-venture executives appointed by the US investor in their defense against a shareholder's claim of breach of care
- Advised a major US industrial company on issues relating to bid-rigging in tender processes in China
- Advised a US healthcare company in a major AIC investigation into direct-selling activities in China

## **OTHER INFORMATION**

### **Education**

- Fudan University (Shanghai), LL.B, LL.M
- The Graduate Institute of International Studies (Geneva), LL.M
- ESSEC Business School (Paris), MBA

### **Professional Qualification**

- Admitted to practice in the PRC (1998)

### **Work Language**

- Chinese
- English
- French

### **Publications**

- Mr. Miao frequently speaks at conferences and contributes to professional journals on topics including dispute resolution, insurance, corporate governance and insolvency. He was invited to co-author the Chapter on the People's Republic of China of Asia Arbitration Handbook published by Oxford University Press in 2011.

### **Professional Background**

Before joining Fangda Partners, Mr. Miao spent six years with a leading UK law firm in Hong Kong and Shanghai and one year with a major business consulting firm in Paris.