



# Mediation Week 2014

## Mediator – A Secondary Profession after Chartership?

一專多才 - 專業人士成為調解員

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Construction Industry Council

25 March 2014



# Content of Presentation



Getting more  
Mediator  
Appointments

Getting your  
First Mediator  
Appointment

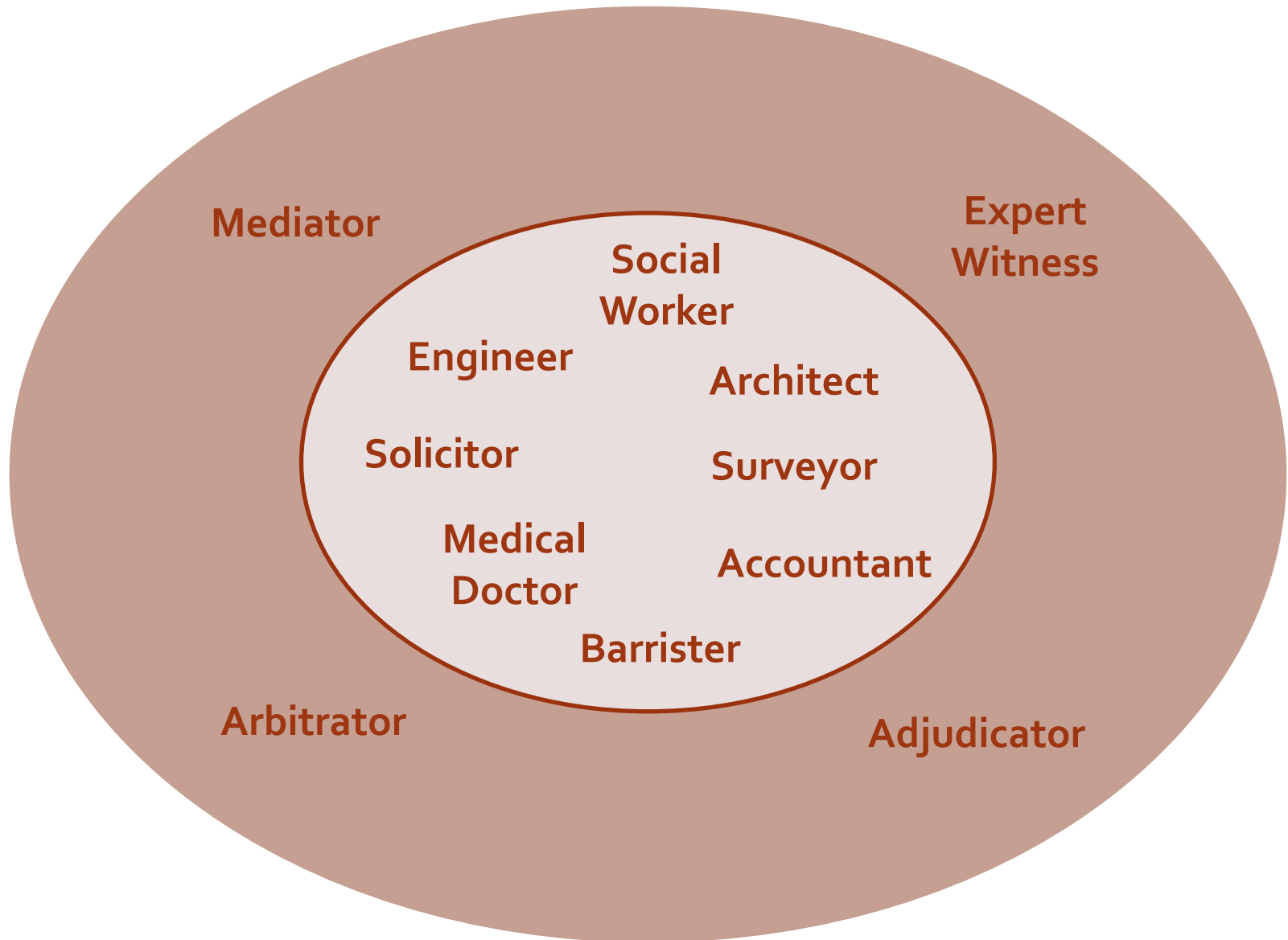
How to become  
a Mediator?

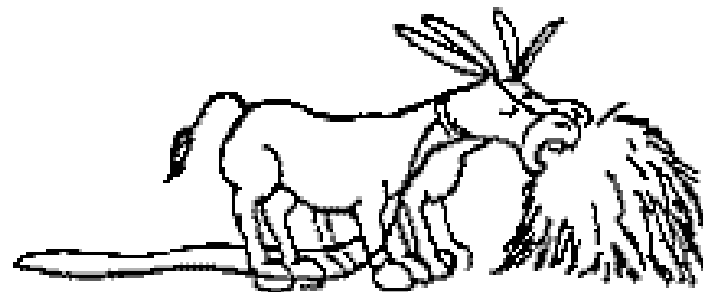
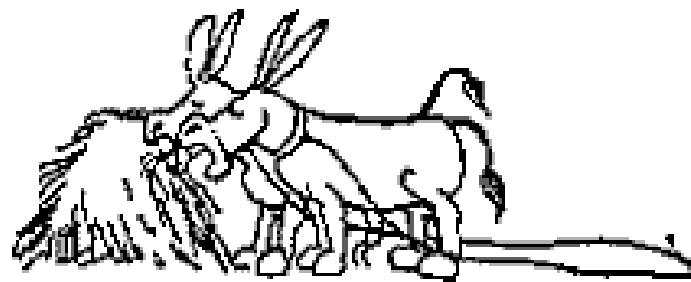
Introduction



# Introduction

# Primary & Secondary Professions...







# Who are Mediators???



Mediators are one or more impartial individuals who, without adjudicating a dispute or any aspect of it, assist the parties to the dispute to do any or all of the following:

- (a) Identify the issues in dispute
- (b) Explore and generate options
- (c) Communicate with one another
- (d) Reach an agreement regarding the resolution of the whole or part of the dispute.

(Hong Kong's Mediation Ordinance (Cap 620))

# Essential Skills for an Effective Mediator...





How to become  
a Mediator?



# What varieties of Mediation are there?

## Commercial Disputes

- Disputes: Amount of money, breach of contract or disagreement about provision of goods / services.
- Outcome: Payment of money or Exchange of goods.
- Accompanied by Lawyer / Advisor.
- Separate Sessions (Caucuses)
- Legally binding written agreement

## Interpersonal Disputes

- Disputes: Disagreement, Conflict or falling out between individuals occurred in workplaces, between neighbours.
- Outcome: Restore Pre-existing Relationships.
- Attended without Lawyer / Advisor.
- Joint Sessions.
- Statement about Improved Understandings and Acceptable Behaviour for the Future.

## Family Disputes

- Disputes: Fall-outs between Couples or Conflicting Members of Family.
- Outcome: Agreement on Practical & Financial Aspects of Separation Arrangements.
- Accompanied by Lawyer / Advisor.
- Separate Sessions (Caucuses)
- Legally binding written agreement

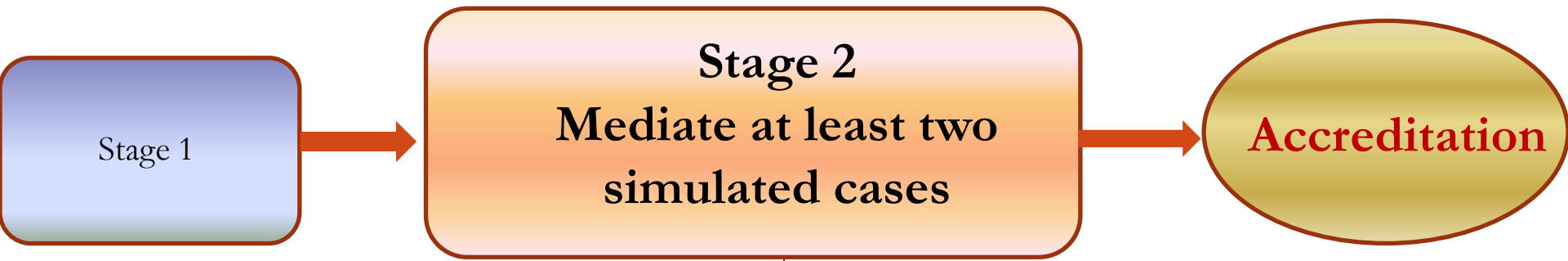
# How to become an Accredited Mediator?

## Stage 1

**Complete a 40-hours  
mediation training and  
'role play'  
(simple scenario)**

- 40-hour basic mediation training course
- Different course run by various organizations (standards and fees vary).
- Factors:
  - Reputation of organizations
  - Qualifications of trainers / coaches
  - Enrolment costs

# How to become an Accredited Mediator?



- Candidates must pass two simulated role-plays to become an accredited mediator
- 2 main streams - General and Family
- Past Accreditation bodies in Hong Kong:
  - Hong Kong Academy of Law
  - Hong Kong International Arbitration Centre (HKIAC)
  - Hong Kong Mediation Centre (HKMC)
- Accreditation now by Hong Kong Mediation Accreditation Association Limited (HKMAAL)



A photograph of three hot air balloons floating over a lush green field under a clear blue sky. The balloon on the left is large and features vertical stripes of red, orange, yellow, green, blue, and purple. The balloon in the center is smaller and has a pattern of red, white, and black chevrons with green and blue accents. The balloon on the right is also smaller and has a checkered pattern of red, yellow, green, and blue. A line of green trees is visible on the horizon.

## Getting your First Mediator Appointment

# How to get your FIRST Mediator Appointment?

- 'Chicken and Egg' - Parties tend to appoint experienced mediators.
- Mediation is about practice than pure theory. Newly accredited mediators need practical experience to become competent.
- Start with cases of less complexity and lower value.
- Pro Bono mediation scheme - Lands Tribunal Building Management cases.
- Joint Mediation Helpline Office (JMHO).
- Make yourself known!





# How to get your FIRST Mediator Appointment?

THE OLD CHICKEN AND EGG PROBLEM ...



## Master / Pupil System

- System where experienced mediators take assistants (similar to 'pupil' and 'trainee' in law profession).
- Problems:
  - Trust between trainers and trainees
  - Parties' agreement

## Co-Mediators

- A lead / experienced mediator pair with someone with special knowledge of the matter in dispute.
- The co-mediator does not has to be experienced but can contribute positively to the mediation process with his/her professional knowledge and background.
- The co-mediator can assist the lead mediator in generating doubt creation and reality-testing questions.

The background of the slide is a photograph of three hot air balloons floating over a lush green field. The balloon on the left is large and features vertical stripes of red, orange, yellow, green, blue, and purple. The balloon in the center is smaller and has a pattern of red, white, and black chevrons with green and blue accents. The balloon on the right is also smaller and has a checkered pattern of red, yellow, green, and blue. The sky is a clear, bright blue, and a line of green trees is visible on the horizon.

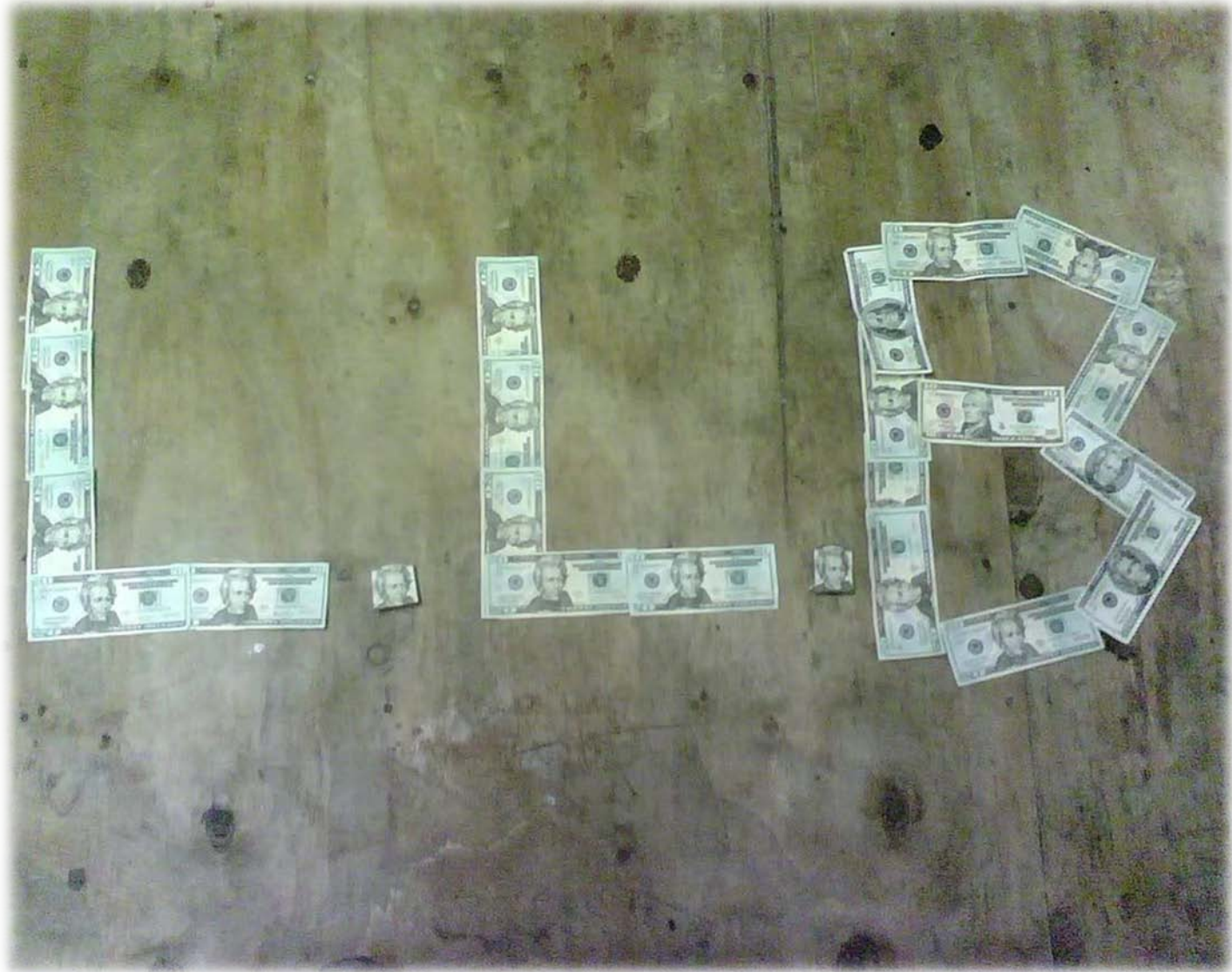
# Getting more Mediator Appointments

# Prospects of Mediators...





# Are Legal Qualifications a Must?



# Are Legal Qualifications a Must? (Cont'd)

## Must have...

- For Solicitor - PCLL + 2-years training contract
- For Barrister - PCLL +1-year pupilage

## Nice to have...

- Contract consultant
- In-house Contract Advisor
- Mediator / Arbitrator

## Necessity & Affordability





# Working Aboard...International Mediation...



# Working Aboard...(Cont'd)



# Engineers turn Mediators...



Teresa Cheng SC



Peter Caldwell



You???



The background of the slide is a photograph of three hot air balloons floating in a clear blue sky above a lush green field. The balloon on the left is large and features vertical stripes of red, orange, yellow, green, blue, and purple. The balloon in the center is smaller and has a pattern of red, white, and black chevrons with green and blue accents. The balloon on the right is also smaller and features a checkered pattern of red, yellow, green, and blue. A line of green trees is visible on the horizon.

## Skills other than Mediation Skills

# Marketing...

*“If you’re going the independent route – setting up a practice as an independent mediator, you have to be **prepared to do relentless marketing**. Unfortunately, many of the people who want to get into the business don’t want to do relentless marketing. But that is the reality of the field. The truth is, **it’s harder sometimes to get cases than to settle cases**.” (Peter Lovenheim)*

- The key to successful marketing of your mediation skills is to use your contracts and your professional experience to date.



# Soft Skills...

- Presentation Skills
- Interpersonal Skills
- Negotiation Skills
- Networking Skills
- Professional Networking
- Social Networking



# Professional Networking...



*Society of Construction Law Hong Kong*  
香港建築法學會



*The Lighthouse Club*  
*Hong Kong*

association for  project management



**RICS**



THE HONG KONG INSTITUTION  
OF ENGINEERS  
香港工程師學會

**ice**

Institution of Civil Engineers



THE HONG KONG INSTITUTE OF  
SURVEYORS



**CIOB**



THE LAW SOCIETY  
OF HONG KONG  
香港律師會



East Asia  
Branch

**CI Arb**



# Social Networking...



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**Justin Wong**  
Manager - Projects and Contracts Administration at  
Construction Industry Council  
Hong Kong | Construction

Previous EC Harris (HK) Ltd., Ove Arup & Partners HK Ltd, High-Point Rendel Ltd  
Education The Institute of Administrative Management

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**Background**

**Summary**

Civil engineer by profession with 16 years of experience in construction projects, with further qualifications in law, construction project management and dispute resolution. Now specialize in contract advisory, claims preparation /evaluation, dispute avoidance and dispute resolution. Acted as contract administrator, contract advisor, dispute manager and mediator.

Additional roles in marketing, public relation and business development. Promoting construction law and dispute resolution through roles with Chartered Institute of Arbitrators (CIArb), Society of Construction Law Hong Kong (SCLHK).

Public presentations on unforeseen ground condition claims, construction law and networking / soft skills.

Specialties: Projects & Contract Administration, Dispute & Claims Management, Expert Advisory, Procurement Advice, Mediation, Marketing & Business Development

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[Paul Smiddy](#) 2+  
Commercial and Contractual Consultant (Dir...  
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# Conclusion



# Things to Take Away...

**“MEDIATION CAN BE LONELY, STRESSFUL AND EMOTIONALLY DRAINING” (Peter Lovenheim)**

- **Are you a chartered professional?**
- **Character / Personality**
- **Your strengths & weaknesses**
- **Further education, training and professional exams**
- **Mobility (for International Cases)**
- **Financial wellbeing**
- **Language capabilities**
- **Network / Marketing**



