

SHAWN CHONG



Qualifications:

Degree in Building Economics & Quantity Surveying (BSc - Hons) - Heriot Watt University, Edinburgh

Post Graduate Diploma in Computer Science (PGDip) - University of North London, United Kingdom

Masters in Business Administration (MBA) - University of Westminster (PCL), United Kingdom

Masters in Construction / Project Management (MSc) - University of South Bank, United Kingdom

Masters in Construction Law & Dispute Resolution (MSc) - University of Central Lancashire, United Kingdom

DIRECTOR

Memberships and Associations:

Member of the Royal Institution of Chartered Surveyors (MRICS)

Member of The Chartered Institute of Building (CIOB)

Member of The Royal Institution of Surveyor Malaysia (MRISM)

Registered International Cost Engineering Council (Reg. ICECA)

Registered QS with Board of Quantity Surveyor Malaysia (Reg. QS)

Accredited Adjudicator (Kuala Lumpur Regional Centre of Arbitration)

Accredited Chartered Construction Manager

Geographical Experience:

Malaysia, Singapore And United Kingdom

Home Office: Malaysia

Email: shawn.chong@charltonmartin.com

Summary

Shawn is a well-qualified multi-disciplinary professional with over 31 years of experience in construction, engineering, energy and infrastructure projects. His experience on large scale projects covers many sectors, executed under various contractual arrangements, inter alia, Traditional Contracts, Management Contracting, Construction Management, Design & Build, Turnkey, BOT, PFI and PPP. Shawn specialises in the provision of dispute related services, having previously been employed in two major contract consultancy groups and as senior commercial manager of a large multi-national company where he headed the commercial and risk division, managing and directing operation resources, oversees contract administration, arbitration, adjudication, and other legal matters. The combination of his technical, quantity surveying, project management, IT, law and business administration skills enables him to assist clients in a broad range of issues and maximising the prospects of success in a cost-effective manner. He counsels employers, contractors and subcontractors in commercial, retail, office, residential, civil engineering, industrial park, power plants and airport projects and was recognised for his ability to effectively resolve complex and difficult commercial and contractual matters.

Sector Experience (Detailed Sector Sheets Available Upon Request)

- Oil & Gas
- Commercial and Residential
- Utilities
- Infrastructure
- Power
- Transportation

Employment

| | |
|-----------------------|---|
| 2013 - Present | Charlton Martin Consultants Sdn Bhd Director |
| 2011 - 2013 | Hill International Malaysia Sdn Bhd Technical Director |
| 2010 - 2011 | Trett Consulting, Malaysia Senior Consultant |
| 2008 - 2010 | WT Partnership, Singapore Senior Associate |
| 1999 - 2008 | SP Setia Berhad Senior Commercial and Risk Manager |
| 1993 - 1999 | Juru Ukur Bahan Malaysia/Davis Langdon & Seah Malaysia Senior Associate |
| 1998 | Putrajaya (Secondment) Claim Consultant |
| 1993 | Crow Vontrend Sdn Bhd (Secondment) Information Manager |
| 1991 - 1993 | Calford Seaden Partnership Employer's Agent |
| 1989 - 1991 | Gleeds, London Project Quantity Surveyor |
| 1987 - 1989 | Acer Butler & Chappell, London Quantity Surveyor |
| 1984 - 1985 | Sukat Bahan Malaysia Technical Assistant |
| 1984 | Haw Swee Construction Sdn Bhd Technical Assistant |

Arbitration Experience

As Expert Witness

* (denotes testimony given in court/arbitration proceedings)

| | |
|----------------|--|
| Year | 2012 |
| Project | Educational Facilities |
| Client | Respondent Contractor (Malaysia) |
| Other Party | Sub-Contractor (Malaysia) |
| Role | Quantum Expert* |
| Dispute Amount | RM1 Million |
| Dispute | Variations, Final Payment |
| Year | 2012 |
| Project | Bridge |
| Client | Respondent Contractor (Malaysia) |
| Other Party | Sub-Contractor (Malaysia) |
| Role | Quantum Expert* |
| Dispute Amount | RM7 Million |
| Dispute | EOT, Variations, Loss & Expense, Final Payment |
| Year | 2012 |
| Project | Bridge |
| Client | Respondent Contractor (Malaysia) |
| Other Party | Sub-Contractor (Malaysia) |
| Role | Quantum Expert* |
| Dispute Amount | RM29 Million |
| Dispute | EOT, Variations, Loss & Expense, Final Payment |
| Year | 2012 |
| Project | Bridge |
| Client | Respondent Contractor (Malaysia) |
| Other Party | Sub-Contractor (Malaysia) |
| Role | Quantum Expert* |
| Dispute Amount | RM26 Million |
| Dispute | EOT, Variations, Loss & Expense, Final Payment |
| Year | 2013 |
| Project | Office Tower |
| Client | Respondent Contractor (Singapore) |
| Other Party | Sub-Contractor (Singapore) |
| Role | Quantum Expert* |
| Dispute Amount | S\$600,000 |
| Dispute | Variation, Loss & Expense |
| Year | 2014 |
| Project | Police quarters and facilities |
| Client | Claimant Contractor (Malaysia) |
| Other Party | Main Contractor |
| Role | Delay & Quantum Expert* |
| Dispute Amount | RM110 Million* |
| Dispute | EOT, Variations, Claims arising from termination |

Arbitration Experience

As Expert Witness

* (denotes testimony given in court/arbitration proceedings)

Year 2015
 Project Road to Kawasan Akuakultur, Sungai Como, Tasik Kenyir Trengganu
 Client Claimant Contractor (Malaysia)
 Other Party Government Body
 Role Expert Witness*
 Dispute Amount RM25 million
 Dispute Quantum

Year 2016
 Project Sewerage System, Kota Kinabalu Sabah Malaysia
 Client Defendant Contractor (Malaysia)
 Other Party Sub-Contractor (Malaysia)
 Role Expert Witness*
 Dispute Amount RM3 million
 Dispute Quantum

Year 2016
 Project Army Camps
 Client Claimant Main Contractor (Malaysia)
 Other Party Respondent Employer (Malaysia)
 Role Expert Witness
 Dispute Amount RM500 Million
 Dispute EOT, Variation, Loss & Expense, Prolongation Costs

Year 2017
 Project Secondary Technical School Selangor Project
 Client Defendant Sub-Contractor (Malaysia)
 Other Party Claimant Main Contractor (Malaysia)
 Role Expert Witness*
 Dispute Amount RM11 million
 Dispute Unlawful Termination & Damages

Expert Witness Support

Year 2010
 Project Expressway
 Client Respondent Main Contractor (Malaysia)
 Other Party Sub-Contractor (India)
 Role Advisory to Counsel
 Dispute Amount Rupees 892 Million
 Dispute EOT, Variations, Loss & Expense

Year 2010
 Project Railway
 Client Claimant Main Contractor (China)
 Other Party Employer (Philippines)
 Role Advisory to Counsel
 Dispute Amount USD14 Million
 Dispute EOT, Loss & Expense

Arbitration Experience (Cont'd)

Expert Witness Support

| | |
|----------------|--|
| Year | 2011 |
| Project | Tunnel |
| Client | Claimant Contractor (German) |
| Other Party | Respondent Main Contractor (Malaysia) |
| Role | Advisory to Counsel |
| Dispute Amount | RM275 Million |
| Dispute | Claims arising from termination |
| Year | 2012 |
| Project | Office Tower |
| Client | Claimant Main Contractor (Malaysia) |
| Other Party | Respondent Employer (Malaysia) |
| Role | Delay & Quantum Expert* |
| Dispute Amount | >RM1 million |
| Dispute | Loss & Expense Claims |
| Year | 2014 |
| Project | Port |
| Client | Respondent Main Contractor (Malaysia) |
| Other Party | Government Body (Malaysia) |
| Role | Advisory to Counsel |
| Dispute Amount | RM2 Billion |
| Dispute | Quantification |
| Year | 2014 |
| Project | Biodiesel Facility |
| Client | Claimant Employer (Malaysia) |
| Other Party | Respondent Main Contractor (Malaysia) |
| Role | Advisory to Counsel |
| Dispute Amount | RM140 Million |
| Dispute | EOT, Variation, Loss & Expense, Backcharges, delay damages |

Adjudication Experience

As Expert Witness in Adjudication

* (denotes testimony given in court/arbitration proceedings)

| | |
|----------------|---|
| Year | 2010 |
| Project | Mixed Commercial Development |
| Client | Respondent Contractor (Singapore) |
| Other Party | Sub-Contractor (Singapore) |
| Role | Quantum Expert* |
| Dispute Amount | S\$3.5 Million |
| Dispute | Formation of contract, scope change, Loss & Expense |

Adjudication Experience (Cont'd)

As Expert Witness in Adjudication

* (denotes testimony given in court/arbitration proceedings)

| | |
|----------------|---|
| Year | 2015 |
| Project | Singapore Chancery |
| Client | Contractor (Malaysian) |
| Other Party | Singapore Government |
| Role | Advice on contractual and commercial issues |
| Dispute Amount | >1 million |
| Dispute | Payment |

As Party Representative in Adjudication

| | |
|----------------|--|
| Year | 2015 |
| Project | Sales Gallery |
| Client | Respondent Sub-Contractor (Malaysia) |
| Other Party | Claimant Nominated Sub-Contractor (Malaysia) |
| Dispute Amount | RM450K |
| Dispute | Final Account claim for work done & defects |

| | |
|----------------|--|
| Year | 2015 |
| Project | Office Tower |
| Client | Interior Decorator Contractor (Malaysia) |
| Other Party | Respondent Main Contractor (Malaysia) |
| Dispute Amount | RM480K |
| Dispute | Non-Payment |

| | |
|----------------|--|
| Year | 2016 |
| Project | Office Tower |
| Client | Interior Decorator Contractor (Malaysia) |
| Other Party | Respondent Main Contractor (Malaysia) |
| Dispute Amount | RM100K |
| Dispute | Non-Payment |

| | |
|----------------|--|
| Year | 2016 |
| Project | Office Tower |
| Client | Interior Decorator Contractor (Malaysia) |
| Other Party | Respondent Main Contractor (Malaysia) |
| Dispute Amount | RM140K |
| Dispute | Non-Payment |

| | |
|----------------|---------------------------------------|
| Year | 2016 |
| Project | Coal-Fired Power Plant |
| Client | Claimant Sub-Contractor (Malaysia) |
| Other Party | Respondent Main Contractor (Malaysia) |
| Dispute Amount | RM160 million |
| Dispute | EOT, Variation and Loss & Expense |

Dispute Resolution Experience

Client Representative On Litigation Cases

Against Sub-Contractors

Role: Appointed counsel; strategised, influenced & negotiated dispute; quantified claims; collated evidence.

Disputes:

- Contract formation; disputes on work done; value >RM600k; Summary judgement, section 21B
- Advance payment; defective works, delays; disputed re-measured quantities; payment on behalf of materials; termination; value >RM20 million. Tactical manoeuvre via discovery, alleged non-triability of the case based on privilege under the Official Secrets Act
- Payment assignment; privity of contract; implied terms; value >RM500k
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- Payment assignment, privity of contract; value >RM3 Million
- Payment assignment; privity of contract; value >RM1 million; succeeded in striking out application
- Payment assignment, privity of contract; value >RM1 million; complex issues surrounding defective works and unverifiable records & claims

- Malfunction and damaged building security works; outstanding & defective works; 3rd party rectification; value >RM3.5 million
- ELV contractor, set off, 3rd party contractors, defective & outstanding works, delays, failure to carry out T&C; value >RM500k
- Non-issuance of CPC; release of retention; set off arose from collapse of retaining wall & slope failure; value >RM300k
- Non-issuance of CPC; release of retention; set off arose from collapse of retaining wall & slope failure; value >RM300k

Against Consultants

Role: Appointed counsel; strategised, influenced & negotiated dispute; quantified claims; collated evidence

Disputes:

- Additional architectural fees; novation; value >RM3 million
- Outstanding additional C&S consultancy fees; design errors and omissions; scope change; professional negligence; Value <RM1 million

Against Public Listed Corporation

Role: Appointed counsel; strategised, influenced & negotiated dispute; quantified claims; collated evidence; attended and voted in creditor meetings. The corporation was placed under the care of Danaharta Bhd and subsequently went through a liquidation exercise; Commercial negotiation with appointed Special Administrator and Liquidator

Disputes:

- Recovery of loss and expense arising out of the non-performance of contract and pursuant to the issuance of Corporate Guarantee by the corporation; value >RM29 million

Against Purchasers

Disputes:

- Rectification works to residential unit; withholding of balance 5% under Sales & Purchase Agreement; obtained court judgement; letter of apologies.
- Alleged defective material, workmanship on residential unit; certiorari proceeding, judicial review, quashed Consumer Tribunal's decision

Dispute Resolution Experience (Cont'd)

Client Representative On Winding Up Cases

Against a Sub-Contractor

Disputes:

- Defective workmanship; delays; installed works not in accordance with specification; scope change; calling of performance bond; winding up proceedings; value >RM16 million

Principal Witness On Arbitration Case

Against a Sub-Contractor

Disputes:

- Outstanding payment; set off; defective works; delay; scope change; value RM3.5 million

Principal Witness On Adjudication Case

Against a Client

Disputes:

- Interim EOT 348 days; L&E claim >RM350 million; scope change; L&E; liabilities under D&8; successfully obtaining EOT and adjudication judgment of RM20 million

Principal Negotiator On Commercial Settlement Cases

Against Sub-Contractors

Disputes:

- Outstanding payment; set off; defective works; pay-when-pay; settled at 38% of RM200k
- Outstanding payment; set off; defective works; pay-when-pay; settled at 40% of RM180k
- Outstanding payment; set off; defective works; pay-when-pay; successfully persuaded contractor to abandon claim amounting to RM90k, Outstanding payment; set off; defective works; pay-when-pay; settled at 40% of RM75k

Against Sub-Contractors

Disputes:

- Outstanding payment; set off; defective works; pay-when-pay; successfully persuaded contractor to abandon claim amounting to RM150k
- Outstanding payment, pay-when-pay; settled at 27% of RM12k
- Outstanding payment; client's non-issuance of CMGD; defective works, set-off; settled at 35% of RM170k
- Outstanding payment; defective works; set off; scope change; delays; EOT; prolongation claims; value >RM4.5 million, settled at RM1 million

Contractual / Commercial Experience

Principal Negotiator On Commercial Settlement Cases (Cont'd)

Against Sub-Contractors (Cont'd)

Disputes:

- Outstanding payment; pay-when-pay; successfully persuaded receiver to abandon claim value >RM10 million for a token RM5,000 payment
- Outstanding payment; set off; pay-when-pay; value less than RM100k; settled at 40%
- Outstanding payment; set off; defective works; pay-when-pay; settled at 38% of RM200k
- Outstanding payment; set off; defective works; pay-when-pay; settled at 40% of RM180k
- Outstanding payment, quantum merit; settled at 40% of RM200k
- Outstanding payment; scope change; settled at 40% of RM60k
- Defective works; delays; non-rectification of defective works; successfully persuaded contractor to abandon claim & pay RM280k
- Scope change; set-off; settled at 42% of RM450k
- Prolongation claim; EOT; scope change; set off; court proceeding; application for stay; arbitration; value >RM3 million; settled at 40%
- Final account, outstanding payment, release of retention, uncompleted works, set off, 3rd party rectification; value >RM 2 million

Against Consultants

Disputes:

- Outstanding consultancy fees, set off, unfulfilled obligations, unsatisfactory & outstanding works, termination of consultancy appointment, high court suit
- Scope change; set off; novated consultant; additional fee claim; value >RM1 million; claim for additional fees subsequently abandoned

Power

- Hydro-Electric Project, Malaysia – contract value RM350 Million: Evaluate contractor's claim for additional payment and prolongation costs
- Hydro-Electric Project, Malaysia – claim value RM400 Million: Evaluate contractor's loss and expense claims
- 1000MW Coal-Fired Plant, Malaysia – claim value RM200 Million: Post award contractual and commercial support
- 372MW Hydro-Electric Project, Malaysia – Project value RM1.5 Billion: Post award contractual and commercial support
- PMU 275/132/33KV Project, Malaysia – Project value RM100 Million: Post award contractual and commercial support
- 260MW run-of-the-river hydro-Electric Project, Lao PDR – BOT model: Contractual and commercial support
- 400MW Coal-Fired Plant, Indonesia: Advice on contractual and commercial issues
- 1000MW Coal-Fired Plant, Malaysia - Post award contractual and commercial support
- 15MW Dual Fuel (DG) Plant, Garraf, Iraq - Advice on contractual and commercial issues
- New Conveyor line, upgrading & modification to existing coal handling system, Malaysia – Contractual & commercial support
- New coal unloading Jetty, bulk material handling system, Malaysia – Contractual & commercial support

Contractual / Commercial Experience (Cont'd)

Principal Negotiator On Commercial Settlement Cases (Cont'd)

Oil & Gas

- Offshore support facilities, Singapore – contract value S\$350 Million: Advice on contractual and commercial issues
- Oil tank farm facilities, Malaysia – Advice on contractual and commercial issues
- Gas pipeline project, Malaysia – Advice on contractual and commercial issues
- Offshore pipeline S-Kay Installation, transportation & installation, Malaysia – contractual & commercial support

Transportation

- Expressway, Malaysia – contract value exceeding RM350 Million: Post award contractual and commercial support
- Expressway, Malaysia – contract value exceeding RM250 Million: Post award contractual and commercial support
- Railway, Philippines – claim value exceeding US\$14 Million: Preparation of Loss & Expense claim
- Airport, Malaysia – contract value exceeding RM1.5 Billion: Post award contractual and commercial support
- Port facilities, Malaysia – contract value exceeding RM2.5 Billion: Advice on contractual and commercial issues

Education

- University, Malaysia – Contract value exceeding RM240 Million: Contractual and commercial support

Commercial

- Shopping complex, Malaysia – Contract value RM135 Million: Contractual and commercial support
- Shopping complex, Malaysia – Contract value RM250 Million: Contractual advice, negotiation on disputes
- Retail development, Malaysia – Contract value exceeding RM25 Million: Contractual advice, negotiation on disputes
- Theme Park, Malaysia – Daily 99K UoE, Contract value RM310 Million: Contractual advice, negotiation on disputes

Against Consultants

Office

- Government complex, Malaysia – Claim value exceeding RM120 Million: Preparation of Extension of Time, Loss & Expense claims
- Office tower, Malaysia – Contract value exceeding RM460 Million: Contractual and commercial support
- Office tower, Malaysia – Contract value exceeding RM420 Million: Evaluate contractor's claims for extension of time, prolongation costs, loss and expense, Employer's contra-charges
- Office tower, Malaysia – Claim value RM32 Million: Winding up and liquidation of Contractor's assets
- Government complex, Brunei – Advice on contractual and commercial issues

Mixed Development

- Township re-development, Malaysia – Contract value exceeding RM150 Million: Contractual and commercial support
- Township development, Malaysia – GDV RM3.5 Billion: Contractual and commercial support services for developer
- Agropolitan development, Malaysia – Claim value EM68 Million: Contractual and commercial support services
- Mixed commercial development, Malaysia – Contract value RM350 Million: Contractual and commercial support services for developer

Contractual / Commercial Experience (Cont'd)

Principal Negotiator On Commercial Settlement Cases (Cont'd)

Residential

- Residential development, Malaysia – Contract value exceeding RM175 Million: Contractual and commercial support for developer
- Residential development, Malaysia – Contract value exceeding RM8 Million: Provide contractual advice on contractual disputes
- Condominium, Malaysia - Contract value RM68 Million: Preparation of extension of time, loss and expense claims
- Fit-out to condominium, Malaysia – Contract value RM9.8 Million: Contractual and commercial support
- Fit-out to condominium, Malaysia – Claim value RM0.5 Million: Contractual and commercial support
- Condominium, Malaysia – Contract value exceeding RM30 Million: Contractual and commercial support

Utilities

- Light Industrial, Malaysia – Contract value RM10 Million: Provide contractual advice on contractual disputes
- Chilled water reticulation network, energy transfer station, Malaysia – Contract value RM33 Million: Contractual and commercial support
- Water supply network, Vietnam – Claim value VND 35 Billion: Preparation of prolongation cost claims
- Centralised Sewerage Treatment Plant (Ultimate PE 920K) & Sewerage Conveyance System, Malaysia (480km) – Contract value RM1.5 Billion: Contractual and commercial support

Military

- Indoor Range Complex, Singapore – PPP project: Contractual and commercial support
- Light Industrial, Malaysia – Contract value RM10 Million: Provide contractual advice on contractual disputes

Sports

- Motor Sports Facilities, Singapore – PPP project: Contractual and commercial support

Seminar Speaker / Trainer

50 Common Contractual Problems

Project Risk Management [Public seminar] “Risk Management in Construction Contracts”

Compensation Clauses [In-house seminar]

Payment Provisions and Common Issues [Public seminar]

Project Risk Management [In-house seminar]

Technical use of programmes to control, manage and optimise the project [Public seminar]

Creating a culture for high productivity [Public seminar]

Valuation & Cost Claims [Public seminar] “Construction Claims for Employers, Consultants and Contractors”

“Modified FIDIC 1999 Yellow Book [Plant & Design Build]” [In-house seminar]

Embracing Timely Completion as PJH’s New Culture Conference, “The Foundation of EOT”

Published Material

Adjudication – A practitioner’s point of view, Malaysian Society of Adjudicators Journal
Project Management, Myth & Fallacies, Building Review Journal
Fundamental of Fast Track Projects, Building Review Journal
The Relationship Between Procurement System & The Economic Use of Resources,
Jurutera Journal, Institution of Engineers Malaysia
The Pursuit of Professionalism, Jurutera Journal, Institution of Engineers Malaysia
Mutation of Design & Build, The Malaysia Surveyors, Royal Institution of Surveyors
Malaysia
Contractor’s Schedule – Myth & Fallacies, Building & Investment Journal
Contractual Due Diligence, Building & Investment Journal
The Complete Amateur’s Guide To Property Development, Building & Investment Journal
Change Order Management – The Key To Project Profitability, Master Builder Journal,
Master Builders Association Malaysia
Variant Of Design & Build, Master Builder Journal, Master Builders Association Malaysia
The A to Z of Effective Design & Build Projects, Master Builder Journal, Master Builders
Association Malaysia
The Complete Amateur’s Guide To Construction, Master Builder Journal, Master Builders
Association Malaysia
Amateur’s Guide To Project Management, Master Builder Journal, Master Builders
Association Malaysia
Quality: Back To Basic, Master Builder Journal, Master Builders Association Malaysia
Stress – Why We Have Them & How We Handle Them, Berita QS, Royal Institution of
Surveyors Malaysia
Procrastination – Why We Have Them & How To Beat Them, Berita QS, Royal Institution
of Surveyors Malaysia
Professional Service Marketing – Part 1, 2, 3 & 4, Berita QS, Royal Institution of Surveyors
Malaysia
Building Trust in Projects, Building Technology & Management Journal, TAR College
Project Management: The Industry’s Panacea? Building Technology & Management
Journal, TAR College
Design Management – A Malaysian Context, Suara Perunding Journal, Association of
Consulting Engineers Malaysia
Buildability, Constructability & Buildable Design, Suara Perunding Journal, Association of
Consulting Engineers Malaysia
Buildability: How Relevant Is It To Your Design? Suara Perunding Journal, Association of
Consulting Engineers Malaysia

Published Material (Cont'd)

Productivity Measurement, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Managing Information – Part 1, 2 & 3, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Value Engineering & Design Management, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Value Engineering – A Fresh Approach, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Quality Assurance & Design Management, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Project Quality Plan, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Managing Designers' Work Flow, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Trust – The Foundation of Success, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Idiot's Guide To Meeting, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Performance Appraisal Demystified, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Team Sabotage Tactics, Suara Perunding Journal, Association of Consulting Engineers Malaysia

Devil's Recipe to Personal Finance, Suara Perunding Journal, Association of Consulting Engineers Malaysia

The Secret To Happiness, The Inspirator International

Assertiveness, The Inspirator International

Keeping Life in Balance, The Inspirator International

Secret of Success – Strategies for Maximum Results In Education, Career & Wealth, ISBN 983-72-0555-5