



# Swiss Trustees and Protectors: Rules of the Game in the New Millennium

## CO-CHAIRS:

**Kelly Massey-Carlier**

Chairman, STEP Suisse Romande Association, Partner,  
Secretan Troyanov, Avocats, Geneva

**Nedim Peter Vogt**

Chairman, Swiss Trust Forum, Partner and Head of Private Clients,  
Bär & Karrer, Zurich

**Timothy R. Urquhart**

Chairman, STEP Swiss-German and Liechtenstein,  
Trust Consultant

**Rupert Ticehurst**

Partner and Head of Trusts Practice, Herbert Smith, London

**19 MAY 2008, GENEVA,  
HOTEL PRESIDENT WILSON**

**20 MAY 2008, ZURICH,  
WIDDER HOTEL**

## SPEAKERS:

**Luc Thévenoz**, Professor at the Faculty of Law, University of Geneva

**Robert J. Danon**, Ordinary Professor of Tax Law,  
University of Neuchatel

**Stella Mitchell-Voisin**, Client Services Director,  
Close Trustees (Switzerland), Geneva

**Michael McAuley**, Counsel and Member of the Trusts Practice  
Group, Appleby, Bermuda

**Anthony Poulton**, Partner, Baker & McKenzie, London

**Monty Raphael**, Head of Fraud and Regulatory,  
Peters & Peters, London

**Jean-Paul Béraudo**, Professor, University of Paris I  
(Panthéon-Sorbonne)

**Dawn Goodman**, Head of the Contentious Trust and Succession  
Team, Withers LLP, London

**Richard Moyse**, Partner, Boodle Hatfield, London

**6 hours of CPD**

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**GAM**

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8.15 Registration & welcome coffee

INTRODUCTION BY THE CHAIRMEN OF THE MORNING PROCEEDINGS

8.40

The Importance of Being Earnest: Trustees and Protectors in the New Millennium

GENEVA:

Kelly Massey-Carlier

Chairman, STEP Suisse Romande Association, Partner, Secretan Troyanov, Avocats, Geneva



Kelly Massey-Carlier, Esq., TEP, is a member of the Virginia (U.S.A.) Bar (1992) and a Registered Foreign Lawyer with the Geneva Bar Association (1999). She holds a B.S. from the School of Foreign Service at Georgetown University, Certificats from the Institute d'études politiques de Paris and the Institut des Hautes Etudes Internationales de Genève, and a J.D. and M.A in Foreign Affairs from the University of Virginia. She has practiced as an American attorney with major Swiss law firms since 1993. Mrs. Massey-Carlier's practice focuses on U.S. and international tax and estate planning for private clients, trusts, foundations, corporate structuring and international transactions.

ZURICH:

Nedim Peter Vogt

Chairman, Swiss Trust Forum, Partner and Head of Private Clients, Bär & Karrer, Zurich



Nedim Peter Vogt, University of Zurich (Dr. iur.), Harvard Law School (LL.M.), Partner with Bär & Karrer, Zurich, and a lecturer at the faculty of the University of Zurich. His main areas of practice are succession, international trust and estate litigation as well as commercial litigation and arbitration. He is the co-editor of a new series of commentaries on Swiss law, inter alia on the Swiss Code of Obligations (4th edition 2007), the Swiss Civil Code (3rd edition 2007) and the Swiss Private International Law (where he has written the chapter on Trusts) (2nd edition 2007). He is also the editor of the Swiss Commercial Law Series and its successor series Access to Swiss Law and Swiss Banking & Private Wealth Management. The second edition of the book edited by Nedim Peter Vogt on Disputes Involving Trusts (1999) is expected to be published in 2009.

9.00

Towards a Future Regulation of Trusteeship in Switzerland

Luc Thévenoz

Professor at the Faculty of Law, University of Geneva

Luc Thévenoz is a professor at the Faculty of Law of the University of Geneva (Switzerland) and the director of its Centre for Banking and Finance Law (www.unige.ch/cdbf). His research, teachings and publications include the law of obligations, contracts, trusts and fiduciary institutions, as well as the law of banking and financial transactions, markets and regulation. In 2001, he published a report to the Swiss government which served as the basis for the recent ratification the Hague

Convention on Trusts. He is an Honorary Member of the Society of Trust and Estate Practitioners. Prof. Thévenoz is also chairman of the Swiss Takeover Board. He has previously served as commissioner of the Swiss Federal Banking Commission (2001–2007). He is a member of the editorial board of the Swiss Business Law Review and of Trust Law International. He has been a visiting scholar at the University of California at Berkeley (1989–1990) and visiting faculty at Boston University (1999–2000) and Duke University (2006–2007)



- Switzerland, a professional trustee's promised land
- Political choice: recognition of trusts without prudential supervision of trustees and protectors
- Official regulation and supervision: the pros and cons
- Blueprint for a Swiss regulation of trusteeship

9.40

Trusts and Swiss Tax Law - Critical Review of Recent Developments

Robert J. Danon

Ordinary Professor of Tax Law, University of Neuchâtel

Prof. Dr. Robert Danon is a full ordinary Professor of Swiss and international taxation at the University of Neuchâtel School of Law, co-manages its Center of Commercial and Fiscal Law (CNCF) and regularly acts as an external expert in practical tax matters. He is the author or co-author of numerous contributions in the field of Swiss individual,

corporate taxation as well as tax treaty law. Prof Danon's Ph.D. thesis, "Switzerland's direct and international taxation of private express trusts" received the Professor Walther Hug Prize (2004) for Switzerland's best doctoral thesis in law. He is also a Swiss contributing editor for the International Tax Review (Kluwer)



- Critical analysis of the new CSI/SSK circular letter
- Future perspectives

10.20 Coffee break

10.50

## Trustees and the Fundamentals of good Trust Administration

### Stella Mitchell-Voisin

Client Services Director,  
Close Trustees (Switzerland) SA, Geneva

Stella began her career with a major international banking group as a graduate trainee in 1991. She quickly moved into the private banking and trust area and worked in Jersey before moving to Geneva in 1996. She has a wide range of experience of trust and company management including fine art, bloodstock, commercial and residential property,

private equity, international portfolio management and secured lending. Stella is a graduate of Kings College, London (LLB Hons), an associate of the Chartered Institute of Bankers and a member of STEP. She is a regular speaker at international trust conferences and sits on the Editorial Board of Trusts and Trustees Italy. Stella speaks English and French, and lives in Monaco.



- Issues to consider prior to take on
- Pitfalls during take on
- Regular reviews of ongoing matters
- Common traps to avoid

11.30

## MISchoice of Law - Trustees and Protectors on the International Stage

### Michael McAuley

Counsel and a member of  
the Trusts Practice Group, Appleby, Bermuda

He has over 27 years of legal experience with a particular emphasis on international estate planning, establishment of private trust companies and offshore trust structures, drafting employee compensation, insurance, commercial and unit trusts, asset protection, trusts review and opinion work, litigation support for trusts and wills disputes.

From 2001 until 2006, he was the Clarence W. Edwards Associate Professor at the Paul M. Hebert Law Center of Louisiana State University. There he taught conflict of laws, comparative law and various property law subjects. Michael is a former president of the estates and trusts section of the Canadian Bar Association (Quebec Branch).

### Anthony Poulton

Partner, Baker & McKenzie LLP,  
London

Anthony is a Partner in the Dispute Resolution Department of Baker & McKenzie's London office and a member of the firm's Trust Disputes Group. Anthony specialises in Trust and Private Banking related litigation and has substantial experience of international trust based disputes, often involving fraud and asset tracing. In connection with such disputes, he has acted variously for trustees, beneficiaries and interested third parties such as creditors. Anthony also has an active Privy Council practice, handling appeals on behalf of law firms, government agencies and companies based in a large number of overseas jurisdictions.



- Creatures of the Common law, creatures of statute or creatures of contract?
- Empowering (or disempowering) trustees and protectors
- Passing the pie or passing the buck?
- Managing risks in choiceS of law.

12.30 Lunch

## Trustees beware: Fraud is Looming

### Monty Raphael

Head of Fraud and Regulatory, Peters & Peters, London

Monty Raphael has been with Peters & Peters, solicitors of London, UK, throughout his legal career. Senior Partner until 30 April 2005, he now remains with the firm as full-time joint head of Fraud and Regulatory. Monty Raphael is regarded as the "doyen" of white-collar crime lawyers, and has been engaged in all aspects of litigation involving fraud and regulatory issues for more than 40 years. He has made a particular speciality of civil and criminal fraud, both domestic and international. Among the numerous high profile cases that he and his firm have been involved

in over the last two decades are Lloyds of London, Guinness, Barlow Clowes, Blue Arrow, BCCI and Maxwell, Wickes, Versailles and a whole host of others, less well known or less well publicised. He is a past president of the London Criminal Courts Solicitors Association; Immediate past Chair of its Anti-Corruption Working Group; Member of The Board of Directors of the Fraud Advisory Panel. Director of Transparency International (UK); Honorary Member of the London Fraud Forum Steering Group.



## REMARKS BY THE CHAIRMEN OF THE AFTERNOON PROCEEDINGS

GENEVA:

### Rupert Ticehurst

Partner and the head of trusts practice,  
Herbert Smith LLP, London

Rupert joined Herbert Smith as a partner in 2005 to develop the firm's top-tier contentious trusts practice and its international non-contentious trusts work with a particular emphasis on Middle Eastern clients. He joins Herbert Smith from a leading city firm where he established a strong market reputation particularly with international banks. The Chambers UK directory 2005 recognised him as "highly regarded in his field" and Legal 500 regarded him as being a "rising star". Rupert is also a member of the Association of Contentious Trusts and Probate Specialists.



ZURICH:

### Timothy R. Urquhart

Chairman, STEP Swiss-German and  
Liechtenstein Branch, Trust Consultant

Tim Urquhart practised as a Solicitor for 22 years in England having been made a partner in an English firm in 1971. Tim's practice specialised in advising both private individuals and large corporations on cross-border aspects of taxation and the use of tax efficient structures in private wealth planning and corporate investment. In 1994 he joined Rothschild Trust in Switzerland where he held the office of Managing Director of the Swiss Trust Group until Oct. 2001, when he became the Chief Executive Officer and a member of the Executive Board of Rothschild Bank in Switzerland. He held both positions until Dec. 2006 when at his request Tim relinquished his operational responsibilities to become Chairman. Tim retired as Chairman in Jan. 2008 and now practises as a Trust Consultant in Zurich.



13.50

## Criminal Liability of Trustees?

### Jean-Paul Béraudo

University of Paris I (Panthéon-Sorbonne)

Vice-Chairman of the International Court of Arbitration of the International Chamber of Commerce. Head of the French delegation in the negotiations of the Hague Convention on trusts from 1982 onwards

Publication: co-author with Jean-Marc Tirard of "Les trusts anglo-saxons et les pays de droit civil" (Academy & Finance, 2006).



- Main criminal offences to which a trustee may be a party
  - when settling the trust : as far the trust assets are concerned, as principal offender, participant or receiver in matter of customs or tax evasion or breach of trust ;
  - when exercising trustees' powers and duties : as perpetrator or participant for misuse of the trust assets.
- Investigation proceedings
- Judgments on criminal and civil aspects (Lugano convention)

14.30

## Removal and Retirement of Trustees - What Trustees must do if they are Fired

### Rupert Ticehurst

Partner and the head of trusts practice, Herbert Smith LLP, London

- In what circumstances can trustees resist a request to resign by the beneficiaries
- In what circumstances can trustees resist removal by a protector

15.10 Coffee break

15.40

## Trustees and Company Directors under Attack - Potential Liability

### Dawn Goodman

Withers LLP, London

Heads up Withers Contentious Trust and Succession team, which is the largest in Europe and has recently won the STEP Contentious Team of the Year award. Dawn advises on domestic and international trust and succession litigation from the consensual to the fraudulent, she represents lay and professional trustees and personal representatives, non-trustee fiduciaries, settlors, beneficiaries, heirs and adverse claimants. She is co-author of Probate Disputes and Remedies and International Trusts and Divorce Litigation (both Jordans) and contributor to Tolleys Administration of Trusts and Planning and Administration of Offshore and Onshore Trusts (both Tottel)



- A brief overview of risk associated with trusteeships of family companies -the devil or the deep blue sea- whether or not to take on directorships including shadow directorships, inadequate information, personal liability, ability to take director's fees -the different duties between trustees and directors
- Reducing the risks of inadequate participation-holding company structures, settlor directed trusts, anti bartlett clauses, directorships/nominee directors
- Can directors become liable to beneficiaries for breach of trust?
- A few structural and practical precautions

## Trust, Divorce and Death - When Trustees and Protectors must worry about Beneficiaries and Settlor with a UK-nexus

16.20

### Richard Moyse

Partner, Boodle Hatfield, London

He specialises in UK and international capital tax planning for individuals, trustees and businesses. His work is a mix of substantial contentious cases and complex tax and trusts planning for predominantly international clients. Past President of The International Academy of Estate and Trust Law,

a member of the Society of Trust and Estate Practitioners (STEP). He was a founding member of the Solicitors Trusts and Revenue (STAR)

Group. Joined Boodle Hatfield in 1973, Richard Moyse was Senior Partner from 1999-2004.



- The relationship between Trustees and Protectors
- The powers of the UK Settlor
- Claims against the Trustees/Protector by UK beneficiaries on divorce
- How should the Trustees/Protector act in litigation against them brought in an English Court?

17.00

## Discussion panel

17.40-19.00

## COCKTAIL RECEPTION





2008 is the long awaited beginning of a new era of opportunities for trustees and protectors in Switzerland. However, risks and liabilities are growing globally. Moreover, a specific Swiss regulation or self-regulation of trusteeship could be introduced in the months to come. **What are the rules of the game for trustees and protectors today? What will change tomorrow?** How should one seize new business opportunities while controlling risks and limiting liabilities? How should one adapt trust practice to comply with the new rules?

In order to provide rigorous legal analysis of these fundamental practical issues, STEP Switzerland & Liechtenstein and the Swiss Trust Forum, with the collaboration of Academy & Finance, have invited **academics and practitioners** who are renowned authorities on trusts to speak at a conference on the theme :

“Swiss Trustees and Protectors : Rules of the Game in the New Millennium”.

This conference’s **intellectual content** and **international character** will make it a exceptional opportunity to review current issues having significant practical implications for wealth management professionals: understanding the scope and limits to the rights and obligations of Swiss trustees and protectors.

With anticipated attendance by over 250 representatives of widely diverse fields (bankers, financial advisers, trustees, fiduciary companies, family offices, lawyers, notaries, academics), this conference will also offer **unique networking opportunities**.

We invite you to come to Geneva on 19th May and to Zurich on 20th May 2008 to join us for **an international wealth planning summit combining legal expertise with business oriented solutions**.

Yours faithfully,

Kelly Massey-Carlier,  
Chairman, Association STEP Suisse Romande

Timothy R. Urquhart,  
Chairman, STEP Swiss-German & Liechtenstein

Nedim Peter Vogt,  
Chairman, Swiss Trust Forum

André-Valéry Bordes,  
General Manager, Academy & Finance SA



STEP is the principal professional body for trust and estate practitioners worldwide. STEP is a unique society for professionals who help safeguard clients' personal and family assets. STEP provides education, training, representation and networking opportunities with other members. Full membership of STEP conveys the professional qualification known as Trust and Estate Practitioner (TEP). TEPs are the most experienced and senior practitioners in the field. STEP has some 1,100 members in Switzerland and Liechtenstein, 5,000 members in the United Kingdom and over 11,000 members worldwide. Founded in the United Kingdom in 1991, and in Switzerland in 1992, STEP's local branch network is comprehensive, covering every region of England & Wales in addition to 33 other countries in common, civil and sharia law jurisdictions. [www.step.org](http://www.step.org)

STEP members are experts in:

- Estates and succession
- Domestic and offshore trusts
- Trust and Estate litigation
- Tax planning

#### ACADEMY & FINANCE

Academy & Finance specialises in providing training for the principal occupations in finance, and more specifically in private wealth management for an international clientele. Academy & Finance has also developed publishing and event organising activities for private companies and professional bodies. Academy & Finance's office is located in Geneva. [www.academyfinance.ch](http://www.academyfinance.ch)



The last decades have been characterized by a trend towards the internationalisation of trust and inheritance law practise. The ever increasing mobility of individuals in a shrinking world affects the planning and control of succession, constantly creating new cross-border and multi-jurisdictional issues. The Swiss Trust Forum organizes seminars and conferences where experts from England, the United States, Switzerland and other jurisdictions give their insight into these topical issues and discuss new developments and recent cases in the context of estate planning, inheritance law and international trust practise. Together with the Zurich Trust Forum and the Europa Institut of the University of Zurich (EIZ) the Swiss Trust Forum has for some time been the organizer of The Zurich Bi-Annual Conference on International Trust and Inheritance Law Practise. [www.zurichtrustforum.ch](http://www.zurichtrustforum.ch)

## VENUES

Geneva, 19<sup>th</sup> May 2008

Hotel President Wilson,  
47 Quai Wilson, 1201 Genève 21  
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Zurich 20<sup>th</sup> May 2008

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## Swiss Trustees and Protectors: Rules of the Game in the New Millennium

## PRACTICAL INFORMATION

### How to register

by phone: +41 (0) 22 849 01 11

by fax: +41 (0) 22 849 01 10

by e-mail: info@academyfinance.ch

by post: Academy & Finance SA,  
PO Box 6069, CH-1211 Geneva 6

**Fees** (VAT 7.6% not included)

**Non STEP members:** 1190 CHF 725 €

**STEP members:** 850 CHF 520 €

#### Discount

If there are two or more attendees from the same institution at either or both locations, a 10% reduction of the fees may be claimed.

### Accreditation

The Seminar is accredited for 6 hours of CPD (Continuing Professional Development) STEP, Law Society (England and Wales), Bar Council (England and Wales).

### Registration and payment

Upon reception of your registration, Academy & Finance will send you an invoice. Payment can be made by credit card, bank transfer or cheque. Your registration will be valid only after payment has been received in full by Academy & Finance SA.

- **Credit card** payments will be debited immediately upon receipt of card details. Credit card payments will be subject to a surcharge of 4% (inc. VAT) to cover commission charges.
- **Bank transfers** should be made to: Academy & Finance SA; Bank: UBS Geneva; IBAN: CH45 0024 0240 3252 0602 G; Swift: UBSWCHZH80A.
- **Cheques** should be paid to the order of Academy & Finance SA.

### Substitution & Cancellation policy

Substitutions from the same company are accepted at any time. Cancellation requests must be received in writing, by fax or by post, by the following dates end of business (Geneva):

- 14 April 2008 refund of 80%
- 28 April 2008 refund of 40%
- after 28 April 2008 no refund will be made for cancellation

## REGISTRATION FORM

You can also register by telephone: + 41 (0)22 849 01 11

Yes, I would like to register for the “Swiss Trustees and Protectors: Rules of the Game in the new Millennium” and I choose:

Geneva, 19<sup>th</sup> May 2008  Zurich, 20<sup>th</sup> May 2008

Yes, I am a member of STEP: membership N° .....

Full name .....

Position .....

Company .....

Address .....

Postcode ..... City ..... Country .....

Tel ..... Fax .....

Mobile ..... E-mail .....

I do not wish to appear on the list of attendees

Special dietary requirements (if any) .....

I wish to pay by: Credit card  Bank Transfer  Cheque

Mastercard  VISA  AMEX  Business card  Personal card

Card No: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Expiry Date: \_\_\_\_ / \_\_\_\_

Name of card holder .....

Address of AMEX card holder .....

Date ..... Signature .....

The organisers reserve the right to change the programme if, despite their best efforts, circumstances oblige them to do so.