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Paul Stibbard – Problems and Possibilities for the Uninitiated

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What's often lacking is the big picture, but not at TransTrusts. Richard Hay - The Hay International Survey:

Exploding Opportunities & Emerging Threats Peter Larder - An Industry International Reality Check Monty Raphael - I'm Your Trustee, Can You Trust Me?





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Briefing 5

vehicles

Paul Christopher

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Briefing 6

various options

jurisdictions?

Wendy Warren

Briefing 7

Briefing 8

roadmap?

rule

Chavez

challenges

STIKEMAN ELLIOTT

Richard Hay

issues Practical uses

Examining risk and practical administration

TRUST CORPORATION OF THE CHANNEL ISLANDS

Understanding the essential differences of the

When is the use of each vehicle appropriate?

Structuring the options to meet client needs

Christopher will expand on elements of the

OECD economic outlook for Latin America

Mexico 2008 reform: The new "simulation"

Venezuela: Helping the clients alarmed by

Chile: Dealing with the inheritance tax

Brazil: Planning for the private helicopter set

"[I really enjoyed] The high calibre of speakers

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(R. Ruddy, Cititrust)

2008: Will the region adopt the OECD's fiscal

matters discussed in his presentation on

MAITLAND CHAMBERS, LINCOLN'S INN

Insurance - are clients buying it?

Evaluating Your Options - Private Trust Companies, Foundations & SMART Funds

What is the Bahamian solution?

How does this compare with other

Important ancillary considerations

BAHAMAS FINANCIAL SERVICES BOARD

How Trustworthy is Your Trust?

Monday, 23 June.

Christopher McCall, QC

A Latin American Tour

Charlene Storr THE PRIVATE TRUST CORPORATION LIMITED

Limited liability companies

Incorporated cell companies

Protected cell companies

Monday 23rd June 0815-0900

Briefing 1

Do's & Don't's for Retiring Trustees

- Retirement or removal the consequences The Protector's obligations - fiduciary or non-
- fiduciary the same? Documentation - indemnity: What's it really
- worth? The beneficiaries - trustee obligations - fall on
- sword or challenge? The last resort - the Court - the consequences!

Paul Dougherty DOUGHERTY QUINN

Briefing 2

Legislating for Private Trust Companies:

- The BVI & Beyond PTC issues for families, their advisors and the legislators Control points for regulators
- Partnering with a professional trustee: Is this necessary?
- The trustee's duties and obligations: Education, costs, reporting and compliance
- The checks and balances meeting the requirements of modern trusteeship
- Looking at the jurisdictions for PTCs they are not all the same The new BVI legislation and beyond ...

Peter Larder

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Briefing 3

Arbitration of Trust Disputes

- The problems revisited The power of arbitration
- Drafting out of the difficulties what is
- possible? A statutory solution?
- The Swiss way
- Getting on with it: The US approach **David Brownbill QC**

XXIV OLD BUILDINGS, LINCOLN'S INN

Briefing 4

Coping With the New UK Tax Rules for

- Foreign Domiciliaries & Residence
 The new time tests and graduated charges for
 foreign domiciliaries
- Closing of existing loopholes
- Opting in and out A potpourri of planning possibilities Impact on trusts
- The beginning of the end?
 - Residence of offshore trustees looming problems
- Residence of individuals the possibility of an objective test

Paul Stibbard BAKER & MCKENZIE LLP

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• The Virgin Islands Special Trusts Act - VISTA, described by trust and estate practitioners as a ground-breaking development for purpose trusts.

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Tuesday 24th June 0815-0900 0815 -0900 Breakfast Briefings: (choose 1 of 4) Choosing a Corporate Asset Holding Vehicle Type, theory and relevance of the available

0800

-0900

Briefing 1 Do's & Don't's for Retiring Trustees Briefing 2 Legislating for Private Trust Companies: The BVI & Beyond Briefing 3 Briefing 4

Registration

- **Arbitration of Trust Disputes** New UK Tax Rules for Foreign Domiciliaries & Residence
- Chairman's Welcome and Introduction Barry McCutcheon 0915
 - I. KEY ISSUES FACING **Chair: Richard Pease**

Day One: Monday 23rd June 2008

The Hayton Review 0920

- of Current Trust Law Issues * Utilising a foreign trust law for local
- property avoiding the pitfalls Utility of "no contest" forfeiture
- clauses in trusts and wills
- * Hastings-Bass: When does it apply and how does it work?
- * Should a draftsman exclude the operation of *Hastings-Bass*?
- * How far can trustees, protectors or settlors have non-fiduciary powers?
- * Extent of personal and proprietary remedies against innocent wrongful recipients of trust property

His Honour Justice David Hayton THE CARIBBEAN COURT OF JUSTICE

1020 **Practical Problems with Private Trust Companies**

- * Directors' duties: Answerable to whom? And for what?
- * Is the bark worse than the bite: Dog leg claims and other beneficiary exposures
- * It's behind you! Lifting the corporate veil
- * Directors as dishonest assisters
- * Insolvent PTCs and liquidator's claims
- * Regulatory nightmares * PTC shares: The Holy Grail of
- ownerless assets **David Brownbill QC**

XXIV OLD BUILDINGS, LINCOLN'S INN

1100 Coffee

The Bottom Line for a Trust: 1130 **Bust or Robust? An Architectural Guide**

- * Forget the fixed trust and the discretionary trust – it's third
- generation time * Trusts with gizmos – all singing, all dancing answers to trustees' prayers or cumbersome contraptions that just don't work in practice?
- * How should a good trust work in practice - taxis, limos or self-drive?
- * Mediations and arbitration clauses snares and delusions or safety valves which do no harm and may help: Is Switzerland leading the way forward?
- * Off stage guidance: Open letters of wishes, confidential warnings or a bit of both
- * What should a good settlor leave to help his heirs and what should a good

II. FOCUS ON FOUNDATIONS

Main Conference

Chair: Christopher McCall QC

- When are Foundations Better 1415 than Trusts?
 - * Are Foundations the new vehicle of choice?
 - * Advantages over trusts
 - * The Brave New World common law (Jersey, Bahamas, St. Kitts) models how comfortable are they?
 - * The new Liechtenstein model
 - * The advantages of a free standing entity
 - * Possible solution to CFC problems * Use in connection with Private Trust Companies
 - * Review of case law
 - **Richard Pease**
 - **LENZ & STAEHELIN**

Setting Up & Running a 1500 Foundation in Practice

- * What are the client's objectives? * Documentation – statutes, bye-laws, agreement of donation, transfers instructions, KYC documents
- Defining Founder's position, reserved rights and entitlements
- Defining beneficiaries' positions and their expectations or entitlements, including access to information
- Control and confidentiality how far can you go?
- The Foundation's board members selecting them and providing for their succession or replacement
- * Liability issues for Foundation's board Curators – possible tasks and position

Getting to grips with a key issue - how

will the Foundation run after the

within Foundation structure

Founder dies (or becomes

* How are conflicts resolved?

Problems & Possibilities

and other Foundations

* The code crossing Founder

Use of hybrid structures

* Range of uses for Stiftungs, Anstalts

* Potential impact of forced heirship

claims from civil and Islamic law

* Islamic Foundations (WAQFS) – a

NIEDERER KRAFT & FREY

incapacitated)?

Dr. Edgar Paltzer

Foundations:

jurisdictions

Tax related issues

1545

1615

1700

Tea

- business community in mind
- Private Trust Company regulations, affording clarity and certainty to family trusts and private trustees in terms of licensing exemptions and related matters.

Contact:: Sherri Ortiz, Chief Operating Officer, BVI International Finance Centre Tel: +1 284 494 1509, Email: info@bviifc.vg



Guernsey - developing trust. Guernsey is a leading international fiduciary centre with 50 years experience in supplying trust and corporate services. The Island plays host to some 140 licensed fiduciaries, ranging from large organisations to independent,

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trustee want to strengthen his trust? Christopher McCall QC MAITLAND CHAMBERS, LINCOLN'S INN

Panel Discussion 1215 The morning speakers plus: Paul Christopher **OZANNES**

Luncheon Hosted by: ^① Investec 1245

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developing vehicle? Paul Stibbard **BAKER & MCKENZIE LLP**

Panel Discussion The afternoon speakers plus: Wendy Warren BAHAMAS FINANCIAL SERVICES BOARD

1730 Close of Day One



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Speaker Biographies

Barry McCutcheon, author of McCutcheon on Inheritance Tax, practiced for many years at the English Tax Bar advising on both domestic and international tax planning.

Justice David Hayton MA, LLB, LLD, Caribbean Court of Justice The Hon Mr Justice David Hayton is a Justice of the Caribbean Court of Justice and an Additional Bencher for Lincoln's Inn. He was formerly a Fellow of Jesus College, Cambridge and then a Professor of Law at King's College, London University on Private International Law and was head of the UK Delegation for XV and XVI sessions of the Hague Conference for the Trusts Convention and the Succession Convention. He is the author of a Report for The Association of Corporate Trustees on Trusts and their Commercial Counterparts in Continental Europe (2001) and is responsible for ten books in the area of trusts, property, succession and tax, including the practitioners' text, Underhill and Hayton: Law of Trusts and Trustees (16th ed 2003). He sat as a part-time judge in London (1984-2000) and in the Bahamas (2000 & 2001). He was a Deputy Chair of the Trust Law Committee (of England & Wales) from its inception in 1994 until 2005.

David Brownbill QC, of XXIV Old Buildings, Lincoln's Inn, is a barrister specialising in Chancery and Revenue matters with a particular emphasis on domestic and offshore trust drafting and administration, international estate planning and litigation involving domestic and offshore trusts. A member of both the STEP International and Technical Committees, he is the founder and editor of the Journal of International Trust and Corporate Planning

Christopher McCall QC of Maitland Chambers, is one of the senior silks at the English Chancery Bar, well known for his enthusiasm in making sense of the law of trusts in a way which keeps the sector in good health. He has advised on trusts and their taxation in almost all the main jurisdictions and appeared in the English courts at all levels, including the House of Lords and the Privy Council. He has also appeared in or been involved as an adviser in litigation in the courts of various foreign jurisdictions, including the Cayman Islands, the Isle of Man, Hong Kong and Jersey.

Richard Pease, an English solicitor and Chairman for STEP Worldwide for 2006-2007, is Counsel to the Swiss firm of Lenz & Staehelin where he specialises in international tax and estate planning.

Dr Edgar H Paltzer, LL.M & TEP has worked as attorney-at-law for major law firms in Geneva, New York and Zurich and is a partner in the private client team of the Zurich law firm Niederer Kraft & Frey. He has held positions as an officer of the IBA and STEP. An Academician of the International Academy of Trust and Estate Law, his preferred areas of practice include international wealth transfer planning, trusts, foundations, taxation and private banking.

Paul Stibbard is the head of the London Private Banking Department of Baker & McKenzie LLP, London, and editor of the Private Banking Newsletter. He specialises in advising individuals and trustees on complex cross border tax, trust and succession issues, particularly concerning the validity of existing offshore trust structures with specific reference to the possible rights of forced heirs from civil and Shari'a law jurisdictions.

John Rimmer, a Partner at Dickinson Cruikshank, a leading law firm on the Isle of Man, advises individuals and trust companies on all matters concerning trusts, wills, succession and probate. Chairman of the Manx branch of STEP and a member of ACTAPS, he qualified as a solicitor in England and practised in London before requalifying in the Isle of Man. He is the author of the Isle of Man chapters in Tolley's International Succession Law and Kluwer's International Succession.

Kenny Foo, admitted as an Advocate and Solicitor in Singapore and as an Attorney and Counsellor-at-Law in New York, is based in the Geneva office of Withers LLP where he focuses on the international tax, trust and succession needs of wealthy families around the world. Kenny previously practiced as a tax lawyer in Singapore, Sydney, New York and Zurich.

Nedim Peter Vogt is a partner with Bär & Karrer in Zurich, where he heads the private client team, specialising in international inheritance, probate and trust litigation. He is also a lecturer at the University of Zurich and co-founder and co-editor of the leading Swiss commentary on Swiss private and commercial law.

Richard Hay is the tax partner of the Private Capital Group in the London office of Stikeman Elliott, Canadian and international lawyers. The Group advises on information exchange and financial regulation matters, including the initiatives pursued by OECD, the EU, the FATF and the IMF, and on international estate planning structures, particularly in Latin America, Canada and the Middle East. Richard is co-chairman of the STEP International Committee.

Peter Larder, Managing Director of the AMS Group in the British Virgin Islands, has over 35 years offshore experience and has managed international trust companies in the Cayman Islands, the Isle of Man, Jersey, Switzerland and Bermuda. Founder of STEP in Cayman, and co-founder of the International Trust Companies Association, he has worked on Government Consultative Committees in a number of jurisdictions. Peter brings an experienced and pragmatic approach to offshore planning and the dynamics of families and their estates.

Monty Raphael has been with Peters & Peters, London solicitors, throughout his legal career. Senior Partner until April 30, 2005, he now remains with the firm as a full-time head of Fraud and Regulatory. Regarded as the "doyen" of white collar crime lawyers, and with a particular specialty of civil and criminal fraud, both domestic and international, he has been engaged in all aspects of litigation involving fraud and regulatory issues for more than 40 years. Among the high profile cases he and his firm have been involved with over the last 20 years are Lloyds of London, Guiness, Barlow Clowes, Blue Arrow, BCCI, Maxwell Versailles, Oil for Food and Cash for Honours

Paul Christopher is a partner in the Guernsey Corporate Department of *Ozannes* where he specializes in investment, finance, and corporate work, including advising on the establishment of offshore investment funds of all kinds and on the regulatory and commercial issues in relation to them. He also has an established trust practice and acts for a number of the leading Guernsey trust institutions.

Wendy Warren Wendy Warren, a chartered accountant, began her professional career in 1988 with one of the big four accountancy firms and subsequently held senior positions in a global private banking institution and a niche provider of fund services. She is the second Chief Executive Officer and Executive Director of the Bahamas Financial Services Board.

Paul Dougherty, having originally qualified as a solicitor in Northern Ireland, subsequently practised with W.S.Walker in the Caymans for 8 years. Based in the Isle of Man since 1989 where he qualified as a Manx advocate, he is now senior partner of *Dougherty Quinn*, a full service law firm where he specialises on international trusts.

0830 **Breakfast Briefings:** (choose 1 of 4) -0900

Programme

0920

1015

Briefing 5 Choosing a Corporate Asset Holding Vehicle Briefing 6 **Evaluating Your Options: Private Trust Companies, Foundations & SMART Funds** Briefing 7 How Trustworthy is Your Trust? Briefing 8 A Latin American Tour

Day Two: Tuesday, 24th June 2008

Chairman's Welcome and Introduction - Barry McCutcheon 0920

III. SOME INTERNATIONAL PERSPECTIVES Chair: Richard Hay

IV. THE INDUSTRY OVERVIEW Chair: Barry McCutcheon

The Hay Private Banking

Exploding Opportunities &

The private wealth explosion – new

markets, new products, new demands

International Survey:

Emerging Threats

Recent Case Law 1400 & Legislative Developments-A Global Review

This presentation will review the recent cases and legislative developments of which international private client practitioners need to be especially aware.

John Rimmer **DICKINSON CRUICKSHANK**

Singapore: The Safe Harbour for **International Private Clients?**

- Who wants Singapore trusts? Four markets that do
- * The only way to incur Singapore tax liability (with great effort)
- * Using Singapore companies: All about Treaty networking
- Can Singapore handle a fullyfledged trust industry?
- * Statutory enhancements: Singapore shows that less is more
- * The Empire strikes back Can Singapore handle international pressure?
- Singapore, New Zealand and Switzerland – mortal combat or mutual cooperation?
- * Use in connection with Private **Trust Companies**
- * A worldwide centre for philanthropists? Kenny Foo

WITHERS LLP

1100 Coffee

Switzerland & Trusts: 1130 **Still A Problematic Nexus?**

- The Swiss nexus as an example of civil law nexus problems generally
- * The varieties of nexus Swiss trustees, Swiss protectors, Swiss assets, Swiss beneficiaries/settlors
- * Trusts and Swiss law understanding the impact of the Hague Convention
- * Forced heirship how far can it torpedo a trust?
- * Prenuptial agreements how effective are they really?
- * Divorce and determined attacks on trust assets
- Matrimonial property law issues * Beware civil law rules against
- perpetuities

Getting acquainted with the Mumbai mentality: What the private banking industry needs to know about India The new UK foreign domiciliary bombshell: Who will be the industry

- winners and losers? Implications for trustees of the UK Revenue's massive data leak: More settlor scrutiny of trustee data
- collection and exchange obligations? * Maintaining credibility for the trusts
- why proactive multi-level lobbying is essential for industry survival * Offshore wars – will the
- supranationals ensnare the US? **Richard Hay**

STIKEMAN ELLIOTT

1500

The Industry's Past, Present & Future: A Global Reality Check

- The past and future evolution of our industry
- Learning from the past what is the sum total of our experience (and how relevant is it in these rapidly
- changing times?) Private client climate change: The dynamics of our industry understanding the factors and forces that drive and direct us
- * The leading financial centres what are they doing right? What
- differentiates them? * The good, the bad, and the ugly:
- Some home truths
- Strategic planning for the future insurance through education, exploration...and smart dice
- * How many new tricks can old dogs learn – do they need to learn? Or do the new dogs need to learn the old tricks?

Peter Larder AMS GROUP

1545 Tea

1615

I'm Your Trustee, Can You Trust Me?

To keep your affairs confidential from government, your assets out of the hands of your grasping spouse and/or your grasping Revenue

Nedim Peter Vogt BAR & KARRER

Panel Discussion 1215 Featuring the Morning Speakers

1230 Luncheon

"Very interesting and knowledgeable speakers"

(C. Courtois, Merril Lynch)

service?

- The fiduciary as gatekeeper is this the ultimate oxymoron?
- The Third EU Money Laundering Directive: Theoretical and practical dilemmas
- Victim of the inconsistencies of cross-border regulation
- Victim of the inconsistencies in implementing regulatory
- requirements
- * I'm only a trustee, don't extradite me!
- * I'm only a trustee, don't confiscate my assets!

Monty Raphael **PETERS & PETERS**

Panel Discussion 1715 Featuring the Afternoon Speakers

1730 Close of Conference Michael Betley the founder and Managing Director of the Trust Corporation of the Channel Islands, previously worked in London and Guernsey as a private client partner of firm of solicitors . He has acted as director of a number of regulated and un-regulated businesses and assists wealthy families developing wealth management and estate planning strategies.

Charlene Storr a certified public accountant, at present serves as a Director of The Private Trust Corporation Limited (PTC). Charlene, who has over nine years experience in offshore corporate and trust administration with PTC and Deloitte & Touche in the Bahamas and Jersey, is also a director of the Bahamas Financial Services Board.

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