The Mourant Ozannes International Trusts & Private Client Conference

2 October 2015 | The Ritz-Carlton Grand Cayman

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Mourant Ozannes' International Trusts & Private Client practice (**ITPC**) is led by Jim Edmondson, who has a wealth of experience in dealing with offshore structures for international private clients. The integrated global ITPC team comprises some of the most renowned litigators, draftsmen and advisors in the offshore world, with more recommendations in the Cityweath Leaders' Lists than any other offshore law firm. We advise on the laws of the BVI, the Cayman Islands, Guernsey and Jersey, from offices in each of those jurisdictions as well as in London and Hong Kong.

Our global team provides exceptional client service covering both contentious and non-contentious matters in all our jurisdictions.

To find out more about our award-winning practice please email jim.edmondson@mourantozannes.com or visit mourantozannes.com/itpc

MOURANT OZANNES

Welcome

Dear Delegates,

On behalf of Mourant Ozannes, we would like to extend a warm welcome to all of our delegates, speakers and guests to this event, our fifth International Trusts & Private Client conference here in the Cayman Islands.

We are delighted to welcome all our delegates, some of whom have travelled great distances to join us today and of course all of our speakers who have taken time out of their busy practices to share their expertise with us.

The task of the professional trustee becomes ever more onerous and complex. Duties of prudent investment, confidentiality, exercise of Independent judgement and due consideration of the rights of beneficiaries have to be managed against a backdrop of the move to transparency of personal and financial information, and a political agenda keen to exploit popular opinion as to the "morality" of tax planning. That is quite apart from the risks to the preservation of value which can be generated by family disputes, divorce and aggressive tax regimes.

We aim today to explore a range of issues of concern to trustees, concentrating upon both prevention and cure. We hope that you will feel able to share your own views on the topics to be addressed by the panel discussions and, in particular, the breakout sessions.

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Jim Edmondson Head of International Trusts & Private Client, Mourant Ozannes

Shân Warnock-Smith QC ICT Chambers (Cayman Islands) and 5 Stone Buildings (London)

Morning Programme

8:30 - 9:30am

Registration/Check in and Continental Breakfast

Ballroom Foyer

9:30 - 10:00am

Welcome: Jim Edmondson and Shân Warnock-Smith QC, Conference Chairs Jude Scott, Cayman Finance Chief Executive Officer. *Grand Cayman Room*

10:00 - 10:45am

Debate: This House believes that the right to privacy is dead *Grand Cayman Room*

Moderated by: Jim Edmondson (Mourant Ozannes) For the motion: Joshua Rubenstein (Katten Muchin Rosenman) Against the motion: Jeremy Wessels (Mourant Ozannes)

10:45 - 11:15am

Coffee Break Ballroom Foyer

11:15 - 12:00pm

Panel discussion: Trusts and succession update from the UK, US and Europe

Grand Cayman Room

Moderated by: Bruce Lincoln (Mourant Ozannes) Panel: Megan Worrell (Duane Morris)

> Peter Steen (Mishcon de Reya) David Wallace Wilson (Schellenberg Wittmer)

12:00 - 1:00pm

Breakout sessions

A. Trustees, bribes and secret profits

Cayman Brac Room

Simon Dickson (Mourant Ozannes) Maxine Mossman (Clifford Chance)

In *FHR European Ventures v Cedar Capital*, the Supreme Court corrected a previous "wrong turn" in English law in relation to the vexed question of whether bribes received by an agent are held on trust for its principal. In this interactive session, Simon and Max will take you on a whistle stop tour of the case law which spans over 100 years, before focusing on the implications of this decision for trustees and beneficiaries

B. Please protect me: How to protect a trustee from personal liability

Grand Cayman Room

Eleanor Morgan (Mourant Ozannes) Nicholas Holland (McDermott Will & Emery)

In this interactive session you will work through an infrequent but recurring example of breach of trust to consider the Trustee's risks and how to minimize them. We will consider how you might be helped by statute (and what dangers might wait for the unwary who rely on statutory protection) as well as considering contractual limitation wording, the operation of indemnities and the Hail Mary plea (section 61 of the UK Trustee Act 1925 and its offshore iterations).

C. Anti-forced heirship provisions: friend or foe?

Rembro Room

Andrew De La Rosa (ICT Chambers) Charles Lloyd (Macfarlanes LLP)

The answer to this question is not necessarily "friend" in relation to the Cayman Islands trust industry. This session will examine both attacks on and defence of Cayman Islands trusts to see where the new challenges are emerging and the related issue of how the Cayman Islands firewall is now viewed in the market for foreign trusts. The session will also discuss what difference the firewall legislation makes to our industry and whether we should or are bound to change it.

Afternoon Programme

1:00 - 2:00pm

Lunch sponsored by foreshore

Little Cayman Room

2:00 - 3:00pm

Breakout sessions:

A. Tax information demands: what do you do when it happens to you?

Cayman Brac Room

Robert Mack (Mourant Ozannes) Emily Exton (Forsters)

This session will explore the nature of TIEA's and their relevance in an age of automatic information exchange. The session will also explore the inherent weaknesses of TIEA's and how to capitalize on those weaknesses to reduce or exclude information sought by foreign tax authorities.

B. The continuing impact of divorce on trusts

Grand Cayman Room

Jim Edmondson (Mourant Ozannes) Madeleina Loughrey-Grant (Farrer & Co)

The role of the trust in wealth planning means that trustees have to be prepared for involvement in divorce proceedings which may well turn hostile. This session will examine the problems faced by trustees and by beneficiaries when the family splits.

C. Error, muddle and confusion: how to turn the clock back on your mistakes

Rembro Room

Jonathan Speck (Mourant Ozannes) Suzanne Marriott (Charles Russell Speechlys)

This session will deal with the unfortunate situation where trustees discover a mistake has been made and the result will have an unintended result for the beneficiaries. Often the result is tax is payable in another jurisdiction and the trustees need to rectify the position and understand the options they have available to them. We will consider a case study based on a recent case in Cayman and Jersey to help go through practical steps for trustees.

3:00 - 4:00pm

Mock court application Grand Cayman Room

Presided over by Shân Warnock Smith QC

Setting the scene:

Choreographer: Andrew De La Rosa Counsel: Robert Shepherd (Mourant Ozannes) Counsel: Richard Wilson (3 Stone Buildings) Other characters: To be announced on the day

4:00 - 4:30pm

Coffee Break

Ballroom Foyer

4:30 - 5:00pm

Mock court application (continued)

Grand Cayman Room

5:00 - 5:15pm

Closing Remarks Grand Cayman Room

5:15 - 7:00pm

Cocktails on the terrace

Conference Chairs

Jim Edmondson



Jim Edmondson is head of Mourant Ozannes' global International Trusts & Private Client team. Prior to joining Mourant Ozannes, Jim was joint Senior Partner and head of the private client practice at Farrer & Co where he was the solicitor to the trustees of a major London Estate. He has over forty years' experience advising high net worth individuals

on a range of non-litigious private client matters and is particularly recognised for his advice on offshore holding structures. Jim is a frequent speaker at industry events on matters relating to wealth planning and structuring.

He is recommended in Chambers Global 2014 for both Private Client and International Private Client work and was awarded the prestigious Lifetime Achievement Award at the Citywealth Magic Circle Awards in 2014, which recognises the outstanding achievements of international wealth management and private client professionals.

Jim Edmondson

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Shân Warnock-Smith QC



Shân Warnock-Smith QC is both an adviser and a litigator in the whole range of trust and succession matters. She is ranked among the leading Silks in her field and has appeared in a number of the most important private client cases of recent years. Based in Cayman and London, Shân has an international practice, taking her around the globe to advise and to

litigate. She specialises in wealth structuring for international families, with and without the involvement of the court. Shân is also a specialist mediator of trust and succession disputes.

Shân Warnock-Smith QC

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Speakers



Joshua Rubenstein advises businesses and private individuals, including high net worth individuals, senior executives, professionals, entrepreneurs, artists and others with unique intellectual property interests. He handles a wide variety of private matters for these clients on a local, national and international level, including personal and estate planning,

the administration of estates and trusts, and contested Surrogate's Court and tax proceedings.

Joshua is a former adjunct professor at Brooklyn Law School and is a frequent lecturer and author. He is regularly quoted in the media, with credits in The New York Times, The Wall Street Journal, New York Law Journal, Citywealth, Forbes, Kiplinger's, Crain's, The Washington Post, FOX News, Bloomberg News and CNBC.

Joshua Rubenstein

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Jeremy Wessels is currently the International Group Head of Litigation with Mourant Ozannes. He specialises in commercial litigation, particularly in cases involving insolvency, contentious trust disputes and financial services business, along with asset tracing and freezing orders. He regularly acts in complex contentious trust disputes,

particularly those with an international element. His recent cases include: *Investec Trust (Guernsey) Limited v Glenalla Properties Limited* and others, a decision in the Guernsey Court of Appeal as to a trustee's personal liability for debts incurred in the administration of the trust; in Re R Trusts, a decision of the Guernsey Court of Appeal on the nature of the Court's statutory jurisdiction to supervise trusts and the jurisdiction to order information from a beneficiary in favour of a trustee; and, *Broadhead v Spread Trustee Company Limited and others*, before the Royal Court of Guernsey dealing for the first time with the nature of the limitation period for actions alleging breach of trust.

Jeremy Wessels

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Bruce Lincoln has experience of a wide range of contentious areas including insolvency, banking and professional negligence, specialising in particular in contentious trusts work. In addition to hostile trust litigation, Bruce also regularly advises trustees and beneficiaries on issues arising in the course of the administration of trust

structures (both contested and non-contested), including requests for the provision of trust information, transfers of trusts to other providers, restructurings, rectification, mistake, *Public Trustee v Cooper* applications etc.

Bruce qualified as an English solicitor in 1999 with City firm Gouldens (now Jones Day) and practised as a litigator there until July 2004. Following a period with another offshore law firm in the Cayman Islands, where he was admitted as a Cayman Islands (attorney at law), Bruce joined the firm's Litigation team in December 2004 and was made partner in February 2010.

Bruce Lincoln

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Megan R Worrell is a partner with Duane Morris LLP. She practices in the area of US and international tax and wealth transfer planning, specifically assisting clients with cross-border issues to develop tax-efficient estate plans. Her work involves foreign trusts, preimmigration and expatriation planning, planning for the purchase of US property

by non-US persons, asset transfers, beneficiary conflicts, and compliance with federal and state estate, gift, inheritance and income tax returns. She also has extensive experience with clients who have made voluntary disclosures to the IRS, including clients disclosing overseas accounts and complying with reporting obligations for those with overseas interests.

Prior to and while attending law school, Ms. Worrell worked as a tax consultant at Arthur Andersen and Deloitte & Touche.

Ms Worrell is admitted to practice in New York and New Jersey, and is licensed in Pennsylvania as a certified public accountant. She is a 2003 graduate of Fordham University School of Law, where she was a member of the Fordham International Law Journal, and a graduate of Widener University (MS, Taxation, *summa cum laude*) and Salisbury State University (BS, Accounting, *summa cum laude*).

Megan R Worrell

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Peter Steen is a partner in Mishcon Private, specialising in trust disputes. He has a wealth of experience in a wide spectrum of disputes, acting predominantly for corporate and individual trustees, beneficiaries, protectors and third parties with claims against trustees. His work is frequently international and, amongst other

jurisdictions, he has recently been involved in high value cases in England, Bermuda, the BVI, Jersey, Guernsey and Switzerland.

Prior to joining Mishcon de Reya, Peter practised at Farrer & Co in London and Mourant Ozannes in Jersey. In addition to being admitted in England, Peter is also qualified in California and Ireland. He is a member of the Association of Contentious Trusts and Probate Specialists (**ACTAPS**) and has been named as "one to watch" in the legal directories. He co-edited the second edition of the course notes for the STEP Advanced Certificate in Trust Disputes.

Peter Steen

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David Wallace Wilson is a partner in Schellenberg Wittmer's Private Client & Estates practice in Switzerland. He advises individuals domestically and internationally on all aspects of wealth structures and estate planning for their personal and business assets. He also acts in complex family, guardianship and inheritance disputes, including

administering international successions. His additional area of expertise includes anti-money laundering (**AML**).

David currently serves as chairman of STEP Geneva and is the founder of the leading website on trusts in Switzerland (www.trusts.ch).

David Wallace Wilson

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Simon Dickson is the Head of the

the Cayman Islands office. Prior to

joining Mourant Ozannes he was a

Litigation and Insolvency Department in

barrister in chambers in London before

Office. Simon has extensive experience

working in house at the Serious Fraud

in insolvency and restructuring, fraud

and asset tracing and regulatory



matters.

Simon was called to the Bar of England and Wales in 1998 (currently non-practising) as a Harmsworth Scholar and the Cayman Islands Bar in 2002. He is a member of the Honourable Society of the Middle Temple.

Simon is ranked in Chambers Global for Dispute Resolution and is recommended in the International Who's Who of Asset Recovery Lawyers.

Simon Dickson

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Maxine Mossman is partner in Clifford Chance's L&DR practice. Maxine has over 12 years experience in international commercial litigation. Maxine focuses on contentious trusts and estate matters together with funds litigation. She has acted for a variety of clients including trustees, high net worth individuals, financial institutions and private equity

funds. She has advised on a number of high value complex matters, both in England and offshore, and has considerable experience of Cayman, Jersey and BVI proceedings.

Maxine Mossman

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Eleanor Morgan has broad-based experience of commercial and trust litigation and contentious insolvency. Eleanor has worked for a major BVI law firm since 2011, acting on a wide range of international litigation, contentious trust and insolvency matters, with a particular emphasis on distressed funds work.

Eleanor trained and qualified with Macfarlanes LLP in London. She worked for Macfarlanes for six years, where she was a member of the contentious trust and probate group. Whilst at Macfarlanes, Eleanor undertook a secondment to the English Court of Appeal, where she worked as a Judicial Assistant to Sir Anthony Clarke, Master of the Rolls.

Eleanor is an associate member of the Association of Contentious Trust and Probate Solicitors (**ACTAPS**).

Eleanor Morgan

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Nicholas Holland is a partner at McDermott Will & Emery UK LLP, based in its London office. Nick is a litigator. He primarily represents institutional trustees, private clients and their advisers as well as non-contentious lawyers in multi-jurisdictional and offshore trusts disputes.

Nick is admitted as a Barrister and

Solicitor in British Columbia, and Ontario, as an Attorney at Law in the Cayman Islands, and as a solicitor in England and Wales. He practiced in each of those jurisdictions for a number of years.

Nick was previously Head of Contentious Trusts and Estates and Head of Banking Litigation and his team was recently awarded the STEP Contentious Trust and Estates Team of the Year (2012-2013). Nick is recognised as a leading lawyer in both Chambers and Legal 500 which lately noted that he is "bright, affable and very good with clients" and that he is "one of the very best contentious trusts lawyers in London."

Nicholas Holland

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Andrew De La Rosa holds dual English\ US legal qualifications, is a member of the Cayman Islands Bar and has been authorised to appear before the courts of the Dubai International Financial Centre. A graduate of the University of Chicago Law School and a former Inner Temple Scholar, his experience as an advocate and advisor is international. He

has acted in cases concerning the laws of all the major British Commonwealth jurisdictions, the Shari'a law of property, finance and succession and US law.

With Shân Warnock-Smith QC, Andrew has established ICT Chambers as their global practice hub. For a number of years Andrew has been recognised as one of the leading specialists in his fields of practice. Successive editions of The Chambers & Partners Guide to the UK Legal Profession have described him as "awesome and absolutely compelling," a "great advocate and terrific strategist" and "charming and easygoing but with a deadly eye, known to get results." The Citywealth Leaders List has named him as one of the leading trust advisers at the English Bar.

Andrew De La Rosa

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Charles Lloyd specialises in international commercial litigation including fraud and asset tracing, large scale international disputes, arbitrations, trusts litigation and contractual disputes. Charles has particular expertise in contentious trusts and probate work. He is the head of the trust and probate litigation group.

Recent highlights include obtaining worldwide freezing orders on behalf of a Russian family for over \$500m in a trust related dispute involving litigation in a number of European and offshore jurisdictions, obtaining worldwide freezing orders for \$180m on behalf of Wall Street investors arising out of a fraud concerning an Eastern European privatisation programme involving coordination of a number of pieces of litigation in numerous jurisdictions, and acting for an offshore trustee company in proceedings against it for breach of trust, including negligent supervision of a financial adviser.

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Robert Mack is a Senior Associate and a member of the International Trusts & Private Client team.

Robert specialises in non-contentious trusts and private client law, advising institutional trustees and individuals and their families in their capacities as trustees, settlors, executors, beneficiaries, protectors, and enforcers.

He also has expertise in contentious and non-contentious probate matters and procedures. In addition, Robert has advised on matters of compliance, commercial and investment trusts, STAR trusts, charitable trusts, regulatory matters, and risk management strategies for fiduciaries.

Robert is a member of the Society of Trust and Estate Practitioners (STEP) and holds a TEP designation. He is the current Secretary of the Cayman Islands branch of STEP. Robert is also a member of the STEP Law Reform Sub-Committee for the STEP Cayman Islands branch.

Who's Who and Legal 500 have both identified Robert as being a leading private client lawyer in the Cayman Islands.

Robert Mack

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Emily Exton is head of Forsters' dispute resolution department and a key partner in the firm's contentious trust and probate group. She has 20 years of experience advising clients on a wide variety of contentious matters both on and offshore. Recent experience includes challenges to the validity of wills, rectification claims, claims under

the Inheritance (Provision for Family and Dependants) Act 1975, breach of trust claims, trustee fee disputes, removal of personal representatives and professional negligence claims arising in the context of trust and estates work. Emily also regularly handles Court of Protection matters, including applications for statutory wills, and is recognised by both Chambers UK and the Legal 500 as a leader in the field of contentious trust and probate work.

Emily Exton

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Madeleina Loughrey-Grant is a partner in the Private Client department at Farrer & Co. Madeleina advises a very international client base on trust, estate planning and taxation issues and on the creation and operation of offshore asset holding structures. She also advises families on next generation planning, particularly in the context of family

trading businesses. She has a very international client base and speaks regularly at international seminars on trust, tax and general planning issues.

Madeleina is a Committee member of the STEP EU Committee. She is a Senior Contributing Editor for the Journal of International Tax, Trust and Corporate Planning. She is also the vice-president of the private client commission of AIJA, and a Committee member of the Irish Law Society Probate Administration and Trusts Committee

Madeleina Loughrey-Grant

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Jonathan Speck, a Jersey advocate, specialises in commercial litigation, principally involving contentious and non-contentious trust cases, about which he has written and lectured around the world.

Jonathan was called to the English Bar in 1990 (currently non-practising) and,

after returning to Jersey, was sworn in as a Jersey advocate in 1994. Jonathan is a member of the Association of Contentious Trust and Probate Specialists and of the Society of Trust and Estate Practitioners.

Jonathan is ranked in Chambers UK as the only leading individual for Dispute resolution in Jersey and by Citiwealth as one of the top 5 leading lawyers in the world for contentious trusts.

Jonathan Speck

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Suzanne Marriott is a partner in the Private Client and Trust Litigation Team at Charles Russell Speechlys, London. She specialises in cross border and UK tax planning, wills, trusts, contentious trusts and probates, Inheritance Act claims, estate and succession planning, international wills and trusts, non domiciliaries, mental incapacity and

Court of Protection work, heritage property, art, landed estates and charitable trusts eq acting for the late Sir Denis Mahon CH, CBE.

Suzanne acts as Trustee, Executor, Deputy, Attorney and Charitable Trustee for many well known clients and is often appointed by the Court in these roles where there are disputes.

Suzanne is a Notary Public practicing in the City of London and is a member of STEP, ACTAPS and the CLA.

Suzanne Marriott

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Robert Shepherd is known for his commercial and no-nonsense approach. He joined Mourant Ozannes in 1999 from Clifford Chance in London. He was the Managing Partner of the Guernsey office from 2005 to 2013 when he was appointed Senior Partner. He has wide experience of corporate and fiduciary matters, including

regulatory investigations. He has been involved in some of the leading cases concerning trusts, fraud and disclosure orders and, in recent years, has also developed an expertise in fund litigation. He has appeared in a number of arbitrations and mediations.

Robert is also in demand as an advisor to HNW private clients and family offices and holds a number of such appointments as director and trustee.

He is regularly asked to speak at or chair Conferences in his areas of specialisation and was asked to be judge in the 2014 STEP Awards.

Robert Shepherd

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Richard Wilson's practice encompasses litigation, drafting and advisory work across a wide range of traditional and commercial chancery, but with a strong emphasis on trusts and probate (both contentious and non-contentious), related company and partnership issues. The bulk of his work at present consists of trusts and probate litigation, including

numerous high profile trust disputes in many different jurisdictions as well as non-contentious applications to Court on behalf of trustees. Richard has appeared in many leading cases, including *Futter v HMRC* [2013] UKSC 26 and *Slutsker v Haron Investments* [2013] EWCA Civ 430. Richard also retains a significant advisory practice and acts for the trustees of numerous landed estates as well as major corporate trustees in various jurisdictions.

Richard Wilson

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Notes

Mourant Ozannes wishes to thank our sponsors:

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MOURANT OZANNES Stingray City/ Sandbar Excursion

Optional Excursion, Saturday 3 October

On the Saturday after the conference, come and join your industry partners for a relaxing and enjoyable private catamaran charter aboard the Red Sail Sports famous Spirit of Ppalu from 9:30am until 12:30pm. This luxury catamaran is 62 feet long and features plenty of cabin space for your comfort; trampoline nets for sunbathing; ample shade; easy access in and out of the water; plus restroom facilities. The captain and crew are skilled sailors making for a comfortable and memorable morning out on the beautiful North Sound.

We will be visiting the world-famous Stingray City/Sandbar for a morning of swimming and fun in the sun.

Bus transportation to the boat will leave The Ritz-Carlton Group Promenade promptly at 9:15am. After the boat trip, the bus will return passengers to The Ritz-Carlton between 12:45 and 1:00pm.