



## *Duke Law Firm, P.C.—in the News*

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### **Seminars/Conferences**

The International Law Committee of the Orange County Bar Association and Orlando International Council, present "**Pratfalls, Pitfalls and Profits of Foreign Investors in U.S. Real Property**," Orlando, FL, February 14, 2007. Richard Duke will speak on the topic "Tax and Financial Issues Relating to Foreign Investment in U.S. Real Estate & Their Challenges for Attorneys and Other Professionals," with a separate discussion to specifically emphasize the use of the Colorado Foreign Capital Depository Act.

<http://www.assetlaw.com/events.htm>

**Chartered Wealth Manager and Certified Trust and Estate Practitioner Course:** Register for the Chartered Wealth Manager (CWM) and Chartered Trust and Estate Planner (CTEP) Designation Courses: Next training courses to be held in Key Largo, FL, April 24-27.

**Course Dates and Locations:**

<http://mfsfinancial.com/bsiexecutiveeducation/>

### **The Offshore World is Changing Fast**

*Comments by: Charles Cain, CM Skye; Editor, Offshore Investment Magazine:*

<http://www.offshoreinvestment.com/>

The changes are coming about because of pressure from large jurisdictions, most of which have major finance industries of their own, and who resented the competition. It had nothing to do with regulation, as the 'offshore' centres are nearly all much more regulated than the main centres. (E.g. Isle of

Man is far more tightly regulated than the City of London, and infinitely more than the USA.). Nor is it anything to do with confidentiality—just competition.

What is happening is that the business known as 'offshore' is now moving and being done from large centres. For example, the main supplier of tax free unregulated confidential companies to the world is Delaware, and the main centres for confidential financial tax free banking services are Switzerland, Singapore and Hong Kong. The main place providing tax free residence is the United Kingdom—better even than Monaco.

The so-called 'offshore' centres have to find new ways to earn their living. That means becoming technically much more capable and competent. As a result, many of these centres are effectively being shut down (which causes economic hardship). It also means that clients wanting first class technical work are now finding more sophisticated advice in the best of the old offshore centres. So the old 'offshore' jurisdictions are becoming slimmer, but meaner.

We are finding that we no longer get Americans just trying to hide assets. We have many fewer American clients, but the services they want and get are far more sophisticated. That suits us fine.

*CM Skye Ltd is incorporated in the Isle of Man No. 094851C and Licensed by the Isle of Man Financial Supervision Commission as a Corporate and Trust Service Provider.*

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Charles Cain and Richard Duke spoke by telephone on January 5, 2007, and after the conversation, Mr. Cain provided the foregoing written comments regarding the world closing in on the offshore field. During the telephone conversation, Mr. Cain stated (and Richard Duke acknowledged) that the biggest tax haven in the world is the U.S., which also contains the largest number of promoters. Mr. Cain stated that the world is closing in on promoters (tax scams and schemes) in both the home countries of the clients and the jurisdictions in which the planning is taking place through the implementation of trusts, entities, and other structures. Mr. Cain further stated that as a result of this, the offshore field is narrowing and the professionals who will be left standing are those who provide competent advice, and not advice based on gimmicks or fraud.

### **Population and General Information Regarding Dubai**

The National Bank of Abu Dhabi, in its United Arab Emirates (UAE) Economic Quarterly, Issue: 2, Quarter: 4; Year: 2006, states that Dubai Municipality released data for the Emirate covering 2006 and estimated Dubai's population at 1.396 million as of September 2006, up 5.7% from 1.321 million at the end of 2005.

According to this report, the Banking Sector assets in the UAE are estimated at US \$2.04 billion as of

the end of 2006, up 20% from the end of 2005. The gross premium collected by the insurance industry in the UAE rose by 27.7% at the end of 2005 to US \$2.01 billion from US \$1.57 billion in 2004.

According to the *New York Times*, Dubai's economy grew by 16% last year. Dubai's economy is 94% non-oil related. The largest airport in the world is currently being built in Dubai, and Emirates Airlines has the largest fleet in the world of Boeing 777s and Airbus 380s on order. In total, some \$100 billion worth of projects are either under way or in the pipeline. This equates to the entire foreign direct investment in the U.S. last year.

*New York Times* magazine, December 24, 2006.

### **Misuse of Offshore Vehicles Report Published**

The Financial Action Task Force ("FATF") conducted an examination of the use of corporate vehicles (legal entities, including corporations, trusts, foundations and partnerships with limited liability) that can be used for money laundering or terrorist financing purposes. This report also is an example of the world closing in on promoters, even though the report does not directly make this statement. This report is available on the FATF Web site:

<http://www.fatf-gafi.org>

*(Open the Web site, scroll down and look at the report on Misuse of Corporate Vehicles.)*

### **U.S. Supreme Court Cases**

The following Web site covers all U.S. Supreme Court cases, compiling information and commentary into a resource that houses virtually everything known about a case.

The Home page lists all cases on the Court's docket and each case is linked to its own omnibus page. Also included is a plain-English summary of the case, the questions presented, links to blawg commentary, lower-court opinions,

oral arguments, transcripts, all briefs, the decision, when it is issued, counsel for each party and outside resources.

<http://www.lawmemo.com/SCT/>

### **A Blawg Listing—Other Blawgs**

The following Web site includes a directory of blawgs arranged by categories and locations, as well as a directory of other blawg directories. The Home page of the site lists the most popular blawgs, highlights, recent blawg posts and highlights a "featured blawger."

<http://blawgsearch.justia.com/>

### **STEP Membership**

The December 2006 issue of The STEP Journal stated that at the Society of Trust and Estate Practitioners (STEP) 15th Anniversary Dinner, the Society welcomed its 12,000th member.

### **Miami Bank Hit With \$800,000 Penalty for Poor MSB Monitoring**

December 29, 2006

*Moneylaundering.com News*

Two years after Beach Bank received a cease and desist order from the U.S. Federal Deposit Insurance Corporation for weak due diligence and monitoring of high risk accounts, the U.S. Financial Crimes Enforcement Network hit the Miami-based bank on [December 27] with an \$800,000 penalty for the same issues.

The penalty stems from the deficiencies reported by the FDIC in a 2004 order, as well as results of a look-back of suspicious transactions and high-risk accounts, according to Michael Kosnitzky, Beach Bank's chairman of the board.

Examinations by the FDIC found the bank "failed to implement an adequate system of internal controls" which ultimately resulted in more than one billion dollars in unfiled suspicious transactions.

### **Guilty Plea Tax Shelters**

A Utah businessman pleaded guilty yesterday to conspiracy and wire-fraud charges in connection with a criminal fraud probe over tax shelters promoted by a group of KPMG executives. Chandler Moisen admitted to participating in a conspiracy to help individuals avoid paying income taxes. "I knew this was being done for tax purposes only," he said before entering his plea.

He is the third person to plead guilty in the case. David Rivkin, a former KPMG tax partner, pleaded guilty to conspiracy and tax evasion in March. Domenick DeGiorgio, a former executive at Germany's HypoVereinsbank, pleaded guilty to similar charges in 2005.

A prosecutor said Moisen is expected to testify for the government in the tax-shelter case against 16 former KPMG executives, scheduled to start in Sept. 2007. Said his lawyer Thomas Bienert of Bienert & Krongold in San Clemente, Calif.: "He has been cooperating and will continue to be cooperative throughout the process."

Moisen's cooperation might have something to do with a damning email cited by the government in court papers, detailed in today's *New York Times*. An August 2001 email from Moisen to DeGiorgio titled "**Us getting rich.**" (That's the **Law Blog Quote of the Day.**) Moisen writes: "Dom, one of my recurring nightmares involves you/me and our receipt of \$. The first used to be that somehow the bank would catch you and we would all go to jail because we were violating federal banking laws." It went on: "The second nightmare is that the I.R.S. catches on and you/we are nailed for income tax evasion. People go to jail for that one."

*Trackback URL:*

<http://blogs.wsj.com/law/2006/12>

**Adkisson's Captive Insurance Companies: An Introduction to Captives, Closely-Held Insurance Companies, and Risk Retention Groups**

by Jay D. Adkisson

Now available from Amazon.com:

<http://www.amazon.com/Adkissons-Captive-Insurance-Companies-Introduction/dp/0595422373>

**Introduction**

A captive insurance company is, in a nutshell, an insurance company formed by a business owner to insure the risks of the operating business. The operating business pays premiums to the captive, and the captive insures the risks of the operating business. A captive is much more than an exotic form of self-insurance: It is the creation of a new insurance company that has the potential to grow from being a mere captive into a full-blown insurance company seeking to profit from underwriting the risks of others.

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Jay is also a regular speaker on captive insurance topics, in addition to general business, estate and asset protection planning topics, to both public and private groups.

**Richard Duke** is the author of "Offshore, Legitimately," **Trusts & Estates**, a PRIMEDIA Publication (New York, NY) (Nov. 2006).

*Trusts & Estates:*  
<http://trustsandestates.com/>

For a link to the article, go to:  
<http://www.assetlaw.com/news.htm>

**Richard Duke** is the author of "The American Way," an article that explains the key points to remember when carrying out probate

in the U.S., **Trusts and Estates Law & Tax Journal** (Nov. 2006), published by Legalease Ltd.:  
[www.legalease.co.uk](http://www.legalease.co.uk)

For a link to the article, go to:  
<http://www.assetlaw.com/news.htm>

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