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Home


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# Happy Year of the Rat!

## 恭喜發財



### JACK'S CORNER

Last month, I had the opportunity to share with you a story of the pure stupidity of a trust company. This month, I will share with you what may be conduct of a trust company that redefines discriminatory, unprofessional, unethical and downright mean! GCSL was recently notified by several end-users of trust and company formation services in Jurisdiction A that their trust company was closing down. The trust company, which we will call Naughty Trustee offered the following options:

1. If the client did not wish to remain in Jurisdiction A and might opt, for what was implied a "better jurisdiction", then for companies, the Naughty Trustee would arrange for migration from Jurisdiction A to Jurisdiction B at no cost to the client and with future savings on fees.
2. If the client did not wish to remain in Jurisdiction A and might opt, for what was implied a "better jurisdiction", then for trusts, the Naughty Trustee would arrange for migration from Jurisdiction A to Jurisdiction C at no cost to the client and with future savings on fees.
3. If the client wished to remain in Jurisdiction A with either its companies or trusts, then the Naughty Trustee would assist with alternative arrangements presumably without charging any transfer fees.

All reasonable to this point, albeit the veiled criticism of Jurisdiction A was, in my view, unnecessary, incorrect and simply a reflection of the failure of the Naughty Trustee to be successful in Jurisdiction A, which I and many practitioners consider to be a most excellent jurisdiction.

The discriminatory, unprofessional, unethical and downright mean conduct takes the form of the Naughty Trustee attempting to charge the clients for transferring their companies or trusts to a licensed trustee in Jurisdiction A not of the Naughty Trustee's choosing. The Naughty Trustee, after forcing clients to make what should be well-considered decisions within seven days of receiving the letter, basically said "You can stay in Jurisdiction A if and only if you transfer your company and/or trust administration to a service provider of our choice."

Discriminatory? Duh. Unprofessional? I gather the Naughty Trustee doesn't really care. Unethical? I could be wrong here because it, arguably, presumes the Naughty Trustee has any ethics. Downright mean? Yep.

I am sad that the Naughty Trustee has brought criticism by end users of Jurisdiction A. I am sad that the Naughty Trustee is coercing clients with unjustified fees to act in accordance with the Naughty Trustee's dictates regarding with which firm the innocent client works. I am sick to my stomach that the Naughty Trustee will probably get away with this conduct.

GCSL encourages the clients who are having this nonsense shoved down their throats to protest such action vigorously with the Naughty Trustee's senior management and to write letters of complaint to the regulator in Jurisdiction A. Stand up and be heard as the Naughty Trustee believes you will simply suffer the small transfer fee and indignity of being told with which trust company you will work!

Onwards and upwards...but never the way of the Naughty Trustee!



### GCSL NEWS

#### NEW YEARS LUNCH IN ANGUILLA, BELIZE AND NEVIS

Jack made the rounds with the fellas and ladies, good food and, of course, good drink



#### **GCSL PLATINUM SPONSOR AT HECKERLING INSTITUTE OF ESTATE PLANNING**

GCSL was represented by Jack Flader, Puai Wichman, Vance Amory, Carlo Mason and Carlyle Rogers at the 42nd Annual Heckerling Institute of Estate Planning held in Orlando in January 2008. The fellas managed to meet quite a few of the several thousand estate planning lawyers and nearly 300 exhibitors. Of course, we also managed to engage in some GCSL inspired evenings with some of the good people as demonstrated below during a dinner at Christini's, one of Orlando's most famous Italian restaurants (<http://www.christinis.com/>).

#### **GCSL ATTENDS HONG KONG ASSOCIATION OF CALIFORNIA NEW YEAR'S PARTY**

We joined the good people of HSBC at one of their many tables at the Hong Kong Association of California New Year's party. A good time was had by all...as evidenced by the photo below with your new friend Ernest Garcia of Direction 21 ([www.direction21.com](http://www.direction21.com)).

[PHOTO FROM ERNEST GARCIA]

#### **GCSL SAMOA: NEW DIGS WITH AN INTERESTING PAST**

The year begins with a change of scenery for the crew in Samoa shifting to new premises. It was time for us to move on having experienced some not so pleasant structural problems at the old address which in the long run, would not be conducive to a good working environment for us all. Ironically however, Fono and I miss our old address since this is where it all began for GCSL in Samoa!

Nevertheless, we have installed ourselves at a much bigger office space at the following address:

DATEC House, Ground Floor,  
Thonas Trood House, Fugalei,  
Apia,  
Samoa.

It is an interesting address because not many parts of the country have street names. Cathy with the sharp legal eyes asked, "shouldn't it be Thomas Trood", and it crossed my mind that perhaps our landlord who penned me the address got it wrong. I was on the phone posing the question and got the, "that is the correct name of the street". Even the street sign says so.

Google.com to the rescue and found a stamp dedicated to one Thomas TROOD.



Thomas Trood came out of the UK in the 1800's, migrated to Sydney, Australia and made his way to Samoa where he once was the Acting British Consul during the colonial years. He is known as a writer who obviously made a name for himself to earn such recognition.

It is amusing however, knowing that in the nature of our business, company names are very important and we have to make sure that they are spelt correctly. Trivial perhaps to the locals who drew up the sign but we are stuck with Thomas Trood on our corporate papers!



**AOA 2008**

**The AOA has many plans for 2008 including the following:**

- **AOA Dubai, 16th to 18th March 2008:** Ya gotta see Dubai to believe it!!! The Raffles Hotel will be the venue.

- **AOA Hong Kong, 21st to 23rd September 2008:** Coming back home will be oh so sweet as we hold our conference at The Mandarin Oriental Hotel.
- **Young AOA:** With the help of Itzik Amiel, we have launched the Young AOA. Members have received an announcement via email. Please contact Itzik at [itzik@asiaoffshore.org](mailto:itzik@asiaoffshore.org) for more information on how you can participate in this exciting new AOA committee.
- **AOA & China Street Smart:** Working with John Chan, the AOA Global Advisory Committee representative for Shanghai, the AOA and China Street Smart are holding a China visit that will offer something to even the most seasoned China traveler. John's email address is [johnchan@chinastreetsmart.com](mailto:johnchan@chinastreetsmart.com).
- **AOA & Thomas Jefferson School of Law (<http://lmpprogram.tjssl.edu>):** The AOA has arranged for a special member price of US\$2,500 per course, which is a US\$500 discount. **Thomas Jefferson School of Law** offers specialized graduate degrees and certifications through the Walter H. and Dorothy B. Diamond Graduate Law Program in International Tax and Financial Services. Established in 1998, the program remains the first and only one to offer graduate law degrees and certifications through an entirely online course of study at an ABA accredited law school.
- **AOA & American Academy of Financial Management (<http://www.aafm.org>):** The AOA has arranged for the preferential Membership in and access to Continuing Professional Development courses with **The American Academy of Financial Management™**, which is a worldwide financial professional organization with members in 150+ countries hosting and organizing certification training worldwide and offering our exclusive board certification designations to candidates who meet the high standards. AAFM is in alliance with the top 560 business schools in the world. Further details of the AOA's arrangement with the American Academy of Financial Management will be sent to members in January.



## INTERNATIONAL UPDATE

### UNLOCKING THE IPHONE

More than a quarter of people who bought Apple Inc's iPhone are using them on wireless networks other than AT&T's, the exclusive iPhone carrier in the USA, a "stunning" number that will pressure the company's business model.

*Elie Sfeir, General Manager – Fiduciary Services, GCSL Hong Kong  
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### US\$ LOSING FAVOR

Both Qatar and the United Arab Emirates are likely to drop their pegs to the dollar this year and track currency baskets to fight against inflation.

*Elie Sfeir, General Manager – Fiduciary Services, GCSL Hong Kong  
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### CENTER FOR FREEDOM & PROSPERITY UPDATE

As the 2008 Presidential election approaches, proponents of economic liberty will have to sort through the plethora of potentially destructive economic policies that a new Administration might have in store for the American people. And while politicians and the media will discuss at length core economic issues pertaining to taxes and spending, they will largely ignore below-the-radar regulatory policies with serious economic implications.

Among the more important regulatory issues we can expect to emerge in 2009 is the proposed Internal Revenue Service rule (REG-133254-02) to force American banks to report the interest paid to all non-resident aliens.

The rule was originally proposed three days before President Clinton left office and it drew heated opposition from both industry and the public policy community. More than 99 percent of the submissions during the public comment period were hostile, and 100 percent of the testimony at the public hearing was negative. More than 150 Senators and Congressmen weighed in against the proposed regulation. In the face of overwhelming opposition, the IRS was forced to withdraw the regulation. Unfortunately, the IRS played a game of bait-and-switch and immediately submitted a nearly identical measure. The "new" regulation encountered the same degree of opposition.

The interest-reporting regulation has not been implemented, but it has not been withdrawn. Unless the Bush Administration exerts pressure on the IRS to withdraw this onerous proposal, the incoming Administration will decide its fate. Unfortunately, the new Administration might have a troubling view of what constitutes smart economic policy.

The most egregious aspect of this regulation is that it puts the interests of foreign tax collectors above U.S. law and before the interests of the American economy. Indeed, the IRS admits that the deposit interest information is not needed to enforce U.S. tax law (indeed, the law exempting foreigners from interest taxation was adopted to attract foreign capital) and is being requested solely for the benefit of foreign governments. In short, the proposal will help foreign governments double-tax income that is earned in America.

The proposal would drive capital from U.S. banks, causing serious harm to the economy. Foreign investors will move capital to institutions in competing jurisdictions. The United States has attracted more than \$10 trillion in foreign investments. At a time of economic uncertainty, it would be irresponsible to strip foreign investors of the incentive to invest and save in the US economy.

The proposed regulation is bad economic policy and should be withdrawn. It may be good news for high-tax governments, but it is contrary to American economic interest. The jobs of American workers and the competitiveness of U.S. companies should be the top priorities of American lawmakers. This regulation works against both. It will put Americans out of work and it will force dollars out of U.S. financial institutions and into foreign financial institutions.

Fortunately, the Center for Freedom and Prosperity has been leading the effort to kill this eight-year old regulation. Over the next several months we will once again try to convince the Bush Administration to finally ask Treasury to withdraw the regulation.

Don't forget to drop by our web page to get more information on this regulation and other issues concerning you in Washington.

*Contributed by Andy Quinlan, President and co-founder of the Center for Freedom and Prosperity and the CF&P Foundation ([www.freedomandprosperity.org](http://www.freedomandprosperity.org)).  
Andy's email address is [quinlan@freedomandprosperity.org](mailto:quinlan@freedomandprosperity.org).*



## HONG KONG UPDATE

### Hong Kong Bends To Accept Islamic Funds

One of Hong Kong's "hot" topics presently is Islamic finance. To this end Chief Executive Donald Tsang Yam-kuen not only addressed issues in October 2007 with plans to target Middle Eastern Investors, but has followed it up in January 2008 with a week long visit to Kuwait, Saudi Arabia and the United Arab Emirates. As a key step in this direction, the Hong Kong Monetary Authority will apply for Islamic Financial Services Board associate membership after concluding that there are no major legal and regulatory obstacles to transactions involving wholesale Shariah-compliant financial instruments in Hong Kong. Tsang announcing that Hong Kong would open an Islamic bond market to bring Islamic funds into the territory, as a way to diversify its financial markets.

While the USA falters with its recent sub-prime banking disasters and continued efforts fighting their war on terror, all roads to reliant countries diversification seem to lead to the Middle East. With oil prices rolling around three figures, these well-oiled investors from the Middle East are continuing to push for partnerships with Hong Kong financial institutions to invest in Mainland China as Hong Kong remains the only jurisdiction outside of the Mainland where banks may transact business using the RMB. Middle Eastern companies and investors are increasingly stepping out of their comfort zones by investing in less familiar markets. As the US dollar weakens, Hong Kong - where the currency is also pegged to the greenback - offers an alternative and affordable investment destination for dollar-linked Middle Eastern wealth.

Islamic finance refers to activity that is consistent with Islamic law (a body of which is Shariah law). In particular, Islamic law prohibits usury, the collection and payment of interest and investing in businesses that are considered unlawful such as businesses that sell alcohol, pork, profit from gambling or pornography all which are contrary to Islamic values. As such Islamic banking has stripped away many of the principles that other cultures rely on in terms of banking and replaced them with products that are in adherence with Shariah law. One such principle is that bonds are restructured so gains are considered profits rather than as interest income which is banned under Shariah law.

Such a stretch and bend could be to re-design tax laws in Hong Kong to offer a level playing field to issuing of these Islamic bonds. In Hong Kong, interest is tax-free but profits are taxed which is not at all friendly for the abovementioned bond instruments.

Malaysia has the world's biggest market after two decades of forming an Islamic banking industry, Singapore and Indonesia are also movers.

Hong Kong as ever plans to be faster and better than the rest, selling its Western banking system, rule of law, market liquidity and most importantly, its niche position as China's premier financial centre.

*Contributed by Cathy Odgers, Group Legal Counsel and Compliance Officer, GCSL Hong Kong  
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## THAILAND UPDATE

### INTELLECTUAL PROPERTY RIGHTS AND Common Enforcement Situations

The purpose of this article is to explain common IP

1. enforcement situations and
2. enforcement procedures

in Thailand. I will discuss enforcement procedures in next month's GCSL Newsletter.

Thai law normally places the impetus on the trademark, patent and copyright owners to take the initial steps necessary to enforce their IP rights against would be infringers.

Common enforcement situations can be divided into two categories: potential infringement situations and clear infringement situations.

#### 1. Potential Infringement

Many times it will not be clear as to whether or not a party is actually infringing on the IP rights of another. This may be because the would be infringing party does not even know of the other party's rights to the IP or it may be because the other party knows of the other's IP right, but does not think he is infringing upon it.

**EXAMPLE:** A Thailand video game designer develops a new video game called "Daisyman" and sells it in the Thai market. He then discovers that one of his competitors just introduced a game with very similar (but not identical) format, graphics and rules called "Flower Power". The Thai party wants to prevent the other party from selling the game based on his copyright ownership of the game, but is unsure as to whether the competitor created its game before or after he created Daisyman.

In the above situations, the party's rights to the IP, relative to the rights of the other parties stated, is not clear on the facts provided. In these potential infringement situations the normal procedure is for the party alleging the infringement to first send a cease and desist letter to the other party. This letter asserts its ownership of the IP in question and demands that the other party stop using the IP. If the third party then stops using the IP in question no further action would be taken. If, however, the party continues to use the IP the party issuing the notice must then decide whether or not to pursue a legal claim against the party. If the party alleging the infringement decides to pursue a claim he will normally either initiate criminal proceedings against the would-be infringing party or a civil proceeding or both. Note that as the vast majority of enforcement cases in Thailand are criminal proceedings (in which fines and/or imprisonment are potentially applicable) rather than civil proceedings (in which monetary damages are and/or specific performance or omission may be sought), this chapter focuses primarily on typical issues relevant to criminal proceedings.

## 2. Clear Infringement

In a clear infringement situation it is apparent from the surrounding facts that the proprietor's IP rights are being infringed upon.

**EXAMPLE:** Suppose the owner of a trademark registered in Thailand notices an unauthorized third party selling a line of clothes using trademarks which clearly infringe upon the owner's marks. The trademark owner seeks to take action to stop the infringer from producing and selling the clothing using the marks as quickly as possible.

*Contributed by Michael Doyle, Partner, Seri Manop & Doyle  
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## CHINA UPDATE

### McDonalds to add 125 new outlets in China

McDonald's announced plans to open 125 new restaurants in China this year, 18% more than in 2007, and more than half of the new outlets will have drive-through windows. A partnership with Sinopec, the largest gasoline retailer in China, is responsible for the increasing number of McDonald's drive-through restaurants. McDonalds' market share was 17.9% in 2006, up from 8.4% in 2004. Kentucky Fried Chicken was 34.6%, compared with 15.8% in 2004.

### CHINA, MALAWI ESTABLISH DIPLOMATIC TIES

The People's Republic of China and the Republic of Malawi signed a joint communiqué in Beijing to establish diplomatic relations on December 28, 2007. Malawi has become China's 170th diplomatic counterpart.

### BANK RESERVE RATIO RAISED TO RECORD HIGH OF 15%

The People's Bank of China has increased the bank reserve ratio by 50 basis points to 15%, effective from January 25, 2008. This is the highest rate in 22 years. This is the 1st increase in the new year. The move aims at implementing tighter monetary policy, continuing strengthening of liquidity management in the banking industry and checking in monetary credit from overheating.

### BAOSTEEL 1st OVERSEAS PLANT ESTABLISH IN BRAZIL

Baosteel, the largest iron and steel maker in China, has received approval from Brazil's anti-monopoly department to establish a joint venture, Baosteel Victoria Iron & Steel Co Ltd, with Companhia Vale Do Rio Doce (CVRD). Baosteel holds 60% of the joint venture and CVRD holding 40%. The first phase of the project will absorb US\$3 billion with construction in the first half of 2009 and operations expected to begin in 2011.

### PRICE AMONG THE MOST SENSITIVE ISSUES IN 2008

In the first month of 2008, the Chinese government has taken a series of measures to control prices. Earlier this month, Premier Wen Jiabao announced price freezes on energy, including oil products, natural gas and electricity. In mid January, the State Council, China's cabinet, released modified regulations on illegal price manipulation. According to the amended regulations, for those who manipulate market prices and ignore prices advised by the government under emergencies, the maximum fine has been raised to RMB1 million (US\$37,000). Soon, the government will require large producers of dairy products, pork, mutton and eggs to obtain government approval before raising prices. Wholesalers and retailers of these products do not need permission to increase prices, though they must inform the government when prices rise above certain limits. The latest move is to require fertilizer producers to stabilize prices.

### IMPLEMENTATION OF THE NEW ENTERPRISE INCOME TAX LAW

With the coming into effect of the new enterprise income tax law, the State Council of Administration issued two circulars of transition policy for implementation of the same.

For enterprises enjoying a low income tax rate of 15%, the rates will be adjusted to 18%, 20%, 22% 24% and 25% from the year of 2008 to 2012 respectively.

For enterprises enjoying "2 years zero rate and 3 years half rate"\* or "5 years zero rate and 5 years half rate", they will continue to enjoy the incentive policy until the incentive period is finished. However, for the enterprise has yet to initiate with the incentive policy, the incentive period will be started to count from 2008.

For enterprises qualified as "High and New technologies recognition and administration regulation" and established in Shenzhen, Zhuhai, Shantou, Xiamen, Hainan and Shanghai Pudong New Area, they will enjoy a zero income tax rate for first and second years and half (12.5%) income tax rate for third to fifth years from the first business income accounting year. This includes enterprises establishes after January 1, 2008.

Under the 1999 Wholly Foreign Owned Enterprise and Foreign Enterprise Income Tax Law, article 8 states for enterprises conducting manufacturing with an operating period of more than 10 years, the zero income tax rate will be applied on the first and second years of the first profitable year and half (15%) income tax rate will be applied on third to fifth years.

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## SINGAPORE UPDATE

### Through the Eyes of the MM

Singapore's much revered and respected Minister Mentor, Lee Kuan Yew, has gazed into the crystal ball. He sees into the future. He sees continued prosperity in Singapore over the next five to ten years, even if there is a slowdown in the United States and Europe.

MM also predicts that China and Europe will grow between 8% to 10%. The images in the ball show that Singapore, with 2 mega integrated resorts and night Formula One coming on stream, will be at a new level after five years to take off to new heights in growth, with a robust inflow of tourists, capital and talent into the Republic.

Singapore has come a long way since independence, a mere 43 years ago when people were living in shanties.

The MM also opined on terrorism and its possible impact on the Republic's prospects pointing out that governments in the region are not losing the fight against terrorism, but they equally are not winning the hearts and minds of their people

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## OFFSHORE UPDATE

### Anguilla: A bit more than an offshore jurisdiction

Since joining GCSL, I have discussed in each monthly newsletter some aspect of Anguilla's financial services legislation. This month, I wish to provide readers with a bit more background detail on the overall economic situation of Anguilla to more fill in exactly what Anguilla, as a jurisdiction is like. The best of source of information on this subject is the annual budget speech presented in December by the Minister of Finance, the Hon. Victor Banks. Some of our readers who are familiar with Anguilla, might have met Minister Banks in recent years.

Prior to 1967, Anguilla was politically linked to two other British ruled islands in the Caribbean, namely St. Kitts and Nevis and thus the union was referred to as St. Kitts-Nevis-Anguilla. A political dispute erupted that year which resulted in a final political separation from that union in 1980 which resulted in Anguilla becoming what is now known as a British Overseas Territory, one of 4 in the Caribbean: the others being the British Virgin Islands, Cayman Islands, Montserrat and Turks and Caicos.

Economically, Anguilla was a poor and desolate place to reside. Most young places migrated to the United States, the United Kingdom and neighboring islands including United States Virgin Islands and the Dominican Republic. Tourism changed the face of the jurisdiction beginning in the late 1970s but really taking off in 1984 with the opening of the Malliouhana Hotel. Interestingly enough, Malliouhana was the original Amerindian name for Anguilla prior to the establishment of European settlements in 1650.

Today, tourism propels the Anguilla economy which has resulted in the construction of super-sized and super-priced villas and resorts, a golf course, private residences and a redeveloped airport which caters to private jets including the Boeing Business Jet. It is always interesting to be in Anguilla during special holiday seasons in the United States because the traffic of private jets landing, on an 35 square mile island on which lives around 14,000 people, is a beautiful sight. GCSL Anguilla's new offices in the Rogers Office Building gives a panoramic view of the airport and the jets fly close by enough for staff members to imagine what the "good life" is like.

Anguilla's economy has produced full employment with large-scale tourism projects having to import workers from India, China, Mexico, South America, the Middle East and the wider Caribbean. Starting in 2004 and finishing in 2020, foreign direct investment in tourism projects will amount to USD3.24 billion. This does not include local investment which is also growing with many of the super-sized and super-priced villas being owned by locals. In 2007, Anguilla had 80,267 stay-over visitors; this on an island of around 14,000 people. Unlike many other islands, Anguilla caters to the high-end tourist. Eco-tourists, back-packers, and others, won't find Anguilla an ideal destination; but if you can afford to land in a private jet, or stay at an exclusive villa which goes for USD100,000 plus per week, then Anguilla is the place to be.

It is not uncommon to be out dining and share a meal with friends while sitting across from a table where a famous movie star is doing the same thing as you. From former US President Bill Clinton and Senator Clinton, who vacationed here in December 2006 to singer Beyonce, Anguilla has played host to an eclectic group of both famous and not-so-famous and all those in-between.

The latest available figures, which are for 2006, show that Anguilla's Gross Domestic Product (GDP), grew by 15% in real terms to USD105 million. This represents an increase from 2005 when the economy grew by 10.9%. Preliminary figures also show that the economy grew by 10% in real terms in 2007. The tourism sector accounts for 32.7% of Anguilla's GDP while banking and insurance (domestic as opposed to solely offshore) accounts for 17.1%. There are no hard figures for the offshore sector which is linked to banking and insurance as well as other miscellaneous categories. Construction of homes and properties accounts for 16.7%. In 2006, tourism, banking and insurance, and construction, grew by 17.5%, 6% and 36.6% respectively.

In 2008, government has plans to continue its road development, pursue developmental plans for a new headquarters, redevelop the ferry terminal

which travels between the jurisdiction and the French territory of Saint Martin, work on constructing a deep-water harbor amongst other infrastructure projects.

After over 350 years of post-Amerindian development, through plantation slavery, which broke down even before slavery ended in the early 19th century, through to years of peasant farming, neglect and migration, Anguilla is finally enjoying a period of relative prosperity. The jurisdiction's reputation for being a high-end tourism destination grows from the strength to strength and thus it is ideally positioned to take advantage of this in a financial services context. GCSL Anguilla, through its marketing efforts, is committed to achieving this

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### **BELIZE: The Trust Agent - A Comprehensive Look**

In an earlier article in 2007, I had made mention of the creation of the "Trust Agent". This month I propose to look at the post in general, and focus on the elements of interest, as well as any disadvantages it might offer to the structure of a Belize Trust.

The Trust Agent (the "TA") was created by the Trusts (Amendment) Act Cap. 9 of 2007, which amended the original Trusts Act. In section 65E of the Amendment Act, the TA must not only be resident in the country of Belize, but must also be appointed by the Trustee. Further, that individual or entity is duty bound by the same statute to accept all service and legal process on behalf of both the Trustee and the Protector. Finally, one of the main elements of the TA post is that anyone purporting to be able to do this line of work MUST be in the possession of a Trust license issued by the International Financial Services Commission of Belize (the "IFSC") at the time of holding himself out to offer said service.

There are of course penalties attached to contravention of this section of law, not the least of which is BZ\$500 (US\$250) per day for every day of that period of transgression. I think that's effective, because as a general rule people don't like to give money away without receiving anything.

This has raised debate in certain circles about whether or not a trust might still be considered a Belizean trust without having a resident trustee company. Previously, the jury was out on whether or not a trust purportedly was a Belizean trust simply because there was no resident and licensed Belize trustee. It may sound somewhat nonsensical, but the creation of this position in my view now puts to rest the age-old question as to if the trust has been settled under Belize law simply because there is no Belize resident trustee. Of course, even a cursory look at the law might educate the average joe that there is nothing in the law that prohibits a Belize-settled trust from having a non-Belizean trustee, or no Belizean trustees for that matter. What is important is that there must be stipulation, for the sake of clarity, that the trust has been settled under the laws of Belize, but MORE IMPORTANTLY, the application for the registration of the trust in the International Trusts Registry of the IFSC of Belize.

Not that I am perpetuating the clearly mistaken position on the law, but the mere fact that the TA position has been created now makes it so much easier for persons to comprehend that it is indeed possible for them to have a non-Belizean trustee in a Trust fully settled under the laws of Belize. The TA position allows for this.

I applaud the International Financial Services Commission for making the decision to create this position as it frees up persons to engage in a more comprehensible structure, allowing them therefore to organize their affairs in ways they see fit. I trust this will help you in understanding the role of the TA, and should we be able to assist in this endeavor, let us know

*Contributed by Carlo Mason, Managing Director, GCSL Belize  
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### **COOK ISLANDS – WHERE TO FROM HERE**

I have just returned from a very successful tour of the USA, which started with the Hekerling conference in Orlando, Florida, followed by a one week hop through the lone star state of Texas. New contacts were made and old ones rekindled. It is on trips like this that you gain first hand experience of what the market is thinking and, more importantly, demanding.

Everyone that I met, had insights to offer, but I must admit, Austin, Texas has left an impression on me. This was one of the original hubs of asset protection not only in Texas, but in the USA, and it is only natural that in this quaint city, I would find a bubbling spring of new and innovative ideas of where the asset protection business is heading. I had the privilege of meeting one of the true pioneers in the asset protection field, as well as the opportunity to speak with the next generation of pioneers who have sprung from the same well. It was an invigorating experience for a trustee like me; to speak to and hear professionals who are passionate about their work, as well as a firm belief in what the Cook Islands can offer as an offshore jurisdiction.

As President of the Trustee Companies Association, my role is to take the lead in mapping the future for the offshore industry in the Cook Islands. My meetings in Austin have gone a long way to shape my views on our future direction. It is in this city that my own gut instincts were verified - the Cook Islands has much more to offer the offshore world than just simple company and trustee services. What we have always known, and now confirmed with absolute conviction by long time practitioners, is that the Cook Islands has a unique product that cannot be matched by many offshore jurisdictions - the level of competence of our people. The jurisdiction has overcome many barriers in the past, and has matured to a level, where it can now market itself as more than just an asset protection jurisdiction. It should have no hesitation in selling a service oriented jurisdiction, where you will get trusted, competent and responsive professional trustees - right across the board.

So where to for the Cook Islands? Looking into the crystal ball, and with much hard work from the industry stakeholders and Government - I see a mature jurisdiction that can deliver a wide range of financial products with the one edge that it maintains over others - a high level of sophistication and competence amongst its people. 2008 will see new legislation come on board including new LLC and insurance legislation. Each one custom designed with unique features that will certainly set the Cook Islands apart, in the same vein that the International Trusts Act did in the 1980s and subsequent amendments in the 1990s.

It is clear that Texas has left a lone star, shining brightly over the Cook Islands.

*Contributed by Puai Wichman, Managing Director, GCSL Cook Islands  
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**SAMOA: MORE THAN JUST RUGBY AS COCONUT OIL FUEL TO REPLACE DIESEL**

The Samoa government recently approved a proposal by the Pacific Oil Company to produce coconut oil fuel as a substitute for diesel in the country. The new operation will help to ease the never-ending increase of diesel oil prices as well as encourage local coconut farmers to grow more coconut trees.

A production plant is under construction with an anticipated starting date of April 2008.

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**TIDBITS**

The things that make us smile, frown and generally make life interesting...

**OUR MONTHLY QUOTE THAT MADE US SMILE**

"Shoplifters will be beaten, stabbed and mutilated. Survivors will be prosecuted." Sign at a shop at the Belize Airport

**TOUGH RACQUET WHEN THE FBI CAN'T GET CREDIT**

We recently read that telecommunication carriers in the USA shut down the telephone lines of the FBI for failure to make timely payments and the discontinuation of service disrupted wiretaps. So much for all that national security stuff being shoved down our throats. Good to read that the FBI, like many of us common folk, can't balance its checkbook, make payments in a timely manner or, well, get its financial house in order!!! Feeling safe?

**CHRISTMAS COCKTAIL? SOME PEOPLE CALL THAT AN ANNUAL SALARY ☹**

We recently read of the £35,000 Christmas cocktail that consists of Louis XII cognac, Cristal Rose, brown sugar, angostura bitters and some flakes of 24-carat edible gold leaf. First, yucky-poo...that is no way to treat what I understand is a fantastic cognac and what I know is spectacular champagne. Second, c'mon fellas, that sort of money as a salary apparently would rank a person in the top 25% of people in the UK. We really love The Noble Grape and respect excellent liquors and beers, but paying an annual salary for a drink that likely tastes like, well, yucky-poo... nah, that is not on!!!

**HONEY, I'M HOME...MAYBE NOT!**

We recently read about a Polish man who spotted his wife when visiting a brothel among the establishment's employees. The dutiful wife had been making some extra money on the side while telling her husband she worked at a store in a nearby town. We gather the hubby was spending that extra money just as quickly. Fourteen years of marital bliss ruined in one night...yeah, right!!!

**TO SMOKE OR NOT TO SMOKE...**

We understand the owner of a small German computer company recently fired three non-smoking workers because they were threatening to disturb the peace after they requested a smoke-free environment. Germany apparently introduced non-smoking rules in pubs and restaurants on January 1, but Germans working in small offices are still allowed to smoke. The manager was quoted as saying "I'm only going to hire smokers from now on." We say bravo for him and his colleagues who will thankfully depart this crazy world quicker than most!!!

**EFFECTIVE BIRTH CONTROL?**

We were informed by the good people of Google China that the names of three banks and the word "stocks" beat "sex" to become four of the most searched words in China in 2007. Who needs education, enforcement of one child policies and all those other theories on how to control population. Just make the economy hum and give people a chance to participate and, voila, money beats sex everyday of the week. After all, many people believe money can buy sex, in any event 😊

**NAUGHTY CIVIL SERVANT**

A China born, Hong Kong karaoke hostess was recently jailed in Hong Kong for three years for blackmailing a senior government official by threatening to go public with a steamy videotape. Our married civil servant is married with children, but managed to find time to engage in a four month affair with the lovely seductress. Naughty-lah!!!

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