

Preliminary Announcement

Public Listing Down Under - Australia and New Zealand Company and Securities Law

**University of Houston Law Center
January 4-9 and 11, 2010**

This class will be taught by Professor Gordon R Walker of La Trobe University School of Law, Melbourne, Australia. No prior knowledge of the subject area is required. Seven days of class are scheduled. The mode of assessment is a take home exam. A detailed synopsis of the lectures plus materials will be posted prior to class.

Course Description: This class focuses on the company and securities laws of Australia and New Zealand. Each of these jurisdictions copied United Kingdom company law and later modified that law. There will be a brief discussion of the company laws of the former British enclaves in the Southern Hemisphere. The purpose of that discussion is to highlight the similarities between these jurisdictions which all share the same legal heritage: once you understand the company law of one of these jurisdictions, it is relatively easy to pick up the company law of a cognate jurisdiction. So the first learning from this class is that there are five major Southern Hemisphere jurisdictions that have similar company and securities laws (Australia, New Zealand, Malaysia, Singapore and Hong Kong). Note also that most South Pacific jurisdictions have similar company laws (because they follow British, Australian or New Zealand models).

While this class has academic and theoretical interest, the main focus of the class is on the types of transaction planning issues that confront a practising lawyer. The take home exam puts these issues squarely before the student. The take home exam assumes that the student is an associate in a U.S. law firm advising a U.S. company on business transactions leading to public listing in Australian and New Zealand. So the second learning from this class is the understanding of legal transaction planning issues in Australia and New Zealand from the point of view of a U.S. commercial actor.

The introductory lectures in this class conceptualise company and securities law in the former British enclaves in the Southern hemisphere in three ways. We first look at the initial reception of UK law in the Southern hemisphere up until the adoption of the Company Act 1948 (UK). This part of the story is variously called, “transplanting”, “path dependence” or “diffusion”. Second, we look at the attempts to carve new pathways in the region that depart from UK law; here, Australia provides a striking example. Third, we look at the ways in which these jurisdictions have borrowed from and influenced each other. This process of “rediffusion” is particularly evident in Malaysia (influenced by modern Australian law) and those small South Pacific jurisdictions that have adopted versions of New Zealand law.

The general scope of the class is as follows:

- The UK background; reception of the relevant UK law (especially the Limited Liability Act 1855 (UK) and the Company Act 1948 (UK) in the British enclaves in the Southern hemisphere (Hong Kong, Singapore; Malaysia, Australia and New Zealand; abandonment of the 1948 Act and subsequent cross-jurisdictional influences;
- The substantive law in Australia and New Zealand including: short history; operating environment; state and federal powers in Australia; contextual issues (tax rates etc.); choice of entity (companies versus sole traders, trusts and partnerships); formation/incorporation; company management and governance including directors' duties, and, corporate finance with special focus on securities regulation.
- Transaction planning from the point of view of a U.S. domiciled company undertaking real estate acquisitions in Australian and New Zealand with various exit strategies including stock exchange listing. This is a theme that runs throughout the class and is the subject of the take home exam.

Texts: The two basic set texts for this class are:

- Hanrahan, Ramsay and Stapledon, *Commercial Applications of Company Law*, 9th ed. (CCH Australia, 2008). Hereafter, "CACL". ISBN 978-1-921332-05-1. Cost is approx AUD100 (about USD75). Order from support@cch.com.au
- Note that this text includes extracts of key legislative provisions.
- Walker, Reid et al, *Commercial Applications of Company Law in New Zealand*, 3rd ed. (CCH New Zealand, 2009). Hereafter, "CACLNZ". ISBN 978-0-86475-798-2. Cost is approx NZD80 (about USD50). Order from nzsales@cch.co.nz
- Note that this text includes extracts of key legislative provisions.
- Copies of these texts will be held in your library.

For more advanced texts see:

- Austin and Ramsay, *Ford's Principles of Corporations Law*, 13th ed. (LexisNexis Butterworths, 2007). ISBN 978-0409-323634.
- John Farrar, Gen., Ed., *Company and Securities Law in New Zealand* (Wellington: Thomson Brookers, 2008). ISBN978-0-86472-617-9.

These texts will be held in your library. You do not need to buy them.

For the full legislation see:

- *Corporations Law 2001* (the Australian legislation). Use the 2009 editions from either CCH Australia or Lexis Nexis Butterworths Australia.
- CCH NZ Ltd., *New Zealand Company and Securities Legislation for Students 2009* (CCH New Zealand). ISBN 978-0-86475-773-9
- Note that all of this legislation can be viewed online at various websites. Hard copies of the legislation will be held in your library. You do not need to buy.
- Websites for legislation: www.worldlii.org; www.austlii.com.au; www.comlaw.gov.au; www.aph.gov.au; www.legislation.govt.nz

About the instructor: Dr. Gordon R Walker is the Professor of Commercial Law at La Trobe University School of Law, Melbourne, Australia where he is also Director of the LLM in Global Business Law and the LLM for International Students programs. During 2004-2007, he served as Head of the Law School.

A native of Southland, New Zealand, Professor Walker went to Otago University as the Lissie Rathbone Scholar and subsequently graduated BA (Hons.), LLB (Hons.) from that university. After a period of law practice in Wellington, he taught and practised law in Adelaide where he received an LLM degree from the University of Adelaide. In the 1980s, he taught at Sydney University School of Law, practised law with Freehills (an international law firm), and, worked in investment banking. He earned an MBA from the Australian Graduate School of Management (AGSM) and a doctoral degree in law (SJD) from Duke University School of Law, USA.

Professor Walker's publications (as editor or co-author) include Rosen & Walker, *International Securities Regulation*, Vols. 1-8 (New York: OUP); Walker & Rosen, *International Securities Regulation: Pacific Rim*, Vols. 1-4 (New York: OUP); *Securities Regulation in Australia and New Zealand*, 2nd ed. (Sydney: LBC, 1998); *Balancing Act: Law, Policy and Politics in Globalisation and Global Trade* (Sydney: Federation Press, 2004); *Law and Finance* (Sydney: Federation Press, 2007). *Commercial Applications of Company Law in New Zealand*, 3rd ed. (Auckland: CCH NZ Ltd, 2009). In 1997-2000, he led the teams tasked with annotating the four key statutes governing the securities and futures industry in Malaysia. He is a member of the editorial boards of the *Company and Securities Law Journal*, the *Global Finance Journal* and *Law in Context*.

Recent appointments include:

- Paul Hastings Visiting Professor of Corporate and Financial Law at Hong Kong University (2006);
- Conference Chair of the 14th Global Finance Conference held in Melbourne, Australia (2007);
- Wallace S. Fujiyama Visiting Professor and instructor at the University of Hawaii Law School. (2008);
- Visiting Professor and instructor at Houston University Law Center (January 2009);
- Adjunct Professor and instructor in the MBA program at Hong Kong University of Science & Technology (April-May 2009).
- Adjunct Professor and instructor, Texas Tech Law School (June-July 2009).

Professor Walker also consults to the Asian Development Bank on company law reform in the South Pacific.

