Course Description (as of October 2013)

Doing Business Down Under
Australia and New Zealand

Houston University Law Center
2-4; 6-9 January 2014
Two credit hour class – 24.5 hours

This class will be taught by Professor Dr. Gordon R Walker of La Trobe University School of Law, Melbourne, Australia. (Blog: www.professorwalker.com.au) No prior knowledge of the subject area is required although knowledge of corporations’ law is an advantage. Seven days of class are scheduled. Class times are 9am to 12.30 pm each day (with a short break at 10.30am). Note the class will run on Saturday 4 January 2014. The mode of assessment is a take home exam due 31 January 2014. No extensions permitted.

Course Outline: A detailed synopsis of the lectures will be posted prior to class. You will also be provided with a bundle of course materials that will also contain the synopsis plus statutory extracts etc.

Course Description: This class focuses on the company laws of Australia and New Zealand. Each of these jurisdictions copied United Kingdom company law and later modified that law. The major legal families of the world are discussed. The purpose is to identify jurisdictions that are attractive for investment planning. 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 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 Texas law firm advising a Texas domiciled company on business transactions in Australian and New Zealand over a period of time culminating in a public listing. So the second learning from this class is an understanding of legal transaction planning issues in Australia and New Zealand from the point of view of a U.S. commercial actor.

The general scope of the class is as follows:

- The transaction lawyers toolkit (companies, trust and tax considerations);
- Legal families with a view to ascertaining which jurisdictions are more attractive from a transaction planning viewpoint.
- The UK background; reception of the relevant UK law - especially the Limited Liability Act 1855 (UK), the Companies Act 1862 (UK) and the Companies
Act 1948 (UK) - in the British enclaves in the Southern hemisphere (India, 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 Texas domiciled company undertaking real estate acquisitions in Australian and New Zealand with various exit strategies including stock exchange listing. Here, we pay special attention to the Double Tax Agreement with Australia and tax planning for capital gains consequences. This theme (transaction planning) runs throughout the class and is the subject of the take home exam.

Course Materials: A bundle of course materials will be provided prior to class. These materials will be useful for the take home exam. Based on past years’ experience, it is recommended that you buy your own copies of the texts to use in preparing the take home exam. Earlier editions of the Australian set text will suffice.

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

- Note that this text includes extracts of key legislative provisions.
- You can use earlier editions of this Australian text.
- Note that this text also includes extracts of key legislative provisions.
- Copies of both these texts should be held in your library on close reserve.

For more advanced texts see:


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 latest editions from either CCH Australia or Lexis Nexis Butterworths Australia.
• CCH NZ Ltd., *New Zealand Company and Securities Legislation 2013* (Edition 30), Vols. A, B and C. These vols. include the Companies Act 1993, the Securities Act 1978 and the Securities Markets Act 1988. Note that all of this legislation can be viewed online at various websites. Hard copies of the legislation may be held in your library. You do not need to buy.


**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 consults to the Asian Development Bank on company law reform in the South Pacific and to the European Bank for Re-construction and Development on concessions/PPPs; securities markets and corporate governance.