Staff Profile - Alan Calder

What do I do when I'm not at Taurus?

Alan has been pretty busy lately, not just dealing with tax returns and IRD deadlines. If he has been looking a bit tired on Monday morning it could be because he has been biking all over the mountain bike tracks that we have here on the Port Hills.

On 4 April 2009 Alan competed in the Hanmer 12 hour Day/Nighter mountain biking event. This is held on a 8.7km circuit through the forest area of Hanmer from 10am until 10pm. Riders compete either as part of a team of 3-5 and try to ride as many laps as they can within that 12 hours (one team member at a time) or ride in the 6 hour solo category, again trying to do as many laps as possible in the time allowed. There is also the 12 hour solo to really test your legs, lungs and backside!

Alan, being the machine that he is, did the 12 hour solo. Despite "feeling like a zombie" near the end and with "legs of cement" he rode 191 km or 22 laps, climbing a total of 3,450 vertical metres or about 10 times up to the Sign of the Kiwi.

Naturally, training is the key to entering into such events and that explains why Alan has been seen on his bike most work day evenings and both days during the weekend. But as he says, he is out in the fresh air doing what he enjoys.

And for those worried about Alan's wife Marianne, she is not a mountain bike widow. She and her friends regularly ride in Bottle Lake Forest.

Staff Movements

February saw the departure of Robyn Simpson and Liz Cave. Robbie has decided to spend more time with family whilst Liz is off to the UK with husband Roger. We wish them both well in their retirement. We welcome Joanne Moore and Jean McMorran who have taken over the duties of Robbie and Liz in "the Big Room", and Rebecca Stewart to run our new Trust Division. We also welcome Nicola Blue to Taurus. Nicola will be joining the Accounting Services team to start her career in Chartered Accountancy.

Taurus Directory

Accounting Services
Wayne Bailey (Director)
Alan Calder (Director)
Michael Kohing (Director)
Paul Wouters (Director)
Chris Hardy
Claire Norris
Vera Richards
John O'Connell
Merryn O'Malley
Greg Wright
Martin Dale
Mark Styles
Nicola Blue

Trust Division
Rebecca Stewart

Finance and Advisory
Geoff Angus
David Kitson (Director)
Des Knowles
Gary McCosh

Taurus Mortgages
Russell Latimer

Administration
Colin Reynolds
Fiona Spagnuolo
Joanne Moore
Jean McMorran
Nick Brown

Address and Contact details
Postal Address
P O Box 3275
Christchurch 8140

Physical Address
Level 3
URS House
287 Durham St
Christchurch 8011

Phone: 03 366 6087
Fax: 03 366 6807
Email: info@taurusnz.co.nz
Web: www.taurusnz.co.nz

Our services at a glance

Accounting Services
Preparation of: -
financial statements
- income tax returns
- GST and FBT returns
- management accounts
- budgets and cashflows
Tax Planning
Business re-structuring
Business valuations
Succession planning

Finance and Advisory
Negotiation of:
- Commercial Debt funding
- Equity finance
- Housing loans
Project Finance
Turnaround management
Bank advisory services
Property management
Due diligence

Trust Services
Family Trusts
- formation
- administration
Asset protection
Succession planning
Professional Trustee

T A U R U S

Running with the bulls

May 2009

In this newsletter we have two guest contributors, Melissa Cross of Marsh Ltd and David Soloman of NZ Financial Planning. Both work closely with Taurus in providing independent advice and services to clients. They provide an informative view on two issues that are both timely and relevant for business owners and investors.

Six reasons to Appoint a Professional Trustee

By Rebecca Stewart

When it comes to selecting a trustee, there are a variety of options. A family member, friend or business associate can be relied on, or a professional trustee can be appointed. In fact, any adult could serve as trustee but as the role comes with significant responsibility, many people may not be prepared or equipped to handle it.

The following are six good reasons why you should select a professional to protect and manage your trust assets.

1. Protection from being found to be a Sham Trust. If a trust is found to be a sham, it will lose its asset protection and taxation benefits. Creditors and beneficiaries may have access to assets which would otherwise have been protected. A professional trustee ensures that the trust is administered in accordance with its terms and significantly reduces the chances of a successful allegation that the trust is a sham.

2. Experience. Interpreting the provisions of the trust deed, acting in the best interests of the beneficiaries and preserving the trust assets are just a few of the responsibilities that come with acting as a trustee. Being an effective trustee is more than simply carrying out the wishes of the settlor; it's about being proactive, anticipating what needs to be done and avoiding situations that might be costly to the family. A professional trustee is well equipped to work with other professionals eg. Lawyers, accountants and asset managers to ensure the smooth running of the trust.

3. Continuity for Future Generations. When partnering with a professional trustee, families are afforded a level of continuity that the individual trustee cannot provide.

4. Family Harmony. Individuals often look to family members to act as their trustees. This can lead to difficult trustee decisions causing a family rift. Sometimes a beneficiary may feel that they should be able to use the trust funds in a way that would contravene the intentions of the settlor. A professional trustee ensures that individual family trustees are not put in a difficult position to keep all members of the family happy.

5. Consistency. Similar to family harmony, inexperienced trustees may make decisions which, over time, favourably affect certain family members. It's crucial that all members of a family feel that they a treated fairly and consistently – it's easier for a non-related third party to be objective.

6. Peace of Mind. Professional trustees are subject to higher standards of care, they have systems and controls in place to ensure that the trust provisions are being adhered to and that the asset protection afforded by the trust cannot be disputed. As mentioned above, a professional trustee helps protect your trust from being deemed a "sham" by the authorities.

It's easy to see why, when selecting a trustee, many people are tempted to opt for friends or family members – there's an inherent familiarity. However, these individuals may be unprepared to handle a trust effectively. It's important to take an objective look at the situation and consider the experience, continuity, family dynamics, consistency and peace of mind before arriving at a final decision.

Preparation of 2009 accounts and tax returns

Accounting services clients will have recently received their annual questionnaires. Please provide as much information as possible, as if anything is missing, time and effort is required by us and you to find the information.

Due to our name change in October last year we are also required to obtain new authorities for us to act as your Tax Agents and to request information from third parties such as banks and solicitors.

If you have mislaid these documents, they are available for downloading from our website www.taurusnz.co.nz on the Client Resources page.

Personal Liability of Directors

By Melissa Cross
Principal of Marsh - Financial & Professional Services Practice

MARSH

MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

The liability of directors and officers is personal. It is an unlimited liability and cannot be contracted out of. If uninsured, directors risk their personal wealth (and that of their heirs, spouses and legal representatives) through litigation. Trust arrangements are not a complete solution.

Even if a claim is successfully defended it may still involve significant legal fees.

A director can not plead ignorance of company affairs simply because they have delegated their duties to another individual and in a recent High Court Judgement relating to claims against the husband and wife directors of Global Print Strategies Ltd, the High Court issued a warning to "delinquent directors" that "company directors must take proper steps to place themselves in a position to guide and monitor the management of the company", that "responsibility for the governance of the company is theirs", and that "they cannot simply treat the appointment of a sinecure and then leave to management, or other advisers, the duties running the company and ensuring compliance with legal obligations".

Directors must exercise a duty of skill and care to a standard expected of a person with their knowledge and experience.

The Companies Act 1993 clarifies many of the duties owed by director. In addition, there are many other statutory requirements that impose duties on directors such as securities legislation, health and safety legislation and fair trading legislation.

Failing to comply with the duties defined by legislation may lead to civil proceedings being commenced against directors by third parties seeking damages for the loss that may have resulted from their alleged breach.

In addition, directors may also be subject to criminal prosecution arising from their activities.

Prior to the current economic climate, the business world was already a potential litigation minefield for directors and officers. The clarification of the duties in law and increasing accountability of directors meant that the potential exposure for personal liability had never been higher. Recent media articles and public allegations regarding the conduct of directors is testament enough to the increased amount of legal action being taken in New Zealand. With many companies being placed in receivership or liquidation, stakeholders may further place a stronger spotlight on the activities of the Directors.

A Directors & Officers Liability insurance policy ("D&O") can provide protection to the Directors where they receive no indemnity from the company in the event of a claim, or if the company can provide an indemnity to its directors the impact on the company's profitability could be eased by reimbursement from an insurance policy.

Cover can be arranged via the placement of a stand-alone D&O policy, or a Management Liability policy for Private Companies which encompasses a vast arrange of other liability insurance protection for the company and its directors.

If you wish for more information on the "D&O" policy or business risk in general, please contact Michael Kohing at Taurus in the first instance.

Taurus Trust Division

We are pleased to announce the appointment of Rebecca Stewart (LLB) as our Trust Director to work together with our leading Tax Advisors. Rebecca will be responsible for advising clients on:

- Family Trusts
- Asset protection trusts
- Succession planning

She will also provide review and administration services where Taurus are professional trustees.

If you are:

- getting married (or married again)
- travelling or working overseas
- needing good tax advice or just good advice
- wanting to protect your assets
- needing to provide for your children's futures

then we recommend that you arrange an appointment with Rebecca. She is available to help you to protect your assets for you and your family.

Is This the Time to Buy?

David Soloman
Director, New Zealand Financial Planning

Clearly the past year has been dreadful for financial markets and investors, both in New Zealand and around the world. As individuals, we have all been affected in some way or another.

The purpose of this article is to offer a view on some of the questions that are inevitably asked during times such as we are experiencing at the moment.

Q. Is this a sensible time to cash up and wait out the downturn in bank deposits?

This question is often raised in the midst of a bear market downturn and is a good tactic if implemented before a downturn, but not a smart move in the midst of one. While there will always be one or two who have predicted a downturn, there are very few who have done so accurately and consistently over any period of time.

We must remember all downturns are temporary, so one is left with the equally impossible question of when to get back into the markets in order to gain the lost ground. A decline only becomes a real loss when the investment is actually cashed up.

As long as the future prospects for the underlining asset remains sound – don't cash up.

The key point to note though is that when rebounds do occur they are not spread evenly over the period of time. As is always the case with stock market movements the biggest gains and for that matter, losses, occur on a number of days rather than weeks or months in any given year.

Q. Is now a time to temporarily stop regular savings?

The answer to this is very simple, assuming the following conditions apply;

1. the underlying savings scheme is sound
2. the level of savings remains affordable in terms of the household budget
3. the funds won't be required to meet short-term commitments - then don't stop regular savings! Each dollar invested will purchase more shares or units in a savings plan than when the prices were higher.

Q. Is now a good time to buy into the market?

At times such as this we must not negate the fact that for every investor who actually sells property or shares that have declined in value, there is a buyer at the end of that transaction – somebody who thinks they're getting a good deal.

So, is now a good time to buy? Again, the answer is dependent on varying conditions which require an analysis of the quality and future prospects of the underlying investment, available investment time horizon and affordability. In respect of shares at this point in time, all we can say for certain is that most stock markets around the world have fallen 30% - 50% over the last eighteen months, so we are at a very low base level. That's not to suggest that they may not fall further in the near-term.

However, for anyone with a medium to longer-term time horizon and a focus on quality assets, the current environment has created potential for some very rewarding investment opportunities.

The adoption of dollar cost averaging programme into a market such as this, by gradually investing lump sums over a period of say six to twelve months, reduces the downside in the event that prices fall further. Conversely, it may also increase the average buy in cost if we are already at the bottom of the market cycle.

Q Corporate & State Owned Enterprise (SOE) Bonds?

After the significant impact the credit crisis has had on every investment market around the world, many investors are searching for ways to achieve a higher interest rate return.

With finance companies having fallen from favour there now appears to be a rush toward corporate and SOE longer duration bonds, typically with five year or longer maturities and holding "investment grade "(Standard & Poors) rating of BBB or higher.

Not all corporate bonds/notes are equal and the devil is often in the detail. During times such as this companies we have come to accept as "household names" are not immune from downgrading or in fact failure,

In addition investors need to be mindful of the impact that future interest rate trends may have on the value of the bond and/or opportunities at the time of maturity or reinvestment. With the current demand for capital and the impact in time of the financial stimulus packages we could see inflation raise its ugly head again. If it does we will see interest rates begin to rise.

David can be contacted on telephone: (03) 375 4040; email: davids@chchnzfp.co.nz)

"A Disclosure Statement under the Securities Markets Act 1988 relating to the financial adviser associated with this article is available on request and free of charge".